

APPLICATION: MA/10/0231 Date: 15 February 2010 Received: 22 February 2010

APPLICANT: Mr M Jones

LOCATION: BLUE TOPS, WALNUT TREE LANE, LOOSE, MAIDSTONE, KENT, ME15 9RG

PARISH: Loose

PROPOSAL: Application for the reserved matters of outline permission MA/07/1724 (Outline application for the erection of one dwelling with all matters reserved for future consideration) being access, appearance, landscaping and scale as shown on Drawing No.s H-582 01, 02d, as amended by H-582 11e, 12e,13d, 14d, 15d, 16d,17e.

AGENDA DATE: 22nd July 2010

CASE OFFICER: Amanda Marks

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

- Cllr Ben Sherreard has requested the application be reported to committee for the reasons set out in this report.
- The Parish Council wish to have the application reported to planning committee.

## **1. POLICIES**

Maidstone Borough-Wide Local Plan 2000: ENV6, T13  
Loose Road Character Area Assessment SPD  
Government Policy: PPS1, PPS3, PPG13,

## **1. HISTORY**

MA/07/1724 Outline application for the erection of one dwelling with all matters reserved for future consideration. APPROVED

MA/08/1787 Erection of a two storey side extension APPROVED

## **2. CONSULTATIONS**

**Loose Parish Council –**

Initially wished to see the application approved and did not request the application to be reported to committee. More recently the Parish Council wish to see the application approved and request it be reported to planning committee. The request to be brought to committee is due to errors/delays in the notification of neighbours and because the Parish Council was unaware of the strength of neighbour objection at the time of its discussion on the application.

**MBC Environmental Health Officer** - No objections subject to informatives

**KCC Highways** – No objections subject to conditions

**MBC Landscape** – no objections subject to conditions

**Kent PRoW** – The aspect that RoW would be concerned with would be the number of vehicles using the path to access the building plot. It would be good practice to get the applicants to erect signs both for the public and the drivers of said vehicles so as to warn them of potential hazards. Obviously the path cannot be stopped up, diverted, obstructed (this includes any building materials or waste generated during any of the construction phases) or the surface disturbed. There must be no encroachment on the current width, at any time now or in the future and no furniture or fixtures may be erected on or across the PRoW without consent.

### **3. REPRESENTATIONS**

4.1 Cllr Sherreard: I would like to take this opportunity to register my concerns regarding the application on a number of different points, these being;

- Overlooking
- Discrepancies within the D&A statement, it talks at one point about flats!!!!
- Engineering constraints to do with the ramp to garage
- Loose Area Character Assessment – I do not feel that what is essentially another LARGE dwelling in the garden of another home is appropriate for the area.

4.2 Eight neighbours have written objecting to this application, as the application has been re-consulted on three occasions due to amendments and additional information, in most instances more than one letter has been received from a household.

- Loss of light, overshadowing, overlooking, over bearing
- Dwelling too big in relation to surroundings and out of line with other dwellings
- Basement could be occupied as a separate living accommodation
- Inadequacy of Design and Access Statement

- Contrary to PPS1 and PPS3
- Suggest two storey with one below ground level
- Damage to tree in neighbouring property White Stacks
- Access inadequate, unable to cope with further traffic, insufficient manoeuvring space
- Inadequate access for emergency vehicles
- Ecological survey should be undertaken due to diverse wildlife in area
- Archaeological survey should be undertaken due to findings at the Northleigh Close/Walnut Tree Avenue
- Loss of fruit trees, spruce tree, inadequate landscaping and impact on Loose Valley Conservation Area
- Erosion of environment, out of character
- Development would set a precedent for development along the garden fringe to the south of Walnut Tree Lane
- Disruption during construction and excavation
- Concerns over subsidence to private land
- Danger to school children and the pavilion car park

Reconsultation took place due to amendments with the siting of the dwelling, reduced height in part, and loss of a window. Also information regarding the Code for Sustainable Homes was received and consulted on. Further letters were received stating that the amendments/additional information did not change the views already expressed.

