

REFERENCE NO - 20/502004/FULL		
APPLICATION PROPOSAL Retrospective application for creation of decked area (resubmission of 18/505575/FULL).		
ADDRESS Webbe Cottage The Street Detling Maidstone Kent ME14 3JX		
RECOMMENDATION : GRANT subject to the planning conditions set out in Section 8.0 of the report		
SUMMARY OF REASONS FOR RECOMMENDATION Subject to appropriate conditions, this proposal for two areas of lowered decking together with a modest section of privacy screen fencing on the common boundary would overcome the reason for refusal of the previous planning application relating to loss of privacy without giving rise to any material harm in any other respects. The existing ecological benefit of providing a nesting area for hedgehogs can be maintained and additional biodiversity enhancement can be secured by condition to compensate for the loss of a small section of lawn.		
REASON FOR REFERRAL TO COMMITTEE The recommendation is contrary to the view expressed by the Parish Council. The Parish Council has requested referral to Planning Committee if that is the case.		
WARD Detling And Thurnham	PARISH/TOWN COUNCIL Detling	APPLICANT Mr Steve Wood AGENT
TARGET DECISION DATE 06/08/20		PUBLICITY EXPIRY DATE 16/07/20

Relevant Planning History – The Application Site

19/503352/PAPL

Pre-Application Letter - Retrospective Planning Permission (18/505575/FULL) for decked area, 7070mm at widest point x 6040mm at widest point, materials - wooden decking, with suggested fencing and shrubbery to one side to create privacy with neighbours.

18/505575/FULL

Creation of decked area (retrospective) - REFUSED

17/500177/FULL

Removal of existing fence and replace with brick and rag stone wall to same height (approx 1.8 metres); removal of existing fence and replace with brick and rag stone wall to same height (approx 1 metre), install sliding electric gate - REFUSED

15/506289/FULL

Retrospective amendment to 14/503374/FULL being installation of a first floor rear-facing window - APPROVED

15/500770/NMAMD

To change approved rear facing window to double doors with Juliet balcony – APPROVED

14/503374/FULL

Two-storey side extension and raised platform – APPROVED

MA/13/0862

Retrospective consent for widening of driveway to provide additional car parking, widening of path, new wall and realignment of acoustic fence (represents alterations to layout and landscape approved under MA/11/1953) – APPROVED

MA/10/0943

Demolition of pre-fabricated garages and erection of three dwellings (one semi-detached pair and one detached) with associated garages, parking, landscaping, new entrance and access – REFUSED, APPEAL ALLOWED

Relevant Planning History – Adjacent Site to the South (The Stables)

18/504192/FULL

Construction of a pair of semi-detached cottages on northern section of plot including rooflights and associated parking. (Demolition of existing kennel buildings and garden wall) (Revision to 18/500563/FULL). *This permission has been implemented.*

Relevant Enforcement History:

18/500158/OPDEV – Unauthorised operational development - Raised decking area has been built in garden – planning permission required.

MAIN REPORT

1. DESCRIPTION OF SITE

- 1.01 The application site is located on the outskirts of Detling, a small rural village in the Kent Downs Area of Outstanding Natural Beauty to which the countryside policies of the Maidstone Borough Local Plan 2017 apply. The western part of the site falls within the Detling Conservation Area. The site is also located in an area identified as being of high nature conservation value.
- 1.02 Webbe Cottage is one of three dwellings constructed as part of a new development in the grounds of the Victorian mansion, East Court (to the east of the site). It is a detached dwelling with detached garage, located on a roughly triangular-shaped plot on the southern side of the shared access drive leading from The Street and serving this development and East Court itself. The entrance to the East Court development is marked by brick walls and piers, and those walls also enclose the western corner of the application site. The site is on a hill and consequently the land within it slopes down from north to south. There is also a slight camber from west to east.
- 1.03 To the south of the site, is a pair of recently constructed, semi-detached cottages, permitted under 18/504192/FULL. At the time of my site visit, the cottages appeared to have been substantially completed, but were not yet occupied. In application 18/504192/FULL, they were referred to as Squire Cottage (nearest to the site) and Yeoman Cottage, but it appears that they are now known as Blossom Cottage (nearest to the site) and Rose Cottage.

