

REPORT SUMMARY

REFERENCE NO: - 22/503380/FULL		
APPLICATION PROPOSAL: Retrospective application for erection of a single-storey rear extension.		
ADDRESS: 15 Lyngs Close, Yalding, Maidstone, Kent, ME18 6JS		
RECOMMENDATION: GRANT subject to the planning conditions set out in Section 8.0 of the report.		
SUMMARY OF REASONS FOR RECOMMENDATION: For the reasons set out below it is considered that the proposed development would be acceptable and would not cause significant visual harm, harm to neighbouring amenity or highway safety nor be unacceptable in terms of any other material planning considerations such that the proposed development is considered to be in accordance with current development plan policy and planning guidance.		
REASON FOR REFERRAL TO COMMITTEE: The application has been called in by Yalding Parish Council by reason of the recommendation being contrary to their comments (see report below for reasons).		
WARD: Marden And Yalding	PARISH/TOWN COUNCIL: Yalding	APPLICANT: Mr Paul Kitson AGENT: Prime Folio
CASE OFFICER: Angela Welsford	VALIDATION DATE: 13/07/22	DECISION DUE DATE: 07/09/22
ADVERTISED AS A DEPARTURE: NO		

Relevant Planning History

22/502501/PNEXT

Prior notification for a proposed single storey rear extension which: A) Extends by 4.30 metres beyond the rear wall of the original dwelling. B) Has a maximum height of 3.60 metres from the natural ground level. C) Has a height of 2.40 metres at the eaves from the natural ground level.

Refused 29.06.2022

The above application was refused because it was the wrong type of application - the development had already been built, so the prior notification process could not be used.

MAIN REPORT

1. DESCRIPTION OF SITE

- 1.01 The application site is located in a residential road within Yalding village settlement boundary and falls within a high risk flood zone (Environment Agency Flood Zone 3).
- 1.02 It contains the left-hand one of a semi-detached pair of two-storey dwellings and an associated single-storey detached domestic outbuilding.

2. PROPOSAL

- 2.01 Retrospective planning permission is sought for the erection of a single-storey rear extension.
- 2.02 This takes the form of a conservatory, with a fully-glazed roof and predominantly glazed elevations on dwarf brick walls (approximately 750mm high). It protrudes 4.3m from the original rear wall of the dwelling, and stands approximately 2.4m to the eaves and 3.1m to the ridge (excluding the finial).

- 2.03 The conservatory is stepped in approximately 650mm from the common boundary line with the attached dwelling (16 Lyngs Close), and protrudes slightly beyond the line of the non-attached side wall of the host dwelling (300mm).

3. POLICY AND OTHER CONSIDERATIONS

Maidstone Borough Local Plan (2011-2031): Policies DM1, DM9 and DM23

Emerging Policies:

Maidstone Borough Council – Local Plan Review Regulation 22 Submission. The Regulation 22 Submission comprises the draft plan for submission (Regulation 19) dated October 2021, the representations and the proposed main modifications. It is a material consideration and some weight must be attached to the document because of the stage it has reached. This weight is limited, as it has yet to be the subject of an examination in public.

Policy LPRSP15 – Principles of Good Design

LPRHou 2 – Residential extensions, conversions, annexes and redevelopment in the built-up areas

Policy LPRTRA4 - Parking Matters

The National Planning Policy Framework (NPPF)

National Planning Practice Guidance (NPPG)

Supplementary Planning Documents: Residential Extensions SPD (adopted May 2009)

4. LOCAL REPRESENTATIONS

Local Residents: 2 representations received from the attached dwelling (16 Lyngs Close). These 2 representations raise the following (summarised) issues:

- Imposing;
- Overlooking;
- Eyesore;
- Out of scale with the property;
- Light pollution;
- Built over external drain cover.

Any potential access issues relating to the external drain are not material planning considerations, so cannot be taken into consideration in determination of the application.

5. CONSULTATIONS

Yalding Parish Council

5.01 Initial comments:

“Yalding Parish Council objects to this planning application. Councillors question whether this is an extension or a conservatory. The application by virtue of its scale and design would appear as an incongruous addition to the original dwelling and will be overbearing to the neighbouring properties due to its visual dominance contrary to DM9 of the Adopted Maidstone Local Plan. There are no overriding material considerations to justify approval that outweigh the harm identified. Should the planning officer be of a mind to approve Councillors ask that it be called into the MBC planning committee.”

