

REPORT SUMMARY

REFERENCE NO: - 22/504433/FULL		
APPLICATION PROPOSAL: Retrospective application for the replacement and reconfiguration of patio to the rear of the house with proposed privacy screen; the erection of a gazebo with surrounding decking; the erection of an orangery; and the part conversion of the integral garage to a utility room and WC (Resubmission of 22/500345/FULL).		
ADDRESS: 8 Nethermount Bearsted Maidstone Kent ME14 4FE		
RECOMMENDATION: Grant Permission subject to the conditions set out in 4.0.		
SUMMARY OF REASONS FOR RECOMMENDATION: Subject to conditions being imposed with regard to the provision and retention of the proposed privacy screening and use of the gate, the development complies with the relevant development plan policies.		
REASON FOR REFERRAL TO COMMITTEE: The application has been called in by Councillor Springett for the reasons set out in paragraph 5.08 of the report.		
WARD: Bearsted	PARISH/TOWN COUNCIL: Bearsted	APPLICANT: Mr Tim Croom AGENT: Kent Planning Consultancy Ltd
CASE OFFICER: Georgina Quinn	VALIDATION DATE: 27/10/22	DECISION DUE DATE: 06/10/23
ADVERTISED AS A DEPARTURE: NO		

Relevant Planning History

See Appendix 1 – Copy of Committee report from 22 June 2023 meeting

MAIN REPORT

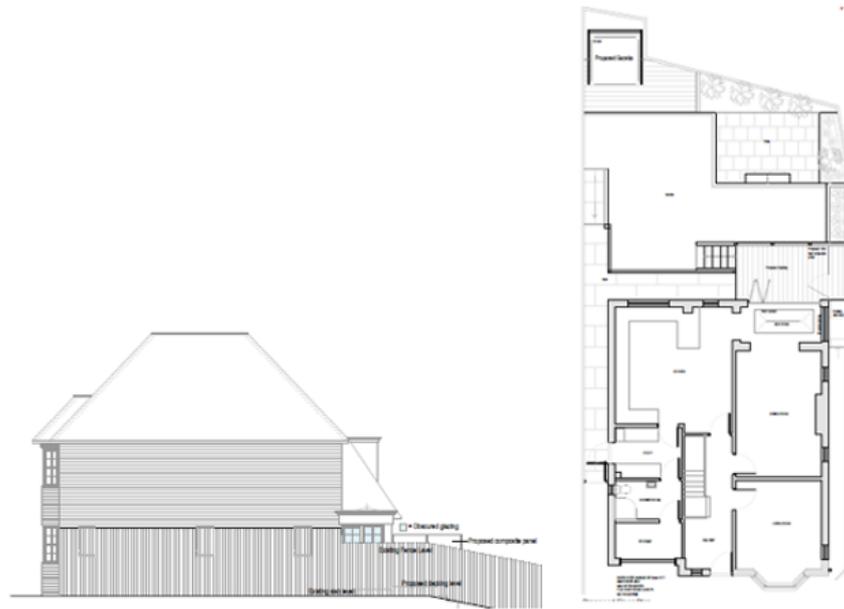
1.0 BACKGROUND

- 1.01 This report should be read in conjunction with the copy of the Committee Report attached at Appendix 1. Members resolved at the 22/6/23 meeting to defer the determination of the application for the following reason :

That consideration of this application be deferred for one meeting cycle to enable the Officers, in consultation with Councillor Springett (a Ward Member), to seek to negotiate a compromise solution to concerns raised about the new raised decking constructed adjacent to the conservatory, the side conservatory window and the proposed privacy screen.

- 1.02 Following on from the meeting on 22 June 2023, discussions were held between the case officer; Councillor Springett; and the agent and applicant on 18 July 2023. This centred on the need to mitigate the loss of privacy that has resulted for the occupants of no.9 Nethermount as a result of the patio as presently constructed. The scheme has now been amended and is detailed on drawings submitted on 11 August 2023.
- 1.03 The dimensions of the patio itself remain as described in paragraph 2.09 of the original report at Appendix 1 but the proposals now include a privacy screen that will be set in from the boundary with no.9 Nethermount. This will align with the flank wall of the existing dwelling and will be comprised of a solid, composite panel of 1.8m in height. The panel will incorporate a gate to facilitate access along the side elevation of the house.