### **Walnut Tree Residents Association Ltd.**

4.3 The WTRA Ltd object to the proposal, setting out that they are the registered company that owns Walnut Tree Lane and the access track to Littledean. In summary they comment as follows; the shareholders are all owners of the properties in the lane. They comment:

- The track is unsuitable for further vehicular use and also has amenity value. The rural character of the track should be protected.
- The access arrangements are unacceptable and the ramp and excavation works are unnecessarily complex.
- The works would be disruptive, dangerous and potentially damaging to the track and Walnut Tree Lane.
- Dispute the ability to turn vehicles within the proposed site area.
- Question the measurement of 6m shown on the block plan as it suggests company land may be used.

## **4. CONSIDERATIONS**

### **5.1 Site & Surrounding Area**

- 4.1.1 The site lies within the urban confines of Maidstone in the parish of Loose. It is situated to the east of the Loose Road on the southern side of the private road 'Walnut Tree Avenue'. The application site is contained behind the current residential curtilage of a large detached dwelling (Blue Tops). Access can be gained via a track which runs adjacent to the eastern boundary of the curtilage. Public footpath KM218 runs down this track and turns at a 90 degree angle and runs west behind the rear boundaries of the properties in Walnut Tree Lane.
- 4.1.2 The site is currently laid to lawn with a scattering of fruit trees. The existing garden is approximately 80m long x 15m wide and relatively even with a gentle decline to the south. On both the east and west side boundaries is abundant planting of trees and hedges of varying heights. The planting on the west boundary is within the curtilage of the neighbouring property Grenofen. The hedging on the eastern boundary is approximately 2.5m high and is continuous along the length of the track.
- 4.1.3 To the south of the site lies abundant vegetation in a valley which falls within the designated Loose Valley Conservation Area; an Area of local Landscape Importance and the Southern Anti-Coalescence belt. In 2008 the Loose Character Area Assessment was adopted which is also a material consideration in the determination of this application.
- 4.1.4 The area is characterised primarily by detached properties of differing styles with the common feature of generous residential curtilages. A number of these properties have had the benefit of two storey extensions over the last 20 years. The gardens to the west of the track, including that of Blue Tops, are between 80-90m long from the rear of the dwellings. The gardens to the east of the track are half these lengths at approximately 40m. Opposite these dwellings are the King George V playing field. There is one dwelling 'Little Dean House' (a bungalow) which is located to the south of the properties fronting Walnut Tree Lane. This property is also accessed off the single vehicle track to the east of Blue Tops. There is also the development to the west of the application site, Copper Tree Court, a cul-de-sac which extends as far south as the rear gardens of Walnut Tree Lane.

## **4.2 Proposal**

- 4.2.1 This is an application for the approval of Reserved Matters following the grant of outline planning permission for a new dwelling in 2005. All matters were reserved for future consideration, namely, layout, scale, appearance, access and landscaping. It is proposed to build an eco-friendly three storey dwelling with one floor being underground. The dwelling would have an approximate footprint of approximately 140sqm.

The dwelling has the potential to be used as a 5 bedroom property. The height of the dwelling above ground level would be 7.8m. The ridge height of the dwelling would sit approximately 1.5m below that of Blue Tops.

- 4.2.2 It is proposed to curtail the garden length of Blue Tops to 18.3m from the rear of the dwelling. There would then be a further 13m until the built development of the new 'L' shaped dwelling. A garden length of approximately 31m would then be retained to the southern boundary of the site.
- 4.2.3 The dwelling has an 'L' shaped footprint with a roundel on the northern elevation which provides an entrance on both basement and ground level, a central hall area and a glazed atrium to allow light from the top. Situated below ground is a double garage, utility, w.c, and guest bedroom. The ground floor contains a lounge, kitchen/diner, study and cloakroom. The first floor comprises 4 bedrooms (1 with en-suite) and a family bathroom.
- 4.2.4 The dwelling has been designed to meet Level 4 of the Bream Code for Sustainable Homes. A schedule of the benefits of a sustainable design has been submitted by the applicant and will be further explored later in this report. The dwelling would be finished in clay roof tiles, facing stock brick, white painted timber window frames and white render. There is a 5sqm solar panel designed into the south facing roof plain. The south elevation also maximises the benefit of views over open fields by using a large amount of glazing.

### **4.3 Principle of Development**

- 4.3.1 Situated within the urban area and with an extant planning permission for a new dwelling, the proposal has been acceptable in principle. The outline permission did not give restrictions or guidance with regard to an appropriate size or scale of dwelling for the location. It was suggested in the application that reserved matters would seek to secure a two storey dwelling on the site. Conditions imposed on the outline permission required details of materials; details of boundary treatment; a landscaping scheme and parking arrangements to be submitted.
- 4.3.2 Annex B to PPS3 has always contained a definition of previously developed land, including a series of exceptions. The amended version adds 'private residential gardens' as a new exception to this list. The effect is to remove policy support for development on such land.

