

REPORT SUMMARY

REFERENCE NO - 21/504384/LAWPRO		
APPLICATION PROPOSAL Lawful Development Certificate for the proposed rendering of the front of the house.		
ADDRESS 3-5 Bower Place Maidstone Kent ME16 8BG		
RECOMMENDATION - Refuse for the reasons set out in section 8.0		
SUMMARY OF REASONS FOR REFUSAL The proposal to render the front of 3 and 5 Bower Place would not comply with the condition in sub-section A.3(a) in that the materials used would not be of a similar appearance to those used in the construction of the exterior of the existing dwellinghouse. It is clearly stated at the beginning of subsection A.3 that "Development is permitted by Class A subject to the following conditions...". Consequently, the proposals do not constitute development permitted by virtue of Article 3 and Schedule 2, Part 1, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) and planning permission is required.		
REASON FOR REFERRAL TO COMMITTEE The application has been called in by the Ward Councillor, Cllr Harper, on the grounds of the property being visually important in the local street scene and residents see no reason to see this proposal proceed.		
WARD Fant	PARISH/TOWN COUNCIL	APPLICANT Tunji Salami AGENT
DECISION DUE DATE 04/11/21	PUBLICITY EXPIRY DATE	OFFICER SITE VISIT DATE
RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):		
3 Bower Place 20/503136/PNEXT Prior notification for a proposed single storey rear extension which: A) Extends by 4.5 metres beyond the rear wall of the original dwelling. B) Has a maximum height of 2.85 metres from the natural ground level. C) Has a height of 2.7 metres at the eaves from the natural ground level Permitted		
5 Bower Place 20/504815/FULL Erection of a single storey side and rear extension Permitted		
3-5 Bower Place 21/502853/LDCEX : Lawful development certificate (existing) for conversion of loft into habitable space, with hip to gable roof alterations and insertion of a rear dormer and 4no. front rooflights.. Pending consideration		
21/502019/FULL Roof alterations to create second floor living accommodation with front and rear dormers (Part Retrospective). Refused for the following reasons:		

- (1) It is considered by virtue of its design and mass, the proposal, in particular the flat 'mansard' style roof would appear convoluted, incongruous, bulky and subsume the original dwellings and would harm the character and appearance of the area, host properties and street scene as such the proposal would be contrary to the National Planning Policy Framework 2019, Policies DM1 and DM9 of the Maidstone Borough Local Plan 2017 and the Councils Residential Extensions Supplementary Planning Document and that there are no overriding material considerations to justify approval that outweigh the harm identified above.
- (2) The proposal would result in harm to the amenity of the adjacent neighbouring properties by being unduly overbearing and causing a loss of outlook such the proposal would be contrary to the National Planning Policy Framework 2019, Policies DM1 and DM9 of the Maidstone Borough Local Plan 2017 and the Councils Residential Extensions Supplementary Planning Document and that there are no overriding material considerations to justify approval that outweigh the harm identified above.

MAIN REPORT

1.0 DESCRIPTION OF SITE

- 1.01 The application site comprises two semi-detached properties located to the north eastern side of Bower Place. The properties are set back from the highway and have fairly small gardens to the rear. The surrounding area is predominantly residential in character and features a range of housing styles and types. The application site is not subject to any specific designations within the local plan but is located within Maidstone's Urban Area Boundary.

2.0 PROPOSAL

- 2.01 The application seeks a Lawful Development Certificate for the proposed rendering of the front of the dwellinghousea.
- 2.02 The application is accompanied by the following information:
 - Application form
 - Drawing D01 (No.3 Site Location and Block Plan)
 - Drawing D01 (No.5 Site location and Block Plan)
 - Drawing D09 Rev A (Proposed Front elevation)
- 2.03 The only details of the proposed rendering are contained within the application form which states that the front elevation would be rendered. No details of the extent of rendering is shown, but by referring to the front elevation the matter for consideration is whether rendering the entire front elevation of the property is considered as permitted development.

3.0 POLICY AND OTHER CONSIDERATIONS

Town and Country Planning Act 1990 (as amended)
The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended)
Permitted development rights for householder – Technical Guidance September 2019

4.0 LOCAL REPRESENTATIONS

This type of submission does not have any statutory requirement for consultation, however comments have been received which are summarised below. The NPPG sets out that *Views expressed by third parties on the planning merits of the case, or on whether the applicant has any private rights to carry out the operation, use or activity in question, are irrelevant when determining the application.*

Cllr Harper

The property is visually important in the local street scene and residents see no reason to see this proposal proceed.

5.0 CONSULTATIONS

None

6.0 APPRAISAL

- 6.01 Section 192 of the Town and Country Planning Act 1990 allows for a person to apply for a Certificate of lawfulness for proposed development to ascertain whether in this case any operations which have been carried out in, on, over or under land would be lawful (s192(1b))

For the purposes of the Act, the operations are considered lawful if the local planning authority are provided with information satisfying them that the use or operations described were instituted or begun at the time of the application(**s192(2)**)

- 6.02 The matter to be determined by the Council is whether the works described in the proposal section above (namely the rendering of the front of the property) would be considered as permitted development under the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (“GPDO”). This type of application cannot be considered against the development plan or any other material planning considerations.