5.02 Additional comments:

"The Parish Councils concerns are the fact that the conservatory by its design and location completely overlooks No 16 Lyngs Close. Indeed the residents of number 15 are able to not only look into the garden of No 16 but directly into their living room window and rear door. It is an issue of the residents of no 16 losing their privacy. Councillors consider that the conservatory by virtue of its continual use does indeed have a more harmful impact in terms of overlooking.

Other conservatories in the area that would have created a similar issue to their neighbours have been designed so that there is a wall on the adjoining side or obscured glass such that this problem doesn't arise.

Yalding Parish Council are prepared to withdraw their call-in if a condition is given that will restore the privacy of number 16 Lyngs Close."

6. APPRAISAL

The key issues for consideration relate to:

- Visual impact
- Residential Amenity
- Flooding

Policy Context/Principle of Development

- 6.01 Policy DM1 (Principles of good design) outlines the importance of high-quality design for any proposal. Amongst other things, well-designed proposals respond positively to their context in visual terms, respect the amenities of neighbouring occupiers, and, in the case of small-scale householder extensions in areas at risk from flooding, mitigate any potential impacts through integrated design solutions.
- 6.02 Policy DM9 (Residential extensions, conversions and redevelopment within the built up area) sets out the criteria for determining applications at residential properties within built up areas. It states that proposal should be permitted if:
- "The scale, height, form, appearance and siting of the proposal would fit unobtrusively with the existing building where retained and the character of the street scene and/or its context;*
 - The traditional boundary treatment of an area would be retained and, where feasible, reinforced;*
 - The privacy, daylight, sunlight and maintenance of a pleasant outlook of adjoining residents would be safeguarded; and*
 - Sufficient parking would be provided within the curtilage of the dwelling without diminishing the character of the street scene."*
- 6.03 The Residential Extensions SPD provides further design guidance relevant to the application proposal, which includes:
- *Whilst usually having least impact on the street scene, for reasons of potential impact on a neighbour's outlook or amenity space and the potential loss of light or privacy, the size of an extension at the back of a property needs careful consideration (paragraph 4.8).*
 - *The acceptable depth and height of a rear extension will be determined by the ground levels, distance from the boundaries and also the size of the neighbouring garden/amenity space. Amenity considerations set out elsewhere in the document are important factors in determining the appropriateness of the depth of any rear extension. For example, distance to neighbouring windows is important especially when there is just one window lighting a habitable room and/or kitchen and a BRE light assessment test should be carried out to ensure impacts on daylight to adjoining properties are acceptable (paragraph 4.9).*

- *To protect against overlooking, the side wall facing a neighbour should not normally contain a window unless it maintained privacy by, for example, containing obscure glazing or being non-opening (paragraph 4.13).*
- *In the case of semi-detached or terraced houses, rear extensions should not normally exceed 3 metres in depth from the rear of the property, and, in the case of single storey development, 3 metres to eaves height and an overall height of 4 metres (paragraph 4.14).*

6.04 The application site is situated in a sustainable location within the Yalding Larger Village Settlement Boundary and as such, the principle of development in this location is considered acceptable subject to the material planning considerations discussed below.

Visual Impact

6.05 The conservatory extension is considered to be of acceptable scale and appropriate design for this type of development. It appears clearly subordinate to the two-storey host dwelling due to its single-storey height, its lightweight construction and its position to the rear. The materials used are visually acceptable – the white PVCu of the frame matches the windows on the rear elevation of the house. It is not considered that it appears as an incongruous addition.

6.06 Although the conservatory extension protrudes beyond the side wall of the host dwelling, the degree of protrusion (approximately 300mm) is not enough to make this readily noticeable in public views from Lyngs Close. The flank wall of the conservatory is visible obliquely from the front street because of the degree of separation between this house and 14 Lyngs Close, the slanting boundary line and the angled juxtaposition of the two houses, but it does not appear obtrusive, out of keeping or visually harmful. It would not overwhelm the form or visual appearance of the host dwelling.

