

APPLICATION: MA/10/0253 Date: 16 February 2010 Received: 17 February 2010

APPLICANT: Mr C Price

LOCATION: THE RETREAT, WARE STREET, WEAVERING, MAIDSTONE, KENT,
ME14 5LA

PARISH: Thurnham

PROPOSAL: Planning application for amendment to MA/08/0804 (erection of 1
three bedroom bungalow) being incorporation of additional living
accommodation within the roof, alterations to fenestration and
erection of detached garage.

AGENDA DATE: 22nd July 2010

CASE OFFICER: Amanda Marks

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

- It is contrary to the views of the Parish Council
- Cllr Horne has concerns with the application for the reasons set out in the report

1. POLICIES

Maidstone Borough-Wide Local Plan 2000: ENV6, T13
Government Policy: PPS1, PPS3, PPG13,

1. HISTORY

MA/08/0804: Erection of one three bedroom bungalow: Approved 26/6/08

2. CONSULTATIONS

- **Thurnham Parish Council:** object on the following (summarised) grounds:-

The application would result in over-intensification of the site.

The exit and entrance would be unsafe and unsuitable.

The Parish Council would therefore wish to see this application refused by the Borough Council.

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

- **KCC Highways** – No objections subject to a condition protecting the car parking
- **Kent PRoW** – No comments received

3. REPRESENTATIONS

4.1 Cllr Horne: "Has seen some of the correspondence from Residents raising concerns with the development. He finds it unsatisfactory that the building is being marketed for sale without the necessary planning permission. He draws comparisons between this site and the nearby former 'Valhalla' redevelopment in terms of concerns over measurements."

4.2 Neighbour letters: 7 properties have raised objection to this application and due to the reconsultation that has taken place, more than one letter has been received from the householders. The objections received are as follows:

- Loss of privacy and amenity to rear bedrooms and garden areas to nos 26,28 & 30 Fulbert Drive.
- Overlooking to garden of Roughways, Weaving Street
- Dwelling overwhelms the site, intensification from original proposal
- Roof height contrary to original application
- No section showing The Retreat/new dwelling significantly higher and contrary to previous statements
- Increased noise and light pollution
- Development contrary to the Design and Access Statement which states no loss of privacy or amenity or that the principle of the development is not being altered.
- Request southern elevation velux be obscure glazed.
- Landscaping has been removed and therefore the statement about implementation cannot be fulfilled. Tree screening was shown on original application and not new.
- Removed tree belt acted as a noise barrier from motorway and channel tunnel and as a habitat for wildlife.
- No cycle storage provision.
- Increased traffic hazard due to unsuitable access, insufficient parking
- Users of the PRoW are endangered by this scheme.
- Non material objections relate to the property being marketed without planning permission; resident seeking compensation; residents feeling cheated by the developer; construction work being undertaken on weekends

4. CONSIDERATIONS

5.1 Site & Surrounding Area

- 4.1.1 The site lies within the urban confines of Maidstone in the parish of Thurnham. It is accessed from the southern side of Ware Street, located behind dwellings which front Ware Street, is to the east of Weaving Street and west of Fulbert Drive. The application site is contained behind the property known as 'The Retreat' – a detached bungalow and is situated within the former curtilage of The Retreat. The dwellings in Fulbert Drive are two storey detached modern dwellings; those in Weaving Street are generally inter-war period and a mix of chalet bungalows, two dwellings and have had alterations/extensions undertaken throughout the years.
- 4.1.2 Access to the application site can be gained via a single vehicle track which runs between residential properties that front Ware Street and past the front (eastern side) of The Retreat. Public footpath KH119 runs down this track and between the boundary of the application site and the rear boundaries of dwellings in Fulbert Drive.
- 4.1.3 The site has already been developed with a detached dwelling and single garage. The site is bounded by 1.8m high close board fencing with substantial coniferous planting in the rear gardens of properties in Weaving Street to the west. The boundary to the east no longer contains any planting as this was removed I believe before the development commenced.
- 4.1.4 Aside from The Retreat (11m to the north-east), the closest properties to the application site are those located in the north-west cul-de-sac of Fulbert Drive. From the corner of the closest house there is a distance of 15.5m to the new dwelling; the next closest is just over 20m. The properties in Weaving Street have a separation distance of 45m to the boundary of the application site.

4.2 Proposal

- 4.2.1 This is a retrospective application for the conversion of the loft and the erection of a single garage. Planning permission was granted under reference MA/08/0804 for the erection of a detached bungalow. The application drawings state that in terms of siting and size the bungalow has been built in accordance with the approved drawings, it is only the additional fenestration in the roof which requires planning permission. Condition 7 of the approval stated the following:

'Notwithstanding the provisions of Schedule 2, Part 1 of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification) no development involving alterations to the roof of the dwelling hereby permitted, including the insertion of dormer windows or additional fenestration above ground level, shall be carried out without the permission of the Local Planning Authority.