2. PROPOSAL

- 2.01 Retrospective planning permission is sought for the creation of an area of decking in the western corner of the Webbe Cottage plot, enclosed on three sides by the existing walls.

- 2.02 The area of decking currently in situ in this position is unlawful and was the subject of refused planning application 18/505575/FULL. The reason for refusal of that application was as follows:

The decking will cause an unacceptable loss of privacy to the dining room window and the majority of the private rear garden area of the approved dwelling, Squire Cottage (18/504192/FULL), which is currently under construction, which will be detrimental to the residential amenities of future occupiers of that dwelling and to their reasonable enjoyment of their property. The application has not demonstrated that this harm could be satisfactorily overcome, for example through the use of screening, without causing material harm in some other respect, such as visual harm to the Conservation Area and Kent Downs Area of Outstanding Natural Beauty, or overbearing impact on the dining room of Squire Cottage. Consequently, to grant retrospective planning permission would be contrary to Policies DM1 and DM32 of the Maidstone Borough Local Plan 2017, guidance in the Council's adopted residential extensions SPD, in particular paragraphs 4.72 and 4.74, and central government planning policy contained in The National Planning Policy Framework (February 2019).

- 2.03 The application now before Members seeks planning permission for what would effectively be alterations to that unlawful area of decking, resulting in a revised design of decked area as follows:
- 2.04 The proposed decking would be set at two different levels, forming an upper deck area and a lower deck area. The shape of each would be irregular and they would be connected by four steps.
- 2.05 The lower deck area would extend back a maximum of approximately 5m from the wall marking the southern boundary with Blossom Cottage. Beside that wall it would be raised approximately 0.34m above ground level at its highest point; furthest from the wall it would have its surface level at ground level/marginally below ground level.
- 2.06 The upper deck area would extend out approximately 2.1m from the wall marking the northern boundary. At its southern edge would be a timber balustrade. At that southern edge it would be raised approximately 0.45m above ground level at its highest point; beside the back wall it would be raised approximately 0.27m above ground level at its highest point.
- 2.07 The proposal also includes the addition of a section of laterally-boarded timber fencing on top of the southern boundary wall with Blossom Cottage to provide a privacy screen. This would be 6.19m in length (same width as the lower deck area) and 0.27-0.38m in height (there is a step down in the wall of one brick height approximately half way along the length of the proposed privacy screen).

3. POLICY AND OTHER CONSIDERATIONS

Maidstone Borough Local Plan 2017: SP17, DM1, DM3, DM4, DM30, DM32

Neighbourhood Plans: N/A

Kent Minerals and Waste Local Plan 2016: N/A

Kent Downs Area of Outstanding Natural Beauty Management Plan 2014 – 2019:
Policies HCH1, HCH4

Supplementary Planning Documents: Residential Extensions SPD
(adopted May 2009);
Detling Conservation Area Appraisal
(adopted March 2008);

National Planning Policy Framework (NPPF)
National Planning Practice Guidance (NPPG)

4. LOCAL REPRESENTATIONS

Local Residents:

- 4.01 No representations received from local residents.

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)

DETLING PARISH COUNCIL

- 5.01 Objects to this application and wishes to see it refused. If the Planning Officer view differs, wishes the application to be considered by the MBC Planning Committee.

Reason for objection - Owner should have removed the decking. Height of the decking still infringes right to privacy of neighbouring properties which share borders with Webbe Cottage.

Other comment - The environment-friendly nesting area for hedgehogs, underneath the decking, can be relocated elsewhere within Webbe Cottage property boundaries.

MBC CONSERVATION OFFICER

- 5.02 No objection.

Decking has a negligible impact on the character and appearance of Detling Conservation Area. The section of fencing would not have a harmful impact either.