4.3.3 The old PPS3 didn't allow for the development of all garden sites however, and as a corollary, I do not consider that the amended PPS3 means that all development in gardens should now be refused. However, as previously stated this site benefits from an extant grant of permission in principle.

4.3.4 In light of the established principle for a new dwelling on this site, it is the reserved matters which require consideration.

#### **4.4 Layout**

4.4.1 The outline planning application showing an indicative footprint of a 'T' shaped dwelling with the longest side adjacent to the track. The sketch plan was annotated as providing a full two storey dwelling. The length of the dwelling adjacent to the track was shown as being 60ft (approx 18.28m). An informative was put on the decision to advise setting in of the dwelling away from the track to minimise its impact. The dwelling has been set in by 1.5m, but perhaps more importantly the proposed length has been reduced to approximately 11m. Clearly this will reduce the amount of built development close to the track. It is a question of balance, as to further pull the dwelling away from the boundary would result in a development closer to neighbouring properties to the west.

4.4.2 Furthermore, since the outline planning permission was granted, a two storey side extension some 8.5m in length has been approved and built on the side of Blue Tops adjacent to the access track. With this in mind, the new dwelling is set in notably from the track.

4.4.3 The proposed dwelling is on plan, a substantial property with potential to be used as shown for 5 bedrooms. However, it has been deliberately designed to keep the visual impact low with an eaves height of 2.7m on the part of the dwelling closest to the western boundary with Grenofen. The dwelling would be set in 1m from the commonside boundary and located approximately 38m south of the rearmost wall of Grenofen. The roundel/turret feature is set in approximately 6.5m from the western boundary, is 7.3m high from ground level and 30m south from Grenofen at an angle of approximately 70 degrees (please can someone check).

4.4.4 Located in the rear garden of an existing substantial two storey detached dwelling views of the proposal would be very limited from Walnut Tree Avenue. Views would be afforded from first floor windows of neighbouring dwellings and fields to the rear of the site. It cannot be maintained that the dwelling would appear dominant or an incongruous feature in the locality. The presence of the dwelling 'Little Dean' means that the proposed dwelling would not be isolated in this location.

## **4.5 Scale & Appearance**

- 4.5.1 The applicant's design and access statement explains how the dwelling has been designed to minimise the impact of the dwelling on the neighbouring properties. There is the occasional error in this statement and it is not overly detailed which has caused some confusion in interpretation. For example, it does make reference to flats at some point – I believe this to be nothing more than an oversight. In addition to the amendments sought by the case officer, the dwelling was designed to keep the mass of the dwelling on the eastern side of the site away from neighbouring properties; bulk is reduced by providing garaging underground; the lower level garaging was designed to minimise noise and disturbance to neighbours; and the roof is reduced in scale closest to the neighbouring boundary.
- 4.5.2 Constructed of materials which are not dissimilar in external appearance from Blue Tops it is not considered that the dwelling would be out of character in this location. The simple fenestration on the eastern elevation reflects the style of Blue Tops.
- 4.5.3 The Loose Character Area Assessment identifies the Walnut Tree lane Area as an area set on a higher level than the Loose Valley to the South; it emphasises that development could have a greater impact because of this. From a site visit and as demonstrated in the photographs it is apparent that views will not be obvious from the south, or from the north, they will very much be contained to the private garden areas of dwellings on Walnut Tree lane.
- 4.5.4 The proposed dwelling would be located some 30-38m from Grenofen which is the neighbouring dwelling to Blue Tops. This more than adequately meets the guidance contained in Kent Design with regard to overlooking and loss of daylight/sunlight. Regardless of this, the applicant has amended the siting of the dwelling an additional 2m to the south from the original submission, removed a first floor window in the circular stairwell and reduced its height in response to objections over loss of privacy from neighbouring properties. The combined distance between the proposed dwelling and those existing, means there is no direct over looking to neighbouring properties. The 30m separation between Blue Tops and the proposal again exceeds minimum distances as suggested of 21m in Kent Design.