6.07 For the reasons explained in paragraph 6.06, the development has not had a material impact on the character or appearance of the street-scene and does not result in visual harm.

Residential Amenity

6.08 At 4.3m deep, the conservatory extension exceeds the 3m depth suggested in paragraph 4.14 of the Council's adopted Residential Extensions SPD as being normally appropriate for single-storey rear extensions to semi-detached properties. However, paragraph 4.9 does explain that the acceptable depth of a rear extension will depend on a number of factors and so recommends that the 45° BRE light assessment test described elsewhere in the SPD is carried out to ensure impacts on daylight to adjoining properties are acceptable.

6.09 The 45° BRE loss of light test described in the SPD has been carried out and the conservatory passes in relation to the adjacent habitable room window at 16 Lyngs Close. (It fails the plan test, but passes the elevation test and the BRE guidance clearly states that both tests should be failed for the impact on light to be judged significant.) Furthermore, the test is intended to indicate the likely impact arising from an extension with an opaque roof and walls, whereas the conservatory has a glazed roof and walls, so does not materially inhibit the passage of light. I also note that the windows on the rear elevation of this pair of dwellings face almost directly southwards. Taking all of these points into account, it is not considered that the extension has a significantly detrimental on the levels of daylight or sunlight enjoyed by the occupiers of 16 Lyngs Close, notwithstanding its 4.3m depth.

6.10 In terms of outlook, again it is considered the lightweight, glazed type of construction of the conservatory extension to mitigate against its depth, as does the approximately 650mm degree of set in from the common boundary line. Clearly it is visible from the rear-facing living room window at 16 Lyngs Close and from the garden area of that property, but that does not necessarily mean that it is significantly overpowering in its presence – in planning, loss of/impact on a view

and loss of/impact on outlook are two different things and whilst the impact on outlook is a material consideration, the impact on a view is not. Due to its glazed roof/wall design, together with its relatively low height/shallow roof pitch and the step-in off of the common boundary, the conservatory could not be judged significantly overbearing or harmful to the outlook of occupiers of the attached property sufficient to justify a refusal of planning permission that could be sustained at appeal.

- 6.11 Turning to privacy, it is agreed with the objector and the Parish Council that it is possible to look across the rear garden area of 16 Lyngs Close from within the conservatory, due to the clear glazing along the side elevation facing the common boundary. It is pointed out in the objection that the floor level within the conservatory is raised above ground level (275mm). However, due to the low height of the existing boundary fence (approximately 1.2m), such views are already possible in any case from within the garden of the application property and, it is understood, were previously possible from the patio area where the conservatory now stands, prior to its construction. As such, it is not considered that the conservatory can be judged to have a materially more harmful impact in terms of overlooking such that a refusal of planning permission is justified and could be sustained at appeal, notwithstanding its raised floor level.
- 6.12 Concern has also been raised regarding overlooking from the conservatory into the rear-facing living room window of 16 Lyngs Close. In this regard, again it is not considered that a refusal on this basis is justified, for the reason explained in paragraph 6.11. Passive overlooking is further reduced from the level that might be experienced in the garden by the size of the window aperture and the angle of view from within the conservatory – its flank wall is at right angles to the window face and situated approaching 2m to the side of the nearest edge of the window.
- 6.13 Moreover, the applicant's fall-back position needs to be taken into account as a material consideration here – the dwelling was built in the early 1950s and has its permitted development rights intact, thus a fully-clear-glazed conservatory can be erected here anyway without the need for planning permission (albeit of reduced footprint, but potentially taller and closer to the boundary). An extra 1.3m degree of projection (at the end furthest from the neighbour's window) does not make a material difference to the impact in terms of overlooking, such that the conservatory subject of this application could be judged significantly more harmful. Taking both this and the points set out in the preceding two paragraphs into account, a condition requiring the side elevation of the conservatory to be either of solid construction or obscure-glazed would not meet the test of reasonableness.
- 6.14 If desired, the neighbour could erect a 2m high solid boundary fence as permitted development to obstruct views, but for the reasons mentioned in the preceding paragraph, I do not consider a planning condition requiring the applicant to provide this to be either reasonable or necessary.
- 6.15 The matter of light pollution from lighting installed in the conservatory has also been raised by the attached neighbour. Again, though, taking account of the fall-back position, whereby a permitted development fully-glazed conservatory (of reduced footprint) could be erected here, and could have lighting installed in it, resulting in an impact not materially different to that arising from the development subject of this application, this would not be a sustainable ground of refusal.
- 6.16 To sum up in terms of residential amenity, it is not considered that the development has a significantly detrimental impact on the levels of daylight, sunlight, privacy or outlook enjoyed by occupiers of 16 Lyngs Close, or in terms of light pollution, sufficient to justify a refusal of planning permission that could be sustained at appeal. No other neighbouring dwellings are in such a position as to be significantly detrimentally impacted in any of these respects.