- 1.04 The window in the flank elevation of the orangery will be fitted with obscure glazing to its upper parts where it faces towards no.9 Nethermount.



- 1.05 Members are now asked to make a decision whether the amendments would overcome the earlier concerns and be minded to approve subject to conditions set out below.

2.0 RE-CONSULTATION

- 2.01 Following the submission of the revised scheme on 11 August 2023, a further round of consultations with the same residents was undertaken. This has resulted in the submission of representations from no.9 Nethermount, which makes the following (summarised) points and objections:

- With regards to the resubmission of the revised plans, our main concern is that of the decking and the glass screen with supporting post being constructed up to our boundary fence, which we want removed back to the building line. The current configuration of the decking inhibits access to maintain and repair our close boarded fence;
- Proposed Floor Plan, Gazebo Elevations & Block Plan - The area between the Conservatory and the fence is labelled as "existing slab level". As previously mentioned, this was raised in height at the time the conservatory was built and should therefore read "proposed slab level";
- Proposed Elevations – The South East boundary shown on the plan is incorrect and significantly exaggerates the length of the actual boundary. The plan actually shows the boundary length between house numbers 7 & 8. The area indicated by the Gazebo applies to the South West boundary only;
- The "Proposed South East Elevation" diagram has a dotted line near the base of the fence. Given that it does not reflect the height and shape of the decking, what does this dotted line indicate?
- The diagram does not state the height of the decking running out into the garden from the conservatory;
- In principle we strongly object to the decking. However, as a result of our proposed compromise, as per published plans we would welcome the obscure glazing in the conservatory and the composite panel screen;
- However, we insist as a condition of our compromise that the obscure glass and composite screen must remain in perpetuity and the composite gate should

remain locked at all times unless required for temporary access to the side of the house.

Officer comment

- 2.02 Issues relating to the maintenance of the boundary fence and access to carry out any such works are a civil matter and are not a material planning consideration. Certificate A is signed on the application form to indicate that the applicant is the sole owner of the land to which the application relates. The grant of planning permission would not give the right to carry out any works to land or property in other ownership. It is recommended that an informative is added to the decision notice to remind the applicant of this situation.

Bearsted Parish Council Consultation on Amendments Submitted 11.08.2023

- 2.03 No comments submitted.

Councillor Springett's Response to Revisions Submitted on 11.08.2023

- 2.04 The compromise proposal is very welcome. I have no further concerns. I would ask for two conditions to be added:
- That the privacy screen remains in the approved position in perpetuity; and
 - The gate is kept closed at all times apart from when access to the side of the property is needed.

3.0 CONCLUSION

- 3.01 The plans initially submitted with this application (as considered at the meeting of 22.06.2023) detailed an alternative form of privacy screen, being comprised of a solid timber screen to a height of 1.8m topped with a trellis of 0.3m. This was to be positioned directly adjacent to the existing fence that marks the boundary between nos.8 and 9 Nethermount. This continued to raise concerns and consequently, Members requested at the meeting of 22.06.2023 that discussions be held to seek a compromise to this situation. This has resulted in the amendments to the materials and position of the proposed screen and its height, along with the provision of obscure glazing to the upper part of the orangery window that is located on its flank elevation.
- 3.02 By lowering the overall height of the proposed screen and taking it in from the boundary, this reduces its prominence in the general outlook from the neighbouring property at no.9. Its height at 1.8m and solid composition are sufficient to ensure that there will be no overlooking from the patio to the garden area or windows of no.9. It is recommended that the privacy screen is subject to a condition that it is installed within a period of 2 months of the decision being issued and that it is maintained as approved on a permanent basis. This reflects the comments put forward by Cllr Springett and also addresses the concerns put forward by the occupants of no.9.
- 3.03 In terms of the incorporation of the gate, the applicant has expressed a need to maintain access to the side of their property from the garden and this is not an unreasonable expectation. The proposed positioning of the privacy screen is such that it will mean that a small part of the raised patio (as built) becomes unusable as a seating/leisure area as it will effectively be sectioned off by the privacy screen/gate. This area is of very limited size (as shown in the images below) and would not be usable for any meaningful purpose other than access for maintenance or perhaps storage of garden items. It is however essential that to safeguard the privacy of the neighbouring occupants at no.9, that the gate is maintained in a closed position at all times, except when access is required and this can be

controlled by a condition. This will also address the comments of Cllr Springett and the occupants of no.9.



