

REPORT SUMMARY

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| REFERENCE NO: 24/502194/FULL | | |
| APPLICATION PROPOSAL: Erection of a residential outbuilding (part retrospective). | | |
| ADDRESS: 7 Restharrow Road Weaving Kent ME14 5UH | | |
| 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 outbuilding is acceptable and would not cause significant visual harm, harm to neighbouring amenity nor would it be unacceptable in terms of any other material planning considerations. The proposed development is considered to be in accordance with current policy and guidance. | | |
| REASON FOR REFERRAL TO COMMITTEE: The recommendation is contrary to the views of Boxley Parish Council who have requested the application be presented to the Planning Committee. | | |
| WARD: Grove Green and Vinters Park Ward | PARISH/TOWN COUNCIL: Boxley | APPLICANT: Mr & Mrs May AGENT: Mr R Saunders |
| CASE OFFICER: Ping Tye | VALIDATION DATE: 30.05.2024 | DECISION DUE DATE: 25.07.2024 (EOT) |
| ADVERTISED AS A DEPARTURE: NO | | |

Relevant Planning History

09/2241
Erection of a single storey rear extension.
Approved 02.03.2010

85/0857
Erection of 38 dwellings and garages and formation of access road.
Approved 12.11.1985.

Enforcement History:

24/500239/OPDEV : Enforcement Enquiry

MAIN REPORT

1. DESCRIPTION OF SITE

- 1.01 The application site is located within the defined urban area of Maidstone and contains a two-storey detached dwelling with an attached double garage to the western side.
- 1.02 Located in a residential street characterised by large detached dwellinghouses which have staggered building line, the dwellinghouses are of similar scale, design and appearance to adjacent and surrounding dwellinghouses, and it has been previously extended with an extension to the rear.
- 1.03 The property is a residential dwelling, and the site is not situated within a conservation area, or an area of outstanding natural beauty. Additionally, there

are no restrictions on the permitted development rights to extend or alter the dwelling house.

2. PROPOSAL

- 2.01 The submission is a retrospective application for the erection of an outbuilding in the rear garden. Although the application is retrospective and appears completed, for ease of reference it will be called 'the proposal' for the remainder of the report.
- 2.02 According to the Planning Statement submitted, the application site has a gently sloping rear garden that was levelled to allow construction of the outbuilding. The outbuilding is located at the northeast corner of the rear garden within approx. 1m of the boundary at the narrowest distance. The outbuilding measures approximately 6.24m wide and 3.5m deep. It would have a flat roof with an eaves height of approx. 2.77m.

3. POLICY AND OTHER CONSIDERATIONS

Maidstone Borough Local Plan Review (adopted 20 March 2024):
LPRSP15 – Principles of Good Design
LPRHOU2 – Residential extensions, conversions, annexes, and redevelopment in the built-up area

The National Planning Policy Framework (NPPF)

National Planning Practice Guidance (NPPG)

Supplementary Planning Documents: Maidstone Local Development Framework:
Residential Extensions SPD

4. LOCAL REPRESENTATIONS

Local Residents: 10 neighbours consulted. 4 letters of support received. 3 letters of objection received from neighbouring residents raising the following issues:

- The design and positioning of an outbuilding should not have a detrimental impact on neighbouring properties.
- The outbuilding which has been erected (following the removal of trees from the rear boundary) is excessively high. It is extremely visible and intrusive.
- The outbuilding has a large footprint and is huge in scale. The application shows it to be 6.24 metres x 3.48 metres. It is orientated towards our house and garden, as shown on the plan. It does not reflect the property line of number 7.
- The outbuilding has been constructed approximately 7 metres from the back wall of our house and is less than 1 metre away from the boundary fence. Its location in the far corner of the adjacent garden means that it is extremely close to our property.
- The physical presence of this large outbuilding has an unacceptable overbearing impact, significantly affecting the enjoyment of our property because it is overpowering in height and in close proximity. It overbears the outlook from every rear window in our house and every part of our patio and garden, intruding into our residential amenity. It completely dominates and intrudes and as a result our garden now feels enclosed and overlooked.
- An opening window facing our garden was recently added to the right-hand side elevation of the outbuilding above our fence line. As the window fully opens it affects our privacy, as when open it can be looked through, and is a source of noise when the building is in use. The addition of the window in its current position would not have been possible had the building not exceeded

the permitted development height. The patio doors are also orientated towards our house and garden due to the positioning of the building.

