

## REPORT SUMMARY

<b>REFERENCE NUMBER:</b> 23/502677/FULL		
<b>APPLICATION PROPOSAL:</b> Hard and soft landscaping works including alterations to site levels and installation of retaining walls (part retrospective).		
<b>ADDRESS:</b> 3 Woodlands Boxley Kent ME5 9JX		
<b>RECOMMENDATION:</b> Approval		
<b>SUMMARY OF REASONS FOR RECOMMENDATION:</b> Although partly retrospective, the proposals as set out within the application documents comply with the requirements of the relevant Local Plan policies and have also been the subject of pre-application advice, which included guidance on the planning and landscape issues.		
<b>REASON FOR REFERRAL TO COMMITTEE:</b> The recommendation of approval is contrary to the views of Boxley Parish Council and the application has been referred to the Planning Committee at their request.		
<b>WARD:</b> Boxley	<b>PARISH/TOWN COUNCIL:</b> Boxley	<b>APPLICANT:</b> Mr Lewis Moyce <b>AGENT:</b> Northlight Architects Ltd
<b>CASE OFFICER:</b> Georgina Quinn	<b>VALIDATION DATE:</b> 11/07/23	<b>DECISION DUE DATE:</b> 02/02/24
<b>ADVERTISED AS A DEPARTURE:</b> No		

### Relevant Planning History

**22/501455/FULL** - Erection of front wall with metal sliding gate - Refused 05.08.2022 for the following reasons:

- (1) The proposed boundary wall, by virtue of its overall height, design, location, appearance, materials and incorporation of lighting, would result in a dominant, obtrusive and incongruous feature in a street which is predominantly open plan and would detract from the semi-rural, woodland feel, to the detriment of the intrinsic character of the streetscene of Woodlands and the general views towards the adjacent Ancient Woodland, contrary to the National Planning Policy Framework (2021); Policies DM1; DM8 and DM9 of the Maidstone Borough Local Plan; and the Supplementary Planning Document Residential Extensions (2009).
- (2) The application is not supported by sufficient information to determine the full impact of the proposed wall on the adjacent trees and their root protection areas, and would potentially cause harm to their longterm health and vitality, as such, the proposal is contrary to the requirements of Policy DM1 of the Maidstone Borough Local Plan (2017) and the Supplementary Planning Document Residential Extensions (2009).
- (3) The application is not supported by sufficient information to demonstrate the impact of the wall and associated lighting on the wildlife habitats in this woodland area and it would also appear that there is conflict between the location of the wall and the concurrent submission of details application relating to biodiversity enhancements (reference 22/502250/SUB) that is also being considered at this time. As such, the application does not meet the requirements of Policy DM1 or DM8 of the adopted Maidstone Borough Local Plan (2017) .
- (4) The application plans fail to demonstrate that there are adequate visibility splays for drivers exiting the site and given the height and proximity of the proposed wall and gate to the adjacent footpath, it is considered that the development presents concerns in terms of highway safety, contrary to the requirements of Policy DM1 of the adopted Maidstone Borough Local Plan (2017).

**22/502250/SUB** - Submission of details pursuant to condition 4 (Details of Landscape Scheme) and condition 6 (Householder Biodiversity Condition) in relation to planning permission 21/504741/FULL - Refused 08.08.2022 for the following reasons:

- (1) The proposed landscape scheme, as required by Condition 4 of planning permission 21/504741/FULL is not considered to appropriately address the landscaping of the front of the site due to the use of only one variety of hedge (*Taxus baccata*) and does not embrace the semi-rural, woodland character of the street in general or the requirements of the Maidstone Landscape Character Assessment (2012) which advocates the use of mixed hedgerows. There are also discrepancies between the plan provided for this landscape scheme and concurrent application 22/501455/FULL for a boundary wall and gate and consequently, the overall intentions for the landscaping of the site are unclear.

**21/506875/FULL** - Increase the height of the roof together with the erection of 6 no. dormer windows to provide additional accommodation within the roof space. Alterations to fenestration including replacement of existing windows and garage door – Refused 16.03.2022 for the following reason:

- (1) The proposal, by virtue of the development of an additional dormer to those already approved in planning permission 21/504741/FULL, would result in an expansive addition to the eastern roof slope of the higher part of the dwelling which in combination with the dormers on the adjacent roof slopes would result in a convoluted roof form and an overprovision of such extensions, dominating the property to the detriment of its appearance and as a consequence would appear obtrusive and incongruous in its setting thereby detracting from the general character of Woodlands, and would not therefore accord with the requirements of Policies DM1 and DM9 of the Maidstone Borough Local Plan (2017) and the Supplementary Planning Document Residential Extensions (2009).