6. APPRAISAL

Main Issues

- 6.01 The key issues for consideration relate to:
- The impact on the residential amenities of neighbouring occupiers;
 - Visual impact on the Detling Conservation Area and Kent Downs Area of Outstanding Natural Beauty

Residential Amenity

- 6.02 The key consideration is the impact on the privacy of neighbouring occupiers, both existing occupiers and the future occupants of the recently-constructed pair of cottages to the south of the site, since the proposal would create a raised platform which could result in overlooking.
- 6.03 That, indeed, was the reason for refusal of application 18/505575/FULL, since the cottage then under construction immediately adjoining the southern boundary was to have a bay window to the dining room on the ground floor flank elevation

which would have been overlooked by users of the decking as it currently (unlawfully) exists, as would the majority of its rear garden.

- 6.04 Since that decision was issued, the cottage has been completed and I saw from my site visit that it does indeed have a bay window serving what appeared to be part of a through kitchen, dining, living area. The boundary wall with the application site runs past this window and the decking would be behind it. However, I am satisfied that the proposed lowered height of the lower deck area in combination with the addition of the strip of fencing on top of the existing wall would mean that occupiers of Blossom Cottage would not now suffer a significantly harmful loss of privacy to their dining area. This is because the total height of the wall and fencing would be approximately 1.8m above the surface level of the lower deck area and consequently would be high enough to obstruct passive views by users of that lower deck area down into the bay window.
- 6.05 Although the upper deck area would be set at a higher level, so the total height of the wall and fencing would not be as high in relation to its surface level, I am nevertheless satisfied that the degree of set back of the upper deck area from the boundary would mean that the boundary treatment would still be of sufficient height to obstruct the line of sight that users of that upper deck area would have to follow to be able to look down into the neighbour's bay window.
- 6.06 Similarly, the combination of the heights of the respective areas of decking, their proximity or distance from the common boundary and the provision of the section of fencing atop the existing boundary wall would mean that the proposal would not result in an unacceptable degree of overlooking of the most private garden area of Blossom Cottage either, or indeed that of Rose Cottage or any of the other gardens which lie beyond.
- 6.07 It may be possible to see part of the garden of The Stables as well as the windows in its rear elevation from the decking due to the angle of view towards that property and the fact that the proposed lateral fencing would only extend along the top of the part of the wall adjoining the decking. However, the separation distance from the windows is greater than 21m and, since I saw during a site inspection that it is currently possible to overlook at much closer quarters, the area immediately behind this neighbouring dwelling, from within the garden area just behind Webbe Cottage, on balance I do not consider that significant harm would arise in relation to the impact on privacy for this property.
- 6.08 The development would not be unduly overbearing on Blossom Cottage since the only part that would rise above the existing brick wall on the common boundary would be the proposed section of fencing which, although it would be just over 6m in length, would only measure 0.27-0.38m in height.
- 6.09 For that same reason and also in view of the position of the development to the north of the Blossom Cottage plot, it will not result in a harmful loss of light to that property.
- 6.10 To conclude, this proposal for two areas of lowered decking together with a modest section of privacy screen fencing on the common boundary would overcome the reason for refusal of the previous planning application without giving rise to any material harm to the residential amenities of neighbouring occupiers in terms of overbearing impact or loss of light. The impact on residential amenity is therefore considered acceptable.

Visual Impact

- 6.11 The decking would not be visible from The Street, due to the topography and height of the boundary walls.

- 6.12 The proposed section of fencing atop the southern boundary wall would be visible from The Street, but in view of the fact that it would only be approximately 0.27-0.38m in height and just over 6m in length and would be aligned such that it would run back away from public vantage points, along a common boundary between two private amenity areas, it would not be prominent or obtrusive, plus it can be conditioned to be stained a dark colour to further minimise its visual impact.
- 6.13 The Conservation Officer's professional view is that the decking has a negligible impact on the character, appearance and significance of the Detling Conservation Area and that the fencing would not have a harmful impact. I agree with that assessment and furthermore, for the reasons outlined above, do not consider that the proposal would be harmful to the character or appearance of the street-scene or the scenic beauty of the Kent Downs Area of Outstanding Natural Beauty either.
- 6.14 The development could be glimpsed by occupants of high vehicles (such as coaches) travelling southwards on the A249, but only in the context of the surrounding walls and other built development, so would not appear obtrusive or harmful to the character or appearance of the surroundings, the significance of the Detling Conservation Area or the scenic beauty of the Kent Downs Area of Outstanding Natural Beauty in those views either.