Reason: To safeguard the privacy of adjoining residential property and the character, appearance and functioning of the surrounding area in accordance with Policy QL1 of the Kent and Medway Structure Plan 2006.

- 4.2.2 The dwelling has been completed along with the conversion of the roof. Whilst the condition does not actually restrict use of the roof space, it does restrict any new dormer windows or fenestration. The dwelling has been built with 5 velux windows; 1 solar panel and 1 gable end window. This has resulted in a 3 bedroom dwelling with accommodation spread over two floors as opposed to the original scheme which contained all accommodation on the ground floor.
- 4.2.3 The detached single garage is located to the north of the dwelling and has finished in materials to compliment the main dwelling. A new close board boundary fence has been erected to separate the curtilage between The Retreat and the new dwelling.

4.3 Principle of Development

- 4.3.1 Situated within the urban area and with an implemented planning permission for a new dwelling, a new dwelling has been accepted in principle. However, the issue for determination is whether or not the alterations to the roof are unacceptable under the terms of the condition. The condition was imposed to protect the privacy of neighbouring properties, primarily The Retreat and secondly (although not mentioned in the reason for the condition), I expect the dwellings in Fulbert Drive. The condition was also imposed to protect the character, appearance and functioning of the area.
- 4.3.2 In addition to the above, concern has been raised that the dwelling has not been constructed in accordance with the approved plans in so far as the height is alleged to have been increased. The approved height from ridge to ground level is shown on the drawings as 6.5m. The issue of the height of the dwelling will be dealt with first.

4.4 Approved Scheme

- 4.4.1 On being alerted to the possible breach of planning control, the site was visited by the case officer and a planning enforcement officer for measurements to be checked. At the time of the visit, the ground level immediately surrounding the dwelling had been excavated to allow for footings and the height from ridge to ground level was approximately 7.3m. However, when taking this measurement to the approximate original ground level the actual height of the dwelling was in the region of 6.7m. This measurement was taken at the east elevation off the gable end. There is however a slight gradient where the site naturally falls from west to east, the result being that when taking the same measurement from the west elevation the height drops to approximately 6.3m.
- 4.4.2 In light of the above and the heights being checked as accurately as possible, it appears that the finished proposal does accord with the approved measurements. The construction drawings together with the sectional drawings support this, and I am satisfied that the dwelling is in accordance with the plans and that the height is as it should be.

4.5 Residential Amenity

- 4.5.1 A number of objections have been received on the grounds of loss of privacy. Construction drawings provided for building regulation approval together with site sections and heights of surroundings dwellings have all been submitted in order to aid the assessment of this application.
- 4.5.2 With regard to the properties in Weaving Street, the relevant elevation (west) supports 3 of the velux windows which serve two bedrooms and a bathroom. The substantial garden lengths alone (40m) mean that there can be no unacceptable loss of privacy between these openings and the private garden areas of the existing dwellings. In addition, the majority of the gardens support coniferous trees of a height greater than the new dwelling. Therefore, with or without boundary screening, I am satisfied that there is no undue loss of privacy afforded from these openings.
- 4.5.3 The Retreat is situated just 11m to the north of the new dwelling. At the time of the 2008 planning permission it was stated in the Design and Access Statement that the new dwelling would be lower than The Retreat. This was accepted by the case officer at the time. In fact, The Retreat is approximately 5.5m in height from ground level, and therefore the new dwelling proposed at 6.5m, was never to be lower than this. However, it could not be considered of importance to the acceptability of the scheme, as a condition was not imposed to keep the new dwelling subservient in height to The Retreat nor were sections requested to consider the precise difference. The new dwelling does not dominate The Retreat and does not

give rise to a loss of privacy or light by virtue of any height difference. Bearing in mind the slightly higher properties in Fulbert Drive to the east and the distances between properties mentioned throughout this report, it is my opinion that there would have been no grounds for refusal even were these height differences made clearer at the time.

- 4.5.4 One velux window has been inserted on the north elevation of the new dwelling, it serves the landing and is obscure glazed and fixed shut. The window is approximately 15m from The Retreat which has no first floor windows itself in the nearest south elevation. No loss of privacy is afforded from this insertion. An objection has also been received from a property located on Ware Street, however this has a 30m garden and a further 10m to the new dwelling. There are no issues regarding loss of privacy from the new dwelling to existing properties on Ware Street.
- 4.5.5 On the east elevation a window has been inserted in a gable end. The window serves an ensuite shower room. The window is obscure glazed and top hung opening. The window is 16m from no.24 Fulbert Drive and orientated at an oblique angle to the flank wall of this dwelling which has one first floor window. Subject to a condition retaining the new insertion as obscure glazing, the distance between properties together with the obscure angle is acceptable in planning terms.
- 4.5.6 The final elevation with insertions contrary to the planning condition is the southern elevation which contains a 3m x 1.5m solar panel and a 1m x 1.2m velux window. The solar panel does not give rise to overlooking. The velux window has raised objection on the grounds of loss of privacy. The internal floor level is approximately 1.5m to the bottom cill of the velux. There is a distance of 23m from the velux window to the closest rear bedrooms of no 26 Fulbert Drive. This is an oblique angle as the velux is orientated south and the Fulbert Drive properties north-west. From an internal site inspection, it was necessary for the officer to stand on a box, open the velux window to be able to peer round to make a point of trying to overlook the rear of the properties in Fulbert Close. I understand from the resident of no.28 Fulbert Drive that a worker's head could clearly be seen inside the dwelling as he walked around Bedroom 1. Clearly, depending on the individual then a box may not be required, but the point being that the combined angle together with cill level mean that loss of privacy is minimised. The advice contained in Kent Design suggests that there should be no direct overlooking between properties – as is the case in this instance. In addition, I reiterate this window is 23m from the rear bedroom of windows of no.26 Fulbert Drive.
- 4.5.7 Whilst I empathise with the residents that the development is not as originally planned in terms of providing roof space accommodation, the