**21/504741/FULL** - Increase the height of the roof together with the erection of 4 no. dormer windows to provide additional accommodation within the roof space. Alterations to fenestration including replacement of existing windows and garage door - Approved 03.12.2021

**84/0855** - Detached house with integral garage - Approved 27.09.1984

**83/0931** - Detached dwelling, as validated and amended by Drawing Numbers KW1/209 and 210 received on the 31/10/83 - Approved 16.11.1983

#### **Enforcement History:**

**22/500545/OPDEV** - Enforcement Enquiry – Pending Consideration

**21/500589/OPDEV** - Enforcement Enquiry - Closed 27.07.2021

**21/500832/TREEP2** - Enforcement Enquiry - Closed 07.10.2021

#### **Appeal History:**

No previous planning appeals.

## **MAIN REPORT**

### **1. DESCRIPTION OF SITE**

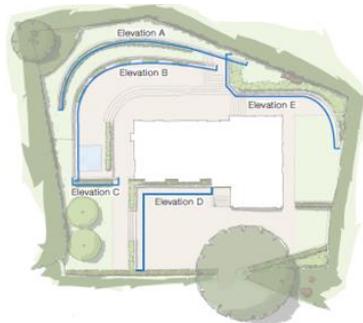
- 1.01 The application site comprises a detached part single/part 2-storey dwelling located to the southern side of Woodlands. The property dates from the 1980s. The land levels are variable along Woodlands and as a result of this, the dwelling occupies an elevated position in relation to the highway, with the levels continuing to rise beyond the rear of the house.
- 1.02 The property is set within a relatively large plot and is surrounded by dense woodland to the southern and south-western boundaries. This is designated Ancient Woodland and is also identified as a Local Wildlife Site. For the purposes of the Council's Landscape Character Assessment, Woodlands is located within the Bredhurst and Stockbury Downs Character Area.
- 1.03 Works to level extensive parts of the gardens that surround the property have taken place together with the construction of retaining walls to divide the garden into terraces. The extent of soil removal is such that the chalk base of the land is now visible across the majority of the garden. At the time of the site visit, works to the exterior of the property to implement the extensions/alterations to the roof, approved by planning permission 21/504741/FULL, had not yet commenced.
- 1.04 The nearest neighbouring property is no.2 Woodlands (the street numbering is consecutive) with the respective dwellings being approximately 17m apart. Public Footpath KH655 lies approximately 18m from the north-western boundary of the site, leading through Tunbury Woods. Woodlands itself is characterised by detached dwellings that are of varying designs. The presence of trees and landscaping is a notable characteristic, providing a verdant aspect to the street. The majority of the garden of no.3 Woodlands is covered by a Tree Preservation Order (TPO No.1 of 1969).

### **2. PROPOSAL**

- 2.01 This application is partially retrospective in that it seeks to address the works relating to the regrading of the garden land and construction of retaining walls that have been carried out without the benefit of planning permission. Intertwined with this is the requirement to provide a landscape scheme and scheme of biodiversity enhancements, which are necessary as part of the approval of extensions to the dwelling under reference 21/504741/FULL (conditions 4 and 6). The applicant had previously sought to define the boundary with the highway with a wall and sliding metal gates, which were refused under reference 22/501455/FULL. This proposal is therefore in part, a revised approach to the treatment of the boundary with the highway.
- 2.02 There is also a need to address the issue of 2 no. trees ( 1 x Silver Birch and 1 x Ash) subject to TPO No.1 of 1969, that were felled without consent in 2021. The enforcement investigation that was carried out at the time resulted in the owner of the site submitting a report by Oaklands Tree Care which described the felled trees as being positioned on a bank and leaning towards the property. Both trees were noted to be in decline with several dead limbs and possible root rot. As such, the case was closed on the basis of the evidence provided.
- 2.03 Given the degree of overlapping between all of the above issues, this application has been submitted to comprehensively address all of these matters.
- 2.04 In terms of the regrading works, the land surrounding the dwelling has been reduced and levelled. The highest parts of the garden, i.e. the areas directly along the boundaries to the east, south and west, have not been altered. A series of

retaining walls have also been constructed within the garden to establish a patio and terraces.