- The outbuilding is likely to be a source of noise and disturbance when in use because of its closeness to us and neighbouring properties.
- The variety of finishes in view along the front and side elevation adjacent to the boundary fence highlights the large height and scale of the building. It is clad in timber boarding on the front, which extends approximately one third of the way along the right-hand side elevation (although it is a different profile to the front), with an opening window and black corrugated metal cladding having been added recently to the remainder of the side which gives it an unattractive appearance which is not sympathetic or in keeping with the surroundings. There are no buildings of a similar design, height, mass or location in the surrounding area so it is out of character.
- Extensive hard landscape changes have taken place over recent weeks, altering the ground levels throughout the garden and adding a new large hard surface in front of the outbuilding (approximately 7 metres x 4 metres), where there was previously lawn, although these are not shown on the plan. Where the ground levels have been substantially increased, this has had the effect of significantly lowering our fence, causing a loss of privacy as heads are now visible above the fence line.
- Unsuitable design for the location as too big and does not conform to building standards.
- Less than a metre from neighbouring properties.
- Window fitted in the side of the structure overlooks neighbours gardens to the extent of a loss of privacy.
- Poor roof drainage causes rainwater to be directed onto neighbours fences.
- It could set a precedent for future outbuildings to be constructed without regard to planning regulations.

Officer notes: Issues regarding potential noise, roof drainage, hard landscaping and other environmental issues are not material planning considerations and will be dealt with under different legislations by Building Control or Environmental Health.

5. CONSULTATIONS

Boxley Parish Council

Object to this application for the following reason:

1. It is overly large for the site.
2. It is over height. The 10ft height of the building is overbearing for all neighbouring properties.
3. It is less than 1 metre from the boundary fence and the side window opens into the neighbour's garden creating a loss of privacy.
4. Properties in this area are in close proximity and the likelihood of noise disturbance is very high.

6. APPRAISAL

The key issues are:

- Site background/Principles of Development/Policy Context
- Visual Impact
- Residential Amenity
- Other Matters

Site background/Principle of Development/Policy Context

- 6.01 The application site is located in the urban boundary of Maidstone as defined in the Local Plan.
- 6.02 Policy LPRSP15 (2) in terms of design refers to developments responding positively to the local character of the area, with regard being paid to scale, height, materials, detailing, mass, bulk, articulation and site coverage. LPRSP15 (5) re-iterates consideration to be paid to adjoining neighbouring amenity.
- 6.03 Policy LPRHOU2 refers to residential extensions, conversions and redevelopment within the built-up area. LPRHOU2 states that within the defined boundaries of the urban area, rural services centres and larger villages, proposals for the extension, conversion and redevelopment of a residential property, design principles set out in this policy must be met. LPRHOU2 (1) states:
- (i) 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 and/or its context;*
- (iii) Adjoining residents would avoid unacceptable loss of privacy, outlook or light and would avoid unacceptable intrusion from noise or odour;*
- 6.04 The Residential Extensions SPD in relation to this proposal sets out the following:
- Garages and other outbuildings should be subservient in scale and position to the original dwelling and not impact detrimentally on the space surrounding buildings or the street scene by virtue of their scale, form or location.*
- 6.05 The principle of residential extensions within settlements is therefore considered acceptable, provided that the material planning considerations discussed below would be acceptable.

Visual Impact

- 6.06 As mentioned, the outbuilding will be sited at the northeast corner of the rear garden. It is not visible from the streetscene and therefore it is not considered to have a detrimental impact on the streetscene or character of the area.
- 6.07 Concerns have been raised regarding the size of the outbuilding. The scale of the proposed single storey outbuilding is considered acceptable relative to the two-storey detached host dwelling and its large garden. Only a small section of the building would be visible over the fence line. Similar outbuildings to the proposal can be built within 2m of residential boundaries under permitted development rights up to a height of 2.5m. Therefore, the need for planning permission in relation to height is the additional 0.27m on this proposal. On balance, it is considered that this height and overall size is not unreasonable for an outbuilding.

Figure 1. Block Plan showing relative size of outbuilding



- 6.08 The flat roof is not in keeping with the roof form of the host dwelling, however considering the single storey nature of the proposal and that it would not be visible from any public views as it is situated at the rear of the property, the flat roof is considered to actually reduce its visual prominence.
- 6.09 The proposed materials consist of cedar timber cladding and black corrugated metal for the walls, black metal framed window (with frosted glass) and black metal framed doors. The proposed materials do not match the materials used in the existing property, however, considering the proposal is located at the rear of the property, is a detached outbuilding and not visible from any public views, it is considered that this would not harm the overall character of the host dwelling. Very often outbuildings are not constructed from materials to match the main dwelling, nor, in most cases, would they be expected to. It is considered on balance, therefore, that the outbuilding would not detrimentally impact the character and appearance of the host dwelling.