Other Matters

- 6.15 The nature of the proposal is such that it does not affect the parking provision.
- 6.16 I am not aware that any important trees have been lost.
- 6.17 The development would not have any material impact on buried archaeological remains.
- 6.18 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.*' However, due to the nature and relative scale of the proposal and the existing residential use of the site, it is not considered appropriate/necessary to require any ecological surveys. Nevertheless, the NPPF encourages the enhancement of biodiversity in the interests of sustainable development and I note that the applicant and his family have been encouraging hedgehogs to nest beneath the existing unlawful decking. In view of the fact that this application proposes two lower areas of decking, and also the fact that the proposed decking, by its nature, would still cover up what was previously part of the lawn area, it is considered appropriate to attach a condition requesting that some form of formal on-site ecological enhancement is provided within the curtilage, in addition to the applicant's activities to encourage the hedgehogs.

PUBLIC SECTOR EQUALITY DUTY

- 6.19 Due regard has been had to the Public Sector Equality Duty, as set out in Section 149 of the Equality Act 2010. It is considered that the application proposals would not undermine objectives of the Duty.

7. CONCLUSION

- 7.01 It is considered that, subject to appropriate conditions, this proposal for two areas of lowered decking together with a modest section of privacy screen fencing on the common boundary would overcome the reason for refusal of the

previous planning application relating to loss of privacy without giving rise to any material harm in any other respects. The existing ecological benefit of providing a nesting area for hedgehogs can be maintained and additional biodiversity enhancement can be secured by condition to compensate for the loss of a small section of lawn.

- 7.02 It is therefore concluded that the application is acceptable and I recommend that Members grant planning permission subject to conditions as set out below.

8. RECOMMENDATION

GRANT planning permission subject to the following conditions:

- 1) Within 6 months of the date of this permission, the development shall be carried out and completed in accordance with the following approved plans and documents:

Site location plan received on 07/05/2020, and drawing numbers Wood-Drg-001D received on 11/06/2020 and Wood-Drg-002D received on 09/10/2020;

Reason: To ensure the quality of the development is maintained and to prevent overlooking of neighbouring residential properties.

- 2) Within 6 months of the date of this permission, the south-facing side (facing Blossom Cottage) of the lateral fencing privacy screen on top of the existing boundary wall shall be stained matt dark brown and shall thereafter be maintained as such;

Reason: To ensure a satisfactory appearance to the development.

- 3) Within 2 months of the date of this permission, details for a scheme for the enhancement of biodiversity on the site shall be submitted to the Local Planning Authority for its approval in writing. The scheme shall consist of provision within the site curtilage of elements such as bird boxes, bat boxes, bug hotels, hedgehog houses and/or log piles. The biodiversity enhancements shall be provided in accordance with the approved details within 2 months of receiving written approval by the Local Planning Authority and all features shall be maintained thereafter;

Reason: To enhance the ecological value and biodiversity on the site in the future.

INFORMATIVES

- 1) You are advised that there is a separate application process to discharge planning conditions which require written approval of details. You can apply online at, or download forms from, www.planningportal.co.uk (search for 'discharge of conditions').
- 2) Details pursuant to Condition 3 should show, on a scaled drawing, the positions of the proposed ecological enhancements including, where appropriate, the height

above ground level to demonstrate that this would be appropriate for the species for which it is intended. Any bird boxes should face north and bat boxes should face south.

- 3) Due regard has been had to the Public Sector Equality Duty, as set out in Section 149 of the Equality Act 2010. It is considered that the application proposals would not undermine objectives of the Duty.

Case Officer: Angela Welsford