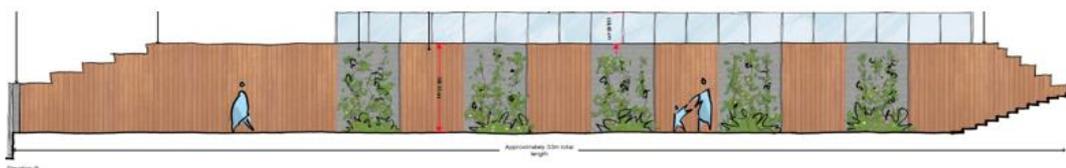
- 2.05 The terraces themselves are formed by block work walls that will be screened by planting with the remaining areas finished in natural timber cladding. These areas are set out on the site plan below (Figure 1):



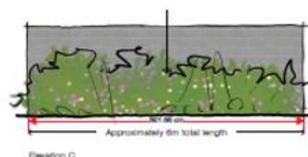
**Figure 1**

- 2.06 Elevation B, (Figure 2) will be approximately 3m in height and topped with a glazed balustrade with stainless steel top rail of approximately 1.05m in height. The planting adjacent to the wall will include sections of climbing plants, specified as *Lonicera japonica* 'Halliana'; *Lonicera periclymenum* 'Belgica'; and *Hydrangea anomala* 'Petiolaris'. These will be 50 to 80cm in height. It is also proposed to plant areas of *Lavandula angustifolia* 'Hidcote'. This wall will incorporate a return towards the front of the site, identified as Elevation C (Figure 3), and this will be screened by the planting of shrubs that are noted to grow to at least 2m in height and will be comprised of:

- 4 No. *Acer campestre*
- 12 No. *Crataegus monogyna*
- 4 No. *Corylus avellana*
- 12 No. *Ilex aquifolium*
- 8 No. *Fagus sylvatica*



**Figure 2**

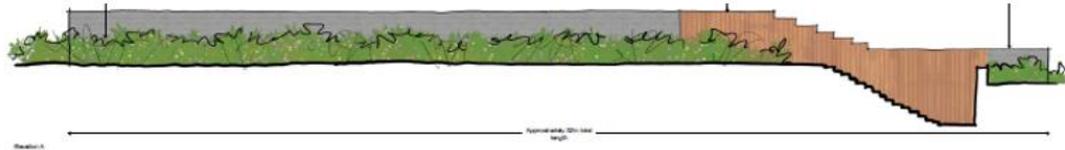


**Figure 3**

- 2.07 The land directly in advance of the upper terrace wall at Elevation A (Figure 4) will be planted with the following:

- 4 No. *Bergenia* 'Bressingham White'
- 8 No. *Berberis thunbergii* 'Autropurpurea Nana'
- 17 No. *Cornus sanguinea* 'midwinter fire'

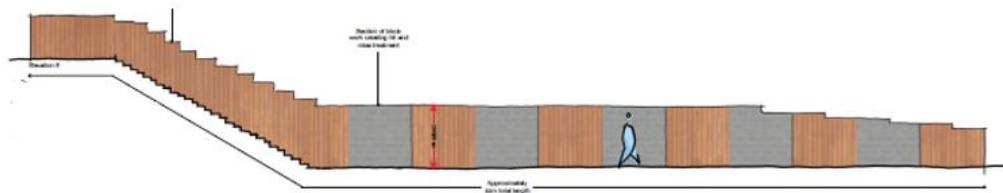
- 4 No Echinacea purpurea 'White Swan'
- 8 No Hebe 'Beverly Hills'
- 17 No Lavandula angustifolia 'Hidcote'
- 8 No Nandina domestica 'Fire Power'
- 12 No Rosmarinus officinalis
- 4 No Rudbeckia fulgida 'goldsturm'



**Figure 4**

2.08 The area defined as Elevation E (Figure 5) will be comprised of a wall of approximately 2m in height, again finished in a mix of timber cladding and block work with the area behind planted with the following:

- 17 No. Cornus alba 'Sibirica'
- 34 No. Dryopteris filix-mas
- 34 No. Viburnum opulus
- 34 No. Pulmonaria longifolia
- 51 No. Ruscus aculeatus



**Figure 5**

2.09 Along the front of the dwelling, and up to the boundary with the highway, will be a lower level wall and steps that will also incorporate a planting area (Elevation D) comprised of the following plants:

- Bergenia 'Bressingham White'
- Berberis thunbergii 'Autropurpurea Nana'
- Cornus sanguinea 'midwinter fire'
- Echinacea purpurea 'White Swan'
- Hebe 'Beverly Hills'
- Lavandula angustifolia 'Hidcote'
- Nandina domestica 'Fire Power'
- Rosmarinus officinalis
- Rudbeckia fulgida 'goldsturm'

2.10 In respect of the landscaping of the wider site, this is detailed as providing hedging across the front boundary with Woodlands. This will be planted at a size of 60cm to 80cm, providing a density of 7 per m<sup>2</sup> in double staggered rows. The planting will be comprised of the following, with the percentage of mix in brackets:

- *Acer campestre* (10%);
- *Crataegus monogyna* (30%);

- *Corylus avellana* (10%);
- *Ilex aquifolium* (30%); and
- *Fagus sylvatica* (20%)