4.5.5 The 1:10 vehicular ramp which curves round and down to access the garage has been considered in terms of its amenity impact with regard to noise and light to the neighbouring property. The hardstanding is in the region of 20 plus metres from the nearest corner of the rear of Grenofen. The combined distance of the dwelling together with boundary treatment is substantial in contrast to the average relationship of residential parking arrangements between properties and is not considered to unduly harm the living conditions of the occupiers of Grenofen. Headlights from vehicles late at night are more likely to be facing away from Grenofen as vehicles enter the garage facing south. Disturbance is more likely to be caused by existing parking arrangements on the neighbouring properties on Walnut Tree Avenue.

4.5.6 Objection has been raised regarding the impact on a mature tree within the garden of White Stacks to the east of the application site. As the tree is not within the application site it is not a material consideration. This being said, the advice of the landscape officer has been sought and it is confirmed that trees within the neighbours garden are a sufficient distance from the proposal.

#### **4.6 Access & Highways**

4.6.1 The access track (also designated PRoW) is relatively narrow and there is potential for conflict between pedestrians and vehicles. However, the track is straight with good visibility and it is considered that a car could pass a pedestrian safely. It is not considered that one additional dwelling would compromise highway safety any further. Previous comments from the PRoW officer on the outline planning permission raised no objection in principle and this position has not changed. An informative to protect the PRoW has been added to the recommendation. As previously discussed in the outline application, it is not considered that access to the dwelling would discourage users of the footpath.

4.6.2 The development proposes a double garage at lower ground level. Any additional parking could be contained within the site and a turning area could ensure vehicles leave the access track in a forward gear. A parking implementation condition is recommended to ensure that the space is implemented prior to the occupation of the new dwelling and kept available thereafter for such use.

#### **4.7 Landscaping**

4.7.1 Concern has been raised over lack of adherence to the informative on the outline permission regarding replacement and retention of trees. The



informative stated 'with regard to landscaping you are advised to maintain the boundary hedging fronting the access track and retain the mature spruce tree within the site. Replacement planting for any trees that may be lost is also recommended.' The development requires 3 mature apple trees to be removed from the site. These are located in the northern half of the application site. The provision of 3 new apple trees is shown on the proposed layout plan together with the retention of the Norway Spruce. The landscape officer has confirmed that the Spruce is unlikely to be affected by the development, but a condition should be imposed for its protection during construction works.

4.7.2 I am satisfied that the replacement planting is adequate and that the Norway Spruce is not compromised as part of this scheme.

#### **4.8 Other Matters**

4.8.1 Whilst not strictly falling under the reserved matters headings, there are benefits to this scheme in terms of sustainability. The Design and Access Statement makes reference to the solar panel and rainwater collection, but more detailed information has been provided by the applicant as to how the proposal could achieve Level 4 of the Code for Sustainable Homes. In summary:

- Electricity generated from photovoltaic panels (surplus to be sold back to national grid);
- Water heated by solar panels (approximately 60% of provision);
- Windows from Belgium (100% lower uv);
- Surface water collected, filtered and re-used in toilets, washing machines etc
- Compacted footprint by underground development;
- Surplus run off to be directed to on site drains, pumped via filters and stored for re-use;
- All appliances to be A rated;
- Use of glazing to minimise need for use of internal lighting; if needed optic tubes to be used in stairwell

The Kent Design Guide and PPS 1 encourage the use of sustainable means of construction. I consider that the materials proposed and the fact that the applicant is confident that Level 4 can be met, make this dwelling a good example for sustainability.

4.8.2 Considering the objections which raise issues over the lack of ecological information provided to deal with local wildlife, no evidence has been submitted or, gathered from Officer's site visit which gives details of any

protected species within the area. The site is within the urban envelope, and is not within or close to a designated SNCI or SSSI. As such it is not considered that there would be any significant harm caused to wildlife. It is in accordance with advice contained within PPS9 and therefore no objection is raised over this issue.

