

APPLICATION: MA/10/1878 Date: 25 October 2010 Received: 3 November 2010

APPLICANT: Mr R Parsons, Solinparc Ltd

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

PARISH: Thurnham

PROPOSAL: Erection of 1no. bungalow (plot 2) with detached garage, access and associated works (re-submission of application MA/10/1149)

AGENDA DATE: 30th June 2011

CASE OFFICER: Amanda Marks

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

- It is contrary to views of Thurnham Parish Council
- Cllr Horne requested it be considered by planning committee
- It is a deferred committee item

1. POLICIES

- Maidstone Borough-Wide Local Plan 2000: ENV6, T13
- South East Plan: CC1, CC4, BE1, T4, H4
- Government Policy: PPS1, PPS3, PPG13

2. HISTORY

MA/10/1149 – Erection of a four bedroom bungalow Refused 26.08.10

3. BACKGROUND

- 3.1 This application was reported to the Planning Committee on 24 February 2011. A copy of the previous report and Urgent Update Report are attached at Appendix One.
- 3.2 Members deferred consideration of the application for the following reason;
- To allow Officers to investigate ecological issues on the site, including reptiles.
- 3.3 Subsequent to this decision the case officer contacted the ecology consultant at Kent County Council and requested a visit be undertaken to the site. On the

previously refused planning application, the ecologist had not been consulted and therefore no such visit was undertaken. In the current application however, the site had been left to grow wild for a longer period of time and therefore Members felt the ecologist should be consulted. From this visit the ecologist advised that there was the possibility of protected reptile species being present on site, and that as such an initial ecological survey would need to be undertaken. The ecologist felt that due to areas of tall grassland and the general unkempt appearance of the site it was a possible habitat for reptiles. However, due to the timing of the deferred application it was not possible to undertake the surveys straight away as the optimum time for reptiles to be detected was not until the weather had warmed up and in any event not until April. For this reason, it has not been possible to re-report the application just one committee cycle later as requested by planning committee.

- 3.4 An ecological reptile survey was undertaken throughout April and May; the advice of the ecological consultant was once again sought.

4. RE-CONSULTATIONS

KCC Ecology: (In summary):

The reptile report was reviewed and it was considered appropriate in terms of method and levels of survey. As a result no further survey work or specific mitigation was considered necessary.

Reference is made to the wood/brush piles and their potential to provide opportunities for nesting birds. The Wildlife and Countryside Act 1981 (as amended) protects wild birds from being killed, injured or captured, and their nests and eggs from being damaged, destroyed or taken while in use. It is essential therefore to ensure that adequate measures are employed in the timing and manner of the removal of the piles.

The County ecologist recommends that the pile removal is carried out outside of the bird nesting season (bird nesting season is March to August inclusive), but consideration must also be given to the extant potential of the piles to provide hibernation opportunities for reptiles and amphibians during the winter; this would result in restricting the removal period to September – October. If there is no alternative but to undertake the removal during the bird nesting season, a visual search of the piles for active nests must be undertaken prior to works beginning. The piles must then be dismantled by hand. If any active nests are encountered while they are being dismantled, works must cease until the young have fledged to prevent an offence being committed.

The County ecologist recommends that ecological enhancements are sought. In particular, the landscaping proposals provide opportunities to plant native

species that would have ecological benefits for wildlife; we recommend that the non-native species proposed are replaced with native species.

Bat and bird boxes could also be provided to enhance opportunities for wildlife and could be erected on the existing tall trees on the site or on the proposed building, including the potential for integrating bat boxes into the brickwork.

5. REPRESENTATIONS

- 5.1 Since the deferral of the application from planning committee residents have notified Officers of strimming works being undertaken on site (Mid-April) and also suggested that protected species have been seen on the site in the past – although no specific detail has been given. Planning Enforcement advised residents that the matter did not constitute development and would need to be reported to the police wildlife enforcement officer as a potential wildlife crime. I have however been unable to establish if this happened.
- 5.2 Unfortunately in circumstances as the above, there is nothing that the local planning authority can do to prevent the works being undertaken as strimming does not constitute development. No breach of planning permission has occurred as no planning permission has been given.