- 2.11 To the north-eastern corner of the site, close to the boundary with the street and adjacent to the boundary with 2 Woodlands, it is proposed to plant 2 x *Betula Pendula* (Silver Birch) trees. These are specified as being of 8 to 10cm in girth and 3m in height. These are to replace the trees that were felled in 2021 (as detailed in paragraph 2.02 above).
- 2.12 The land directly to the front, sides and rear of the dwelling is to be hard landscaped with a resin bonded gravel in a light grey colour. This will provide a driveway/parking area to the front; pathways along the sides of the property; and a patio to the rear, incorporating steps to the first tier of the terraced area. The areas immediately adjacent to the boundaries that surround the site will be comprised of lawn and this will continue through the middle and top tier of the terraced area.
- 2.13 In terms of the proposed enhancements to biodiversity, these are comprised of the following features:
- A log pile, with individual logs of at least 1m in length, to the south-western corner of the site, and one to the north-west;
  - A hedgehog dome to the south-eastern corner of the garden and one to the north-west;
  - A bee post, facing towards the south, placed to the north-western corner of the site;
  - A bat box and a bird box, fixed to a tree in the south-eastern corner of the garden.
  - Three bee bricks and habitat chamber box to the western elevation of the dwellinghouse.

### **3. POLICY AND OTHER CONSIDERATIONS**

#### Maidstone Borough Local Plan 2017

DM1 Principles of Good Design

DM3 Natural Environment

DM8 External Lighting

DM9 Residential Extensions, Conversions and Redevelopment within the Built Up Area

DM23 Parking Standards

Emerging Draft Policy: Maidstone Draft Local Plan: The Regulation 22 Local Plan Review submission comprises the draft plan for submission (Regulation 19) dated October 2021, the representations and proposed main modifications. It is therefore a material consideration and attracts some weight. However, this weight is limited as although Stage 1 and 2 Hearings have recently concluded, the Plan is still in Examination. The following policies within the Regulation 22 Local Plan Review are relevant to this application: Policy LPRSP15 – Principles of Good Design; Policy LPRHOU 2 - Residential extensions, conversions, annexes and redevelopment in the built-up area; Policy LPRTRA4 – Assessing the Transport Impacts of Development.

Supplementary Planning Documents: Residential Extensions (2009); Maidstone Landscape Character Assessment 2012 (Updated 2013)

The National Planning Policy Framework 2023 (NPPF);

National Planning Practice Guidance (NPPG);

#### **4. LOCAL REPRESENTATIONS**

##### **Local Residents:**

4.01 Neighbouring residents at 2, 4, 27, 28 and 29 Woodlands were consulted on this application. A site notice was also posted in the street. Four representations have been received, three of which are in objection and one which neither supports or objects to the proposal, stating the following (summarised) issues:

- On the surface, this application appears to be a vast improvement on the previous ones but there are still some ambiguities that are of concern;
- The existing drawing appears to show fence posts or wall supports and a solid fence/wall, neither of these features are in place, or have ever been, and should not be installed under the guise of retaining an existing feature;
- The landscape plan shows a hedgerow planted at the very edge of the property's front boundary and an area of existing planting beyond that but this is the public footpath and not a planted area;
- The reference to the hedgerows aiding privacy and adding soft security are in contradiction to the ethos of an open plan street landscape and management of their future height is not detailed. The holly and hawthorne could block access along the footpath when in full growth and cause scratching to pedestrians;
- The landscape maintenance schedule details pruning will take place in January and November. They should be pruned in July/August to keep their hedgerow form, November will be too late in the year to prevent the footpath from becoming overgrown and impassable;
- The native hedgerow will be encouraged to grow to its maximum size to provide a security barrier rather than a natural addition to the street landscape. It appears that the hedgerow will be the new 'wall' and will be just as oppressive and out of character;
- Instead of a wall, which was rejected on planning application 22/501455, is now for a hedge of ridiculous length, 34 meters, no height mentioned. The boundary lines also appear to be different in shape as well as to the last application;
- The application implies the footpath is owned by no.3;
- The cul-de-sac is very dark as it is, without further need of having 34m of hedge;
- The residents have been more than amenable to the other plans which change the whole look of the house;
- The visibility and safety of pedestrians will be lost if the hedge goes along the boundary;
- There is no need for a fortress here, it is perfectly safe. The garden at no. 3 can be completely accessible and useable for a young a growing family without the need for a long hedge on the boundary line;
- It mentions in the plans there is parking for 3 cars, yes there was but that was prior to the excavation, when there was a drive to the right side and a turfed lawn to the left side with trees and bushes. There is no mention of a front garden in the new plans, meaning there will be space for many more than 3 cars as the whole width of the front is over 34 meters of concrete now;