- 6.03 The National Planning Policy Practice Guidance (NPPG) sets out when considering this type of application that:

In the case of applications for proposed development, an applicant needs to describe the proposal with sufficient clarity and precision to enable a local planning authority to understand exactly what is involved.

- 6.04 In this respect the applicant has provided the following supporting evidence/information :

Application form
Drawing D01 (No.3 Site Location and Block Plan)
Drawing D01 (No.5 Site location and Block Plan)
Drawing D09 Rev A (Proposed Front elevation)

Setting out that they believe the proposal to be permitted development for the following reasons:

'The both house is going through refurbishment with extension and lawful creation more rooms, it will beautify the building and the street to make good the cracks in the front of the buildings and cover them with rendering work. The building has moved in its structure and the front bricks are too old and not structurally strong. The rendering of the front will allow us to make it stronger and more beautiful.'

'Application of colours does not require permission and ordinarily neither does render....this line is from the planning guidance. We just want to make sure we involve the planning team to ensure we have approval before we render the front.'

Does the proposal meet Schedule 2, Part 1, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

6.05 As the works mirror each other on both dwellings, the below appraisal relates equally to numbers 3 and 5 Bower Place.

6.06 The GPDO allows for **enlargement, improvement or other alteration of a dwellinghouse**.

6.07 The proposal does not relate to the enlargement of the dwellinghouse and as such the criteria principally contained in A.1 of that class does not apply. The pertinent matter relates to the conditions which sets out that :

'the materials used in any exterior work (other than materials used in the construction of a conservatory) must be of a similar appearance to those in the construction of the exterior of the existing dwellinghouse.'

6.08 The MHCLG Technical Guidance states:

"The condition above is intended to ensure that any works to enlarge, alter or improve a house result in an appearance that minimises visual impact and is sympathetic to existing development. This means that the materials used should be of similar visual appearance to those in the existing house, but does not mean that they need to be the same materials.

For example:

- the external walls of an extension should be constructed of materials that provide a similar visual appearance - for example in terms of colour and style of brick used - to the materials used in existing house walls.*

- a pitched roof on an extension should be clad in tiles that give a similar visual appearance to those used on the existing house roof. Again, colour and style will be important considerations; flat roofs will not normally have any visual impact and so, where this is the case, the need for materials of similar appearance should not apply."*

6.09 The original dwelling is a mix of ragstone and brick built, with some stonework detailing to the corner of the dwellings and around the fenestration. (see photographs below)



- 6.10 There is no render on the existing dwelling. The stonework detailing does have a smooth, cream coloured finish, which could be argued is similar to render (albeit no details of the finish or colour of the proposed render have been provided), however this is a minor detail on the dwellinghouse and not the dominant material or what is read as the main appearance of the dwelling. The dwellinghouses would be described as brick and ragstone and it is those materials which the proposed render would need to appear similar to.
- 6.11 In the absence of details relating to the proposed render, the use of render has to be taken at face value and in this respect it is not considered that the visual appearance of render to the entire front elevation would be similar to the exterior of the existing dwellinghouse(s)

7.0 CONCLUSION

- 7.01 The proposal to render the front of 3 and 5 Bower Place would not comply with the condition in sub-section A3(a) of Class A in that the materials used would not be of a similar appearance to those used in the construction of the exterior of the existing dwellinghouse.
- 7.02 It is clearly stated at the beginning of subsection A.3 that "Development is permitted by Class A subject to the following conditions...". consequently, the proposal does not constitute development permitted by virtue of Article 3 and Schedule 2, Part 1, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) and planning permission is therefore required.

7.03 The reports and recommendation has been reviewed and agreed with an Officer of Mid-Kent Legal Services (MKLS).

8.0 RECOMMENDATION –REFUSE for the following reason:

(1) The proposal to render the front of 3 and 5 Bower Place would not comply with the condition in sub-section Class A.3(a) in that the materials used would not be of a similar appearance to those used in the construction of the exterior of the existing dwellinghouse. It is clearly stated at the beginning of subsection Class A.3 that "Development is permitted by Class A subject to the following conditions...". consequently, the proposals do not constitute development permitted by virtue of Article 3 and Schedule 2, Part 1, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) and planning permission is therefore required.

INFORMATIVES

(1) The plans and information taken into consideration in reaching the decision are:

Application form
Drawing D01 (No.3 Site Location and Block Plan)
Drawing D01 (No.5 Site location and Block Plan)
Drawing D09 Rev A (Proposed Front elevation)

Case Officer: Rachael Elliott

NB For full details of all papers submitted with this application please refer to the relevant Public Access pages on the council's website.