additional works do not conflict with the advice contained in the Kent Design Guide. The main purpose of the condition was to ensure residential amenity was protected. I also note from the planning officer's report on the original application that the main purpose of the condition was to prevent dormer windows being inserted. In this case, it is velux windows that are being considered and I find that their location in relation to the dwelling and surrounding properties is entirely acceptable.

4.6 Visual Amenity

4.6.1 The main visual impact of this dwelling is either from the private properties in Fulbert Drive and The Retreat, or from the PRow. The Retreat also has velux windows and I do not consider the number proposed to have a detrimental impact on the character and appearance of the area.

4.6.2 The issue of landscaping and visual amenity is discussed below.

4.7 Landscaping

4.7.1 The original planning application showed the retention of a belt of coniferous trees on the eastern boundary of the application site – thus providing a visual screen for the residents of Fulbert Close. As mentioned earlier these trees were removed at some stage prior to this current application being submitted. The trees were not subject to a TPO nor did they fall within a Conservation Area, however they were proposed to be retained as part of the bungalow scheme. A new landscaping scheme has been submitted to address the concerns of the residents and enhance the finished appearance of the site.

4.7.2 The scheme comprises six individual trees a mix of birch, hawthorn, oak, and field maple. Four of these are to be located on the eastern boundary and two on the western boundary; planting sizes will need to be conditioned. The northern boundary will contain a double staggered hedge comprising a mix of 80% hawthorn, 10% hornbeam and 10% privet. A group of shrubs will also be planted close to the access and outside the property's eastern elevation. Subject to planting sizes, whilst not immediate compensation for those removed, in the longer term they will be of benefit and also a more attractive and suitable mix than the non-native coniferous trees.

4.8 Highways

4.8.1 The development proposes a single detached garage immediately north of the dwelling. The garage is 6m long x 3m wide x 4m high with a pitched roof. The views of the highway officer have been sought and no objection is

raised. In visual terms the garage matches the external materials of the main dwelling and is considered acceptable. The garage is located 10m from the closest part of The Retreat and causes no loss of light to the private garden area of The Retreat (to the west). Objections have been raised with regard to additional traffic movements on the PRow. I have not received the views of the Kent PRow so am unable to report any concerns they may have. At the time of the original application the PRow officer commented that further dwellings would not be welcome after this one, and that if possible the approval should be conditioned to only parking for one vehicle. The difficulty is enforcing such a condition as even if only one actual space is marked out, there would be nothing to prevent more vehicles arriving on site. Such a condition would not meet the necessary tests. Kent Highways raise no objection and I am satisfied that the proposal is acceptable in highway terms.

4.9 Other Matters

4.9.1 The original application gave permission for a three bedroom bungalow and objections have been received over the intensification of this dwelling. The constructed dwelling shows there still to be three bedrooms, the main difference being their positioned in the roofspace with a ground floor dedicated to habitable space. I understand that the dwelling is however, being marketed as a four bed property. The difference in one bedroom is not considered significant, it is the overall size of the accommodation which has given rise to concern from residents.

4.9.2 Objection has been raised over the impact on wildlife over the loss of the coniferous boundary trees. As outlined earlier a new landscaping scheme has been submitted and I consider this to be more likely to provide suitable habitat for wildlife in time than the removed trees would have done.

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

GRANT PLANNING PERMISSION subject to the following conditions:

1. The approved details of the parking/turning areas shall 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.

2. Replacement trees T1 –T6 inclusive as shown on drawing date stamped 3 June 2010 of not less than Nursery Heavy Standard size (12-14cm girth, 3.6-4.25m height), conforming to the specifications of BS 3936 Part I "Nursery Stock", shall be planted during the tree planting season (October to February) following the occupation of the building(s) or the completion of the development, whichever is the sooner, and be maintained thereafter to the satisfaction of the local planning authority;

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.

3. 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.

The proposed development, subject to the conditions stated, is considered to comply with the policies of the Development Plan (Maidstone Borough-Wide Local Plan 2000) and there are no overriding material considerations to indicate a refusal of planning consent.