- The garden has mature trees and hedges already around the sides and back of the garden for privacy and safety of the residents. It's hard to comprehend why walls would also be needed in front of the said trees and hedges which have enclosed the back garden and have been more than adequate for the previous three families who have lived there over 40 years;
- The hedge would be considered too bulky, incongruous and too prominent for a cul-de-sac. It has already caused many residents to be upset that the streetscene could be altered forever;
- There is a covenant that states no walls or hedges in the front of properties which were written into the deeds, residents value that and have adhered to;
- It now appears that there is going to be a wall at the back of the garden which will be topped with a glass balustrade which doesn't make any logical sense in woodlands where huge branches and boughs constantly fall from trees, the glass will be a danger to wildlife regardless of if it is safety glass;
- This application is something you may consider in a more rural setting in the countryside, not in a residential cul-de-sac; All residents feel very safe here and feel there is absolutely no need to have enclosed front gardens thus changing the street scene forever;
- The boundary line in question appears to show fence posts for reasons unknown. There has never been a fence or wall on the boundary line at no. 3;
- The one bee box, one bird box, one bat box and one hedgehog dome does seem to be a tick box exercise for a plot of such a size, they are out of sight stuck in corners. How will hedgehogs manage the different levels in the back garden to reach the top left corner?;
- The blue hoarding has been an eye sore for over two years for the residents and should be removed now that the grounds work has been completed;
- Kent County Council were instrumental to the original landscape planning and specified nothing was to project beyond the building lines;
- The contours shown on the drawing were only ever on the ground when the house was purchased and within weeks the whole "garden" was removed so this plan of proposed scheme is shown incorrectly despite the over printing onto the plan view of the building highlighting it to be Approved Application;
- There was never a hedge around the entire property. The front was open plan all the way across abutting onto the footpath;
- Using the pre-existing levels no longer reflects the site as it is today. It has been extensively carved out and flattened. There have been considerable concrete pumping weeks where lorry after lorry would come in tandem mixing and pumping concrete into the deeply excavated ground around the entire site;
- No protection around the Ash tree by the drive access point which should have been protected;
- One issue that should be considered is the surface water drainage from this sloped dwelling where there have now been significant alterations to the elevation of the entire site;
- Flooding of the footpath has occurred.

### **Boxley Parish Council**

4.02 Boxley Parish Council strongly object to this application. The applicant has desecrated the site, made planning applications that have been refused and is subject to an investigation by MBC's Enforcement Team for unauthorised work. To grant planning permission before this investigation is completed would be wrong. To grant retrospective planning permission for unauthorised work would be wrong. If the Case Officer is minded to approval then Boxley Parish Council would like the application determined by the Planning Committee. (Officer comment: this retrospective application is a result of the Enforcement investigations and an application was invited in accordance with the appropriate government guidance

and legislation to regularise the situation, further comments on retrospective applications are made below).

## **5. CONSULTATIONS**

(Please note that summaries of consultation responses are set out below. Comments are discussed in more detail in the appraisal section where considered necessary)

### Natural England

5.01 No objection. Based on the plans submitted, Natural England considers that the proposed development will not have significant adverse impacts on statutorily protected nature conservation sites or landscapes. Attention is referred to the generic advice on other environmental issues.

### Forestry Commission

5.02 No specific comments provided but attention is drawn to the relevant policy framework and related guidance.

### Kent Wildlife Trust

5.03 No comments submitted.

## **6. APPRAISAL**

6.01 The key issues are:

- The general principle of the application;
- The design and visual impact of the proposal in the context of the site and its setting and whether the previously identified issues have been appropriately addressed;
- The proposed biodiversity enhancements and wildlife impacts;
- Highway safety.

### **Principle**

6.02 Significant concerns have been raised by Boxley Parish Council in terms of the principle of accepting this application due to the fact that the development has been partially completed and is the subject of an enforcement investigation. Whilst it is regrettable that the applicant did not seek planning consent prior to commencing work, there are no planning regulations that prohibit the submission of a retrospective application for planning permission.

6.03 The Department for Levelling Up, Housing and Communities advise that in respect of matters of planning enforcement, where a Local Planning Authority considers that a retrospective planning application would be the most appropriate way forward to regularise a situation, a site owner should be invited to submit an application. This in itself does not indicate that an application will be approved and nor does it influence how the application is assessed, i.e. it will be considered in the normal way.

6.04 The current enforcement case will remain open pending the outcome of this planning application. Whilst Boxley Parish Council indicate their concern as to this application being submitted whilst the enforcement case remains open, the next step in terms of enforcement, is in fact dependent upon the outcome of this

submission. By virtue of these factors, the retrospective nature of the application would not present a material reason for refusal.

