

# APPENDIX

APPLICATION: MA/10/2189 Date: 21 December 2010 Received: 18 March 2011

APPLICANT: Monro Homes

LOCATION: LITTLE ORCHARD, CHURCH LANE, BEARSTED, MAIDSTONE, KENT, ME14 4EF

PARISH: Bearsted

PROPOSAL: Erection of 5no. dwellings with garaging, parking provision, new driveway - amended design to that approved under reference MA/09/0760 as shown on site location plan and drawing nos. 020/P1/04A, SP/09/01/6A, SP/09/01P05A and SP/09/01/GARA received on 22/12/10; and drawing no. SP/09/01/P03C received on 18/3/11. As amended by emails dated 25/5/11 and 31/5/11.

AGENDA DATE: 9th June 2011

CASE OFFICER: Geoff Brown

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

- it is contrary to views expressed by Bearsted Parish Council and committee consideration has been requested

## 1. **POLICIES**

- Maidstone Borough-Wide Local Plan 2000: ENV6, T13
- The South East Plan 2009: CC1, CC4, CC6, BE1, BE6, NRM5, H5, W1, W6, T4
- Village Design Statement: N/A
- Government Policy: PPS1, PPS3, PPS5, PPS9, PPG13

## 2. **HISTORY**

The relevant planning history is as follows:

MA/10/1499 - Erection of 5no. dwellings with garaging, parking provision, new private driveway and associated works (amendment to MA/09/0760) - Withdrawn

MA/09/0