Residential Amenity

- 6.10 The nearest neighbouring property is No.9 and No.11 Restharrow Road. All other neighbouring properties are considered to be a significant distance away to be unaffected by the proposal.
- 6.11 The outbuilding is in close proximity (approx. 1m at the narrowest) from the common boundary with neighbouring No.9 to the east. However, considering the modest height of the proposal at approx. 2.8m and the existing close boarded fencing, it is considered that no detrimental impact on neighbouring amenity in terms of loss of light or overshadow would result. Only a small section of the building would be visible over the fence line. Similar outbuildings to the proposal can be built within 2m of residential boundaries under permitted development rights up to a height of 2.5m. Therefore, the need for planning permission in relation to height is the additional 0.3m on this proposal. On balance, it is considered that this height is not unreasonable for a garden outbuilding.
- 6.12 In terms of loss of outlook, there is presently a two-storey pitched roof wooden playhouse adjacent to and in line with the proposal and mature foliage in No.9's garden, combined with a separation distance of approx. 7.6m, low height of the proposal and existing close boarded fencing, it is not considered that the outbuilding would be so overbearing as to warrant a refusal.
- 6.13 Concerns have been raised by the Parish Council and neighbouring properties that the proposal would result in loss of privacy. There is no adjacent facing fenestration proposed on the north or west elevations. The small east facing window is on a high level (approx. 1.86m to the bottom of the opening) and is currently obscure glazed and look towards the pitched roof of No.9's wooden playhouse, and given the site circumstances it is not considered necessary to condition the window to be obscure glazed. The patio doors are located away from the shared boundary towards the western side elevation and would look

towards both dwellinghouses. However during case officer's site visit, it was observed that the oblique view afforded from the patio doors is not significantly different from the view from the rear garden. Combined with its low height, and closed boarded fencing as well as soft landscaping that were in the process of being planted (as observed during site visit) the outbuilding would be sufficiently shielded and would not detrimentally impact the residential amenity of neighbouring property by causing a loss of privacy or overlooking.

- 6.14 Taking the above into consideration, it is considered that the proposal will not cause unacceptable harm to the residential amenity of the adjoining properties that would warrant a refusal.

Other Matters

- 6.15 Ecological Enhancements/Biodiversity Net Gain: Policy LPRSP15 of the Local Plan Review sets out that proposals should 'protect and enhance any on-site biodiversity and geodiversity features where appropriate, or provide mitigation.'

Due to the nature and relative scale of the proposal and the existing residential use of the site, it is not considered appropriate/necessary to require any ecological surveys. However, the Local Plan Review, the adopted SPD and the NPPF all encourage the enhancement of biodiversity in the interests of sustainable development and consequently, it is considered appropriate to attach a condition requesting that some form of on-site enhancement is provided. In this instance, this will be required to be within the site curtilage, rather than any methods incorporated into the construction/fabric of the building.

Paragraph 13 of Schedule 7A of the Town and Country Planning Act 1990 (as amended) sets out that every planning permission granted for the development of land in England shall be deemed to have been granted subject to the 'general biodiversity gain condition'. However, the 'general biodiversity gain condition' does not currently apply in relation to planning permission for a development which is the subject of a householder application, within the meaning of Article 2(1) of the Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended), provided such exemption is confirmed by the applicant or agent when making a householder planning permission application. Such confirmation has been provided on the submitted application form and therefore a Biodiversity Gain Plan will not be required.

PUBLIC SECTOR EQUALITY DUTY

- 6.16 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 proposal would be acceptable and would not cause significant visual harm, harm to neighbouring amenity nor would it be unacceptable in terms of any other material planning considerations. The proposal is considered to be in accordance with current policy and guidance.

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 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:

Site Location Plan. Received 24.05.2024.

Proposed Elevations – Drawing no. 001. Received 24.05.2024.

Block Plan, Proposed Elevations and Floor Plan. Received 30.05.2024.

Reason: To clarify which plans have been approved.

- 2) Within 3 months of the date of this decision, details of a scheme for the enhancement of ecology on the site shall be submitted for approval in writing by the Local Planning Authority. The scheme shall consist of the enhancement of ecology through the provision within the site curtilage of measures such as bird boxes, bat boxes, bug hotels, log piles, wildflower planting or hedgehog corridors. The measures shall be implemented in accordance with the approved details within 3 months of the date of the approval of the submitted details and all features shall be permanently retained and maintained thereafter.

Reason: To enhance the ecology and biodiversity on the site in the future.

INFORMATIVES

- 1) It is the responsibility of the developer to ensure, before the development hereby approved is commenced, that approval under the Building Regulations (where required) and any other necessary approvals have been obtained, and that the details shown on the plans hereby approved agree in every aspect with those approved under such legislation.
- 2) The grant of this permission does not convey any rights of encroachment over the boundary with the adjacent property in terms of foundations, eaves, guttering or external cladding, and any persons wishing to implement this permission should satisfy themselves fully in this respect. Regard should also be had to the provisions of the Neighbour Encroachment and Party Wall Act 1995 which may apply to the project.
- 3) Details pursuant to Condition 2 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 and bee bricks 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: Ping Tye

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