- 6.05 In terms of the general principle of the proposal itself, this is a suburban, residential area, as defined by the adopted Local Plan. There are no specific planning policies or guidelines that discourage landscaping of residential gardens in such areas. It is often the case that such works, e.g. planting schemes, would not require any form of consent. This is a sloping site and the general principle of regrading the land to make the space more usable is not necessarily unreasonable, it is the potential impact on the character and visual qualities of the streetscene/general locality that need to be evaluated and will be considered below. Whilst several of the concerns raised are related to the general principle of changing the appearance/landscaping of this site, this in itself would not present a material reason to refuse planning permission, it is whether these changes result in any harm to the character and appearance of Woodlands to the degree that a refusal could be substantiated.

### **Visual Impact and Character**

- 6.06 The application site is located within the urban boundary of Walderslade. The street is well landscaped, with part of its intrinsic character being defined by the density of mature trees and shrubs along the street against the backdrop of the woods on the rising ground to the south/south-west. Woodlands itself is developed for residential purposes, with predominantly open boundaries to the front of the dwellings, although this is not the case for every property in the street, with a few incorporating modest brick walls and close boarded fencing is also visible in the street due to some properties having a side boundary adjacent to the highway. The dwelling on the application site itself has been undergoing building works for some time now and has been surrounded by a hoarding, for at least 2 years.
- 6.07 Policy DM1 of the Maidstone Borough Local Plan (2017) sets out the principles of good design. Proposals should respond positively to the local and natural character of the area; respect the topography and respond to the location of the site, incorporating natural features such as trees and hedges. On-site biodiversity features should be protected or sufficient mitigation measures provided. Policy DM9 states that in terms of residential extensions and redevelopment within the built up area, proposals will be permitted where the traditional boundary treatment of an area would be retained, and where feasible, reinforced. Furthermore, the guidance contained in the SPD Residential Extensions (2009) notes the importance of boundaries to properties and how they have a significant impact on the character of an area and its visual amenity. These are the fundamental principles that must therefore be applied to the assessment of this submission.
- 6.08 3 Woodlands is positioned on a site that has varying land levels. As noted in the site description and local consultation responses, the site has been excavated to the extent that it has been taken down to the chalk base resulting in a somewhat stark appearance. In terms of the original appearance of the garden, the only available images are those that are recorded on the sales particulars from 2021, which are publicly visible online (Figure 6):



**Figure 6**

- 6.09 It would appear from these photos, together with the plans submitted in 2021 with the applications for extensions to the roof area of the dwelling, that the original land levels were always highest towards the south/south-west, with landscaping being present along the boundaries. Site photos from October 2021 documenting the initial changes by the applicant are detailed in Figure 7 below:



**Figure 7**

- 6.10 Due to the fact that works had been carried out in the garden area, a condition was included on planning permission 21/504741/FULL to require the submission and implementation of a landscape scheme so as to ensure a satisfactory appearance to the redevelopment of the property.
- 6.11 Following concerns as to the level of works that continued in the grounds of the property, a visit to the site in 2022 revealed that further changes had taken place, including the construction of retaining walls, as detailed in Figure 8 below:



**Figure 8**

- 6.12 The applicant was advised that planning permission should have been sought for these works and that a submission for pre-application advice should be made without delay. Accordingly, a site meeting took place that included MBC's Landscape Officer. The key issues that were relayed included the need to observe the verdant character of Woodlands and the fact that the retaining walls need to be softened in appearance. Discussions also included the front boundary treatments, in particular the high level wall that was refused in application 22/501455/FULL and how a more natural boundary definition should be considered.

- 6.13 The current submission is therefore a result of pre-application discussions and incorporates hedging to define the boundary of the property with the highway. This would represent a suitably balanced approach to meeting the applicant's desire to define the boundary of their property with the highway whilst maintaining the soft landscaped feel of the street. Ultimately, it would be possible for such hedging to be planted without a requirement for planning permission. Whilst several of the neighbour comments refer to the presence of covenants on the land, this would not influence the planning process. It is the applicant's duty to ensure that they observe any other applicable legislation or requirements as the grant of planning permission would not override such responsibilities. For absolute clarity on this issue, it is recommended that an informative is included on the decision notice to advise of this situation.
- 6.14 In liaising with MBC's Landscape Officer, it is noted that the planting scheme is considered generally appropriate to this location. Initially it was considered that one of the planting choices near to the boundary with the woodland could present maintenance challenges due to its fast growing nature and this has since been changed for a more suitable alternative. The replacement trees for those felled in 2021 are also determined to be acceptable.
- 6.15 Due to the rising nature of the land, the retaining walls will partially be visible from some vantage points in the street. The curved nature of parts of the walls and plans to include natural timber cladding together with suitable planting will however ensure that the visible elements will not appear overbearing or incongruous. The section of glazed balustrade will suitably integrate with the proposals. The landscape scheme is also accompanied by a management plan to ensure that the proposals are appropriately managed and a condition is recommended to ensure that this is maintained for a period of ten years.
- 6.16 The land to the rear of the site is at a higher level and features dense woodlands which form the backdrop of the application site and will remain the dominant feature. The regrading works and terraces do not encroach upon the Ancient Woodland and are confined to the established garden area. There is a statutory requirement to protect the quality and character of Ancient Woodland. No concerns have been raised by Natural England; The Forestry Commission; or MBC's Landscape Officer on this issue.
- 6.17 Whilst it is acknowledged that the level of hard landscaping will be more extensive than originally present at the property, it would not be to an extent that it would overwhelm or detract from the existing or proposed soft landscaping features. Furthermore, since originally submitted, the proposals have been altered to include an additional area of lawn extending from the front of the site along the south-western boundary.
- 6.18 On balance, the scheme as presented is considered to suitably integrate the terraces with the site and its general surrounding by the landscape scheme as presented in the application documents. Overall, this proposal is considered to acceptably integrate with the general streetscene of Woodlands and therefore accords with the relevant policies and guidelines. Suitably worded conditions are however recommended to ensure that the approved landscape scheme is implemented together with incorporating a suitable topsoil (in accordance with *BS3882:2015 - Topsoil*) to ensure all planting successfully establishes and matures. A requirement to adhere to the submitted management plan, including a requirement to replace any planting that dies, within a 10 timeframe is also recommended.