- 3.04 It is also proposed to alter the glazing in the window to the flank elevation of the orangery (as seen photograph above) so that it is fitted with obscure glazing to its upper parts. The lower section of the window has views towards the established boundary fence only. This alteration will remedy the existing issue of overlooking from this window towards the garden of no.9 Nethermount. Again, a condition is recommended to require that the window be maintained with suitably obscured glazing on a permanent basis.
- 3.05 The objections received from the occupants of no.9 raise concern as to the accuracy of the submitted plans in terms of the length of the boundary as detailed in relation to their property; the height and extent of the decking; and the meaning of a dotted line detailed on the south-eastern elevation. The plans are all drawn to scale and as the patio is already there, its height and position is established. The plans do not detail any alterations to the footprint, the only additional elements being the glazed balustrade and privacy screen/gate. The length of the boundary with no.9 is better illustrated on the proposed floor plan which details the angles of the boundary lines in relation to the adjacent properties, whereas the elevation drawings are somewhat limited by their 2 dimensional aspect. The consideration of this proposal has also included a visit to the neighbouring property. The dotted line has been queried with the agent for the application and at the time of writing a response is awaited. This will be reported in an update to the meeting.
- 3.06 Following the additional negotiations that have taken place since this scheme was reported to Members on 22.06.2023, the latest amendments represent a balance of retaining the patio as constructed by incorporating screening to improve the relationship with the neighbouring property at no.9 such that the development accords with Policies DM1 and DM9 of the adopted Maidstone Borough Local Plan (2017) as well as the guidance contained in the Residential Extensions SPD (2009).
- 3.07 The initial alterations to the garage and the construction of the original orangery took place over 10 years ago and were not reported to Planning Enforcement at the time. Under the terms of Section 191 of the Town and Country Planning Act 1990, such development would be exempt from enforcement action after a period of 10 years. Whilst these additions have been the subject of more recent alterations, the

general principle is long established and no material impacts are identified that would suggest that these additions should not be accepted. The current proposals include an alteration to the flank window of the orangery so that it will be fitted with obscure glazing to the upper part to restore privacy for the adjacent householders and this can be permanently secured by a condition.

- 3.08 In considering the updated proposal and the objections raised, it is recommended that subject to imposing conditions regarding the timeframe for installing the proposed screening and obscure glazing; their retention (as approved) on a permanent basis; and the maintenance of the gate in a closed position (except for access purposes only), this is an acceptable scheme.

4) RECOMMENDATION

GRANT planning permission subject to the following conditions

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

CONDITIONS:

- 1) The development hereby permitted shall be carried out in accordance with the following approved plans: 3859-01F; 3859-12C; 3859-14G;
Reason: To clarify which plans have been approved.
- 2) Within 2 months of the date of this decision notice, the solid privacy screen of 1.8m in height, as detailed on the plans approved under condition 1 of this decision, shall be installed and fully completed and shall thereafter be retained and maintained as approved on a permanent basis;
Reason: In the interests of maintaining the privacy and amenities of the neighbouring householders.
- 3) The access gate incorporated within the privacy screen approved under condition 1 of this decision, shall be maintained in a closed position except for purposes of access to the side of the dwelling;
Reason: In the interests of maintaining the privacy and amenities of the neighbouring householders.
- 4) Within 2 months of the date of this decision notice, the window in the flank elevation of the orangery, as detailed on approved drawings 3859-12C and 3859-14G, shall be fitted with obscure glazing to not less than the equivalent of Pilkington Glass Privacy Level 3, and shall permanently be maintained as such;
Reason: In the interests of maintaining the privacy and amenities of the neighbouring householders.

INFORMATIVES

- 1) Advice regarding the need to comply with Building Regulations.
- 2) Notification that planning permission does not convey any rights of encroachment or works to any property that is not within the applicant's control.

Case Officer: Georgina Quinn

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