- 4.8.3 A neighbour has remarked that planning permission was refused for the bungalow Little Dean to undertake a first floor extension. Having checked the records I confirm that this appears to be a reference to an application in 1977. Little Dean is in a more isolated position further south than any of the gardens associated with properties aligning Walnut Tree Lane. I do not consider this decision to be relevance to the current application.
- 4.8.4 The adjacent neighbour at Grenofen has suggested that there may be a dispute/discrepancy over boundary lines between the application site and their property. This is a private to be resolved outside the planning considerations.
- 4.8.5 Reference has been made to the delay in the notification procedure undertaken on the application. Unfortunately neighbour letters were produced for incorrect properties and the site notice was put up after the Parish Council had considered the application. Some neighbours have complained they received no letter, however in accordance with procedure they were not eligible to receive one as they did not bound the application site. This being said, once the case officer was aware of problems with public consultation an extension in time to comment on the application was given. This being said, whilst the views of the PRoW Officer have been sought, the application has not been advertised as affecting a PRoW. The issues relating to the PRoW have been addressed in this report and a number of comments received in relation to this. As a formality the application will be re-advertised as affecting a PRoW.

## **6. CONCLUSION**

- 6.1 In light of the above assessment, it is considered that that the proposal is in accordance with the provisions of the Development Plan and would not cause significant or unacceptable harm to the character of area, residential amenity or highway safety. It is therefore recommended that the application be approved subject to the following conditions.

## **7. RECOMMENDATION**

I BE DELEGATED POWER TO GRANT planning permission subject to the following conditions:

SUBJECT TO:

a) Any new/materially different representations received as a result of outstanding statutory advertisements;

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, samples of the materials to be used in the construction of the external surfaces of the building 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.

3. 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 policy T13 of the Maidstone Borough-Wide Local Plan 2000.

4. Before the dwelling hereby approved is first occupied, a properly consolidated and surfaced access (not loose stone or gravel) shall be constructed, details of which shall have been submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of highway safety and in accordance with Policy T13 of the Maidstone Borough Wide Local Plan 2000.

5. 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 and in accordance with Policy T13 of the Maidstone Borough Wide Local Plan 2000.

6. The development shall not commence until a scheme to safeguard against the deposit of mud and similar substances on the public highway has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include wheel washing facilities.

Reason: In the interests of highway safety and in accordance with PPS1.

7. The development shall not commence until details of satisfactory storage of refuse on site have been submitted to and approved in writing by the Local Planning Authority and the approved facilities shall be provided prior to the first occupation of the dwelling.

Reason: In the interests of amenity and in accordance with PPS1.

8. 8. The development shall not commence until full details of the slab levels have been submitted to and approved in writing by the Local Planning Authority and the development shall be completed in strict accordance with the approved levels.

Reason: In the interests of amenity and in accordance with PPS1.

9. The development shall not commence until details of foul and surface water drainage have been submitted and approved in writing by the Local Planning Authority and these works shall be completed in accordance with the approved details before the dwelling is occupied.

Reason: Reason: In the interests of amenity and in accordance with PPS1.

10. The dwelling shall achieve at least Level 4 of the Code for Sustainable Homes. No dwelling shall be occupied until a final Code Certificate has been issued for it certifying that Code Level 4 has been achieved

Reason: To ensure a sustainable and energy efficient form of development in accordance with the guidance contained in PPS1 and the Kent Design Guide.

11. 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 include the retention of the boundary hedgerow, 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 and in accordance with policies ENV6 of the Maidstone Borough-wide Local Plan 2000.

12. 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 of the Maidstone Borough-wide Local Plan 2000.

13. Notwithstanding the provisions of Schedule 2, Part 2, Class A 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 fences, gate or walls shall be erected within the curtilage of any dwelling house forward of any wall of that dwelling house which fronts onto a road;

Reason: To safeguard the open plan character and appearance of the development in accordance with policies

### **Informatives set out below**

Public footpath KM218 shall not be stopped up, diverted or obstructed during construction without an authorised temporary closure order from the County Council, nor shall the surface be disturbed or the width impeded without the necessary consent.

Attention is drawn to Sections 60 and 61 of the Control of Pollution Act 1974 and to the Associated British Standard Code of practice BS5228:1997 for noise control on construction sites. Statutory requirements are laid down for control of noise during works of construction and demolition and you are advised to contact the Environmental Health Manager regarding noise control requirements.

Clearance and subsequent burning of existing woodland or rubbish must be carried out without nuisance from smoke, etc. to nearby residential properties. Advice on minimising any potential nuisance is available from the Environmental Health Manager.

Observing that the use of the premises is not yet finalised, the occupant should contact the Environmental Health Manager regarding possible pollution control measures.

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.

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

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

Applicant must consult the Environmental Health Manager regarding authorisation under the Environmental Protection Act 1990.