#### **Biodiversity Enhancements and Impact on Wildlife**

- 6.19 The application submission includes the provision of a range of features across the site and within the fabric of the existing building. It must also be considered that the

extent of new planting throughout the garden area will also create further wildlife habitats. The objections received suggest that the proposals do not go far enough however, there are a variety of features proposed and this together with the proposed landscaping are considered proportionate to the overall level of development on the site. Furthermore, the proposed features in the flank elevation of the dwelling can be incorporated and conditioned to be undertaken, even if the development approved by planning permission 21/504741/FULL is not implemented. It is therefore determined that the submitted details suitably address the policy requirements in respect of this issue.

- 6.20 It must also be considered that the success of the habitats will be dependent upon the permanence of the features proposed. A condition should therefore be included on the decision notice to ensure that the measures should be installed as detailed and maintained on a permanent basis.
- 6.21 The submission does not detail the installation of any exterior lighting, however, any future provisions in this regard could result in harm to the established benefits to wildlife habitats or potentially to the existing wildlife in the adjacent woodland/Local Wildlife Site. It is therefore considered appropriate to include a condition on the decision notice that prevents the installation of any external lighting unless details have first been submitted to, and approved in writing, by the Local Planning Authority.

#### **Highway and Pedestrian Safety**

- 6.22 The proposals do not include the provision of any new vehicular access onto the highway. The position of 3 Woodlands is such that the established access requires that vehicles cross the footpath, as is the case in most urban environments, and no alterations are proposed in this regard. The submitted objections raise concerns as to the future height of the front boundary hedge and the potential for obstructions to the visibility of drivers exiting the site. Given the natural boundary treatment and potential for growth to a level that could affect visibility, it is considered reasonable and necessary to include a condition to require the retention of suitable visibility splays, as is the standard requirement for driveways.
- 6.23 The objections also express concerns as to the safety of pedestrians due to the spikey nature of some of the planting along the front boundary, particularly if the planting is allowed to grow over the footpath. The applicant will have a duty to ensure that any planting within their control does not encroach onto the public footpath. If this were to become an issue, the Highways Authority (Kent County Council) has the power to require that any overhanging planting is cut back so that the full width of the footpath is usable. The scope of planning controls are such that it would not be reasonable to refuse an application on the basis that the planting is of a spikey nature.

#### **Other Matters**

- 6.24 It is stated in the objections received that the proposals suggest that the public footpath is incorporated in the plans. The red line plan submitted with the application would not appear to detail this. Certificate A is signed on the application form to indicate that the entirety of the land involved in the application is in the ownership of the applicant. Planning permission would not override rights of ownership and it is ultimately the applicant's responsibility to ensure that they observe this requirement.
- 6.25 The objections have raised issues relating to drainage and potential flooding around the site. A condition is recommended that requires all hard surfacing materials are to be of a permeable type and this together with the natural landscaping features will ensure that surface water is appropriately managed.

- 6.26 The policies and guidelines concerning domestic developments require a consideration of the privacy, outlook, and maintenance of an acceptable standard of amenity of neighbouring householders. The works to the land levels and construction of the raised terraces will not introduce any materially greater level of visibility to neighbouring properties or their private garden areas. The landscaping of the site is determined to achieve an acceptable visual appearance (as assessed above) such that the development as a whole will not detract from the general outlook of neighbouring occupiers.
- 6.27 The comments received through the consultation process have referred to the presence of the hoarding around the site. This has been the subject of an enforcement case which determined that no further action is necessary due to its requirement for the duration of construction works only. Furthermore, the requirement to implement to the landscape scheme will see that it will be removed in due course.

#### **PUBLIC SECTOR EQUALITY DUTY**

- 6.28 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 The development works that have been carried out at 3 Woodlands in respect of the regrading of the garden land and construction of retaining walls should have had the benefit of planning permission. Furthermore, the loss of 2 protected trees within the garden area needs to be suitably addressed.
- 7.02 At present, the retaining walls as constructed, have a somewhat stark appearance, to the extent that they appear imposing and incongruous. This is however because the development works have ceased in order that planning permission can be sought. The landscape scheme put forward has been informed by pre-application discussions and is considered to establish a suitable appearance that will satisfactorily integrate with the general character of Woodlands as well as the backdrop of the Ancient Woodlands to the south. The inclusion of a natural boundary treatment to the front of the property is determined to be an acceptable balance of achieving the applicant's to desire to define their property whilst maintaining the landscaped character of the street. The features included to support biodiversity are considered commensurate to the extent of development proposed and furthermore, the extent of planting will also make a positive contribution to achieving this aim. The safety of pedestrians can be ensured by imposing a condition that requires the maintenance of adequate visibility splays.
- 7.03 On balance, whilst this proposal is partly retrospective, the scheme as presented is determined to suitably accord with the relevant Local Plan policies and guidelines. The recommendation is therefore approval, subject to the conditions and informatives outlined in the report above.

#### **EIA Screening**

EIA Development	No
Comments	The development as proposed does not fall within any of the categories.

#### **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 or amend any necessary planning conditions and/or informatives 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 completed within 12 months of the date of this decision notice, in accordance with the following approved plans: Site Location and Block Plan 1141-CYA-A2-XX-DR-A-00001 Rev A; Site Sections 1141-HST-AA-ZZ-DR-A-00110 Rev C; 1141-CYA-AA-ZZ-DR-A-00108 Rev D; Planting Plan JKD034P02 Revision 02; Supplementary Landscape Report JKD034R01 Revision 02; Landscape Plan JKD034P01 Revision 03; Sketch Elevations JKD034P03 Rev 02;

Reason: In view of the retrospective nature of the application and to clarify which plans have been approved.

- 2) The landscape scheme detailed on the plans approved by condition 1 of this permission shall be carried out during the first planting season (October to February) following the date of this decision. Any seeding or turfing which fails to establish or any trees or plants which, within ten years from the date of implementation of the approved landscape scheme, die or become so seriously damaged or diseased that their long term amenity value has been adversely affected, shall be replaced in the next planting season with plants of the same species and size as detailed in the approved landscape scheme unless the local planning authority gives written consent to any variation;

Reason: In the interests of landscape, visual impact and amenity of the area and to ensure a satisfactory appearance to the development.

- 3) The landscape scheme detailed on the plans approved by condition 1 of this permission shall ensure all planting areas have a sufficient depth of topsoil in accordance with BS3882:2015 Topsoil, to ensure successful establishment and maturity of the planted stock.

Reasons: To ensure successful growth of the plants in the interests of landscape, visual impact and amenity of the area and to ensure a satisfactory appearance to the development.

- 4) All external materials shall be as specified on the plans and documents approved by condition 1 of this permission;

Reason: To ensure a satisfactory appearance to the development.

- 5) The biodiversity enhancements detailed on the plans and documents approved by condition 1 of this permission, shall be implemented as detailed, and fully completed within 12 months of the date of this decision, and shall thereafter be permanently maintained as approved;

Reason : In the interests of biodiversity enhancement.

- 6) The planting scheme approved by condition 1 of this permission shall be permanently maintained so that it does not exceed 1m in height for a distance of 2m to either side of the vehicular access to the site;

Reason: In order to maintain adequate driver visibility in the interests of pedestrian and highway safety.

- 7) All hard surfacing materials detailed on the plans approved by condition 1 of this permission shall be of a permeable type;

Reason : In the interests of sustainable drainage and to prevent run-off onto the highway.

- 8) No lighting shall be installed in the garden, or to the walls, patio areas, terraces, driveway or external walls of the dwellinghouse, without the prior written consent of the Local Planning Authority.

Reason: In the interests of visual amenities and protection of wildlife;

### **INFORMATIVES**

- 1) Advice will be provided within an informative regarding the requirement to seek building regulations approval (if necessary);
- 2) Detailed advice will be provided within an informative regarding the Environmental Code of Construction Conduct;
- 3) A reminder will be placed within an informative that all adjacent footpaths must be maintained free of obstruction;
- 4) Advice will be provided within an informative relating to the fact that planning permission would not override any obligations relating to the land, such as restrictive covenants.

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