Flooding

- 6.17 The site is located in a high-risk flood zone, but small-scale extensions to existing dwellings are one of the types of development that can be permissible in such

areas. In this case, flood mitigation measures have been incorporated into the construction – the floor level has been raised 275mm above ground level, to be consistent with the existing floor level in the dwelling, and the electricity sockets have been raised to a height of 340mm above the conservatory floor level. In the context of the extent of the wider flood plain area, an addition of this scale is not considered to result in an increased degree of run-off such that flood water storage capacity would be detrimentally impacted. The development is therefore considered acceptable in terms of flooding.

Other Matters

- 6.18 Parking/Highway Safety: The development has not impacted parking provision or highway safety.
- 6.19 Biodiversity/Ecological Enhancement: Due to the nature and relative scale of the development and the existing residential use of the site, it is not considered that any ecological surveys were required.

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.*' This is in line with the NPPF and advice in the Residential Extensions SPD. Consequently, it is considered that a condition should be attached requiring some form of biodiversity enhancement measures are provided within the curtilage.

- 6.20 Renewables: The NPPF, Local Plan and Residential Extensions SPD all seek to promote the use of renewables and energy efficient buildings, however, in this particular case, due to the nature of the development – its small scale and its materials/construction type (i.e. glazed, shallow-pitched roof) – In this case such a condition would not be appropriate. Nevertheless, it is noted that the design and materials of the conservatory do permit an element of solar gain, which is in the spirit of this aim.

PUBLIC SECTOR EQUALITY DUTY

- 6.21 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 For the reasons set out above it is considered that the development is acceptable and does not cause significant visual harm, harm to neighbouring amenity or flooding impacts nor is it unacceptable in terms of any other material planning considerations. Consequently the development is considered to be in accordance with current Development Plan Policy and planning guidance. As the application is retrospective, no time limit condition is necessary, however, as explained above, an ecological enhancements condition is appropriate. Subject to such a condition, therefore, approval is recommended

8. RECOMMENDATION

GRANT planning permission subject to the following conditions

with delegated powers to the Head of Planning and Development to be able to settle, amend or add any necessary planning conditions in line with the matters set out in the recommendation and as resolved by the Planning Committee.

CONDITIONS:

- 1) Within one month of the date of this permission, details of 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 the enhancement of biodiversity through provision within the site curtilage such as bird boxes, bat

boxes, bug hotels, log piles, hedgehog houses, wildflower/native planting and hedgehog corridors. The biodiversity enhancements shall be provided in accordance with the approved details within one month of the Local Planning Authority giving its written approval to the same 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 1 should show, on a scaled drawing, the type and number of the proposed ecological enhancements as well as their intended positions, 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 or east and bat boxes should face south. Where planting is proposed, please also supply details of the number of plants of each species as well as the intended size on planting (eg: pot size in litres). Some helpful advice may be found at:

<https://www.rhs.org.uk/science/conservation-biodiversity/wildlife/plants-for-pollinators>

<https://www.rspb.org.uk/birds-and-wildlife/advice/how-you-can-help-birds/>

<https://www.bats.org.uk/our-work/buildings-planning-and-development/bat-boxes>

<https://www.wildlifetrusts.org/actions/how-build-hedgehog-home>

<https://www.woodlandtrust.org.uk/blog/2019/09/how-to-build-a-bug-hotel/>

Case Officer: Angela Welsford

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