6. AMENDED PROPOSAL

- 6.1.1 Following the deferral and since being notified of the ecologists' views, the applicant has submitted additional detail confirming the intention to adhere to the ecologist's suggestions to manage the site development as much as possible.
- 6.1.2 The applicant is also willing to amend the landscape scheme to provide more suitable species/additional planting if required.
- 6.1.3 The main concern expressed from Members, was whether the development would cause harm to the ecological value of this former garden land. The fact that the site had been cleared and then left with abundant foliage and habitat remaining over the winter period meant that a new haven for wildlife could have been created.

6.2 Considerations

- 6.2.1 PPS9 states that *'the aim of planning decisions should be to prevent harm to biodiversity'*. Circular 06/2005 states that *'It is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted otherwise all relevant material considerations may not have been addressed in making the decision.'*

- 6.2.2 It is clear from the submitted ecological report that there were no protected species found on site. The habitat had been identified as having potential to support reptiles due to the nature of rough grassland and undergrowth, however as mentioned the site was strimmed. The report is accepted by the County Ecologist and therefore the only conclusion that can be drawn is that if planning permission is granted for the proposed bungalow it will not be to the detriment or harm of protected species. The undertaking of the ecological survey and its results accord with the above stated Government Policy and Guidance.
- 6.2.3 It is disappointing that the applicant and/or agent took the decision to strim the site prior to the ecological survey work being undertaken, however, as mentioned this was outside of planning control. I consider it perfectly reasonable for provision to be made for bat and bird species within the development in line with PPS9 which also requires development to incorporate ways to enhance and restore biodiversity. The current habitat on site is limited in terms of providing for birds and bats and such a requirement would constitute potential enhancement of biodiversity.
- 6.2.4 The applicant has indicated that he would be willing to erect bat and bird boxes within the site and I therefore consider it reasonable to apply a condition requiring a scheme of detail to be submitted.
- 6.2.5 With regard to plant species, a further condition to secure appropriate landscaping with native species was included on the main report which addresses the comments of the ecologist.
- 6.2.6 This site is not any more special than the average garden in an urban area. If the site were to be left indefinitely then it is possible that reptiles may take up residence, however given the location between other residential properties I do not consider this to be such a significant location to expect a strong population of reptiles; and indeed none were found.
- 6.2.7 The ecological value of the site must be considered proportionately. The site is not identified as being of ecological value i.e. as a SSSI or SNCI, nor is it in the countryside and/or close to features such as water, redundant buildings or open land ideal for foraging. I therefore consider that the proposal is not contrary to the advice of PPS9.

7. CONCLUSION

In light of the above considerations, and that no other circumstances have changed on site, I recommend planning permission be granted.

8. RECOMMENDATION

GRANT PLANNING PERMISSION subject to the following conditions:

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission;

Reason: In accordance with the provisions of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. The development hereby permitted shall be carried out in accordance with the following approved plans: as dated stamped 27 October 2010.

Reason: In the interests of the environment and to prevent harm to the residential amenity of neighbouring occupiers in accordance with PPS3.

3. The dwelling shall achieve at least Level 3 of the Code for Sustainable Homes. No dwelling shall be occupied until a final Code Certificate has been issued for it certifying that Code Level 3 has been achieved

Reason: To ensure a sustainable and energy efficient form of development in accordance with the guidance contained in PPS1 and the Kent Design Guide.

4. Replacement trees T1, T2 and T5 as shown on drawing date stamped 27 October 2010 of not less than Nursery Heavy Standard size (12-14cm girth, 3.6-4.25m height), conforming to the specifications of BS 3936 Part I 'Nursery Stock', shall be planted during the tree planting season (October to February) following the occupation of the building(s) or the completion of the development, whichever is the sooner, and be maintained thereafter to the satisfaction of the local planning authority;

Reason: To ensure a satisfactory setting and external appearance to the development in accordance with policies ENV6 of the Maidstone Borough-wide Local Plan 2000.

5. Replacement trees T3, T4 and T6 as shown on drawing date stamped 27 October shall be substituted with the following species: Silver Birch (*Betula pendula*), Bird Cherry (*Prunus padus*) and Wild Service Tree (*Sorbus torminalis*). The replacement trees shall be of not less than Nursery Heavy Standard size (12-14cm girth, 3.6-4.25m height), conforming to the specifications of BS 3936 Part I 'Nursery Stock', shall be planted during the tree planting season (October to February) following the occupation of the building(s) or the completion of the development, whichever is the sooner, and be maintained thereafter to the satisfaction of the local planning authority;

Reason: To ensure a satisfactory setting and external appearance to the development in accordance with policies ENV6 of the Maidstone Borough-wide Local Plan 2000.

6. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the building(s) or the completion of the development, whichever is the sooner; and any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation;

Reason: To ensure a satisfactory setting and external appearance to the development in accordance with policies ENV6 of the Maidstone Borough-wide Local Plan 2000.

7. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 as amended by the Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2008 and the Town and Country Planning (General Permitted Development) (Amendment) (No.2) (England) Order 2008 (or any order revoking and re-enacting that Order with or without modification), no development within Schedule 2, Part 1, Classes A, B, C and E shall be carried out with the permission of the Local Planning Authority;

Reason: To safeguard the amenity of nearby properties and the appearance of the development in accordance with PPS3.

8. Before the dwelling hereby approved is first occupied, the vehicular access shall be constructed in accordance with the submitted details of Marshalls Tegula blocks using permeable construction as shown on drawing date stamped 27 October 2010

Reason: In the interests of highway safety and in accordance with Policy T13 of the Maidstone Borough Wide Local Plan 2000.

9. The approved details of the parking/turning areas shall be kept available for such use. No development, whether permitted by the Town and Country Planning (General Permitted Development) Order 1995 as amended by the Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2008 and the Town and Country Planning (General Permitted Development) (Amendment) (No.2) (England) Order 2008 (or any order revoking and re-enacting that Order, with or without modification) or not, shall be carried out on the areas indicated or in such a position as to preclude vehicular access to them;

Reason: Development without adequate parking/turning provision is likely to lead

to parking inconvenient to other road users and in the interests of road safety in accordance with policy T13 of the Maidstone Borough-Wide Local Plan 2000.

10. The development hereby permitted shall be constructed in accordance with the external materials as shown on drawing date stamped 27 October 2010;

Reason: To ensure a satisfactory setting and external appearance to the development in accordance with policies ENV6 of the Maidstone Borough-wide Local Plan 2000.

11. The development shall not commence until a scheme for the provision of bat boxes and bird boxes has been submitted to the local planning authority for approval. The details shall be fully implemented prior to the occupation of the dwelling.

Reason: In the interests of ecology and in accordance with PPS 9.

Informatives set out below

The applicant is advised to undertake pile removal outside of the bird nesting season (outside of March to August inclusive), whilst giving consideration to the potential of the piles to provide hibernation opportunities for reptiles and amphibians during winter. In effect the most appropriate time to remove the piles is from September to October. If there is no alternative but to undertake removal during the nesting season then the piles must be dismantled by hand after a visual search. If active nests are found then works must cease until young have fledged to avoid an offence being committed. If the site is left untouched until after the winter period then it should be cleared under the supervision of a trained ecologist.

The proposed development, subject to the conditions stated, is considered to comply with the policies of the Development Plan (Maidstone Borough-Wide Local Plan 2000 and the South East Plan 2009) and there are no overriding material considerations to indicate a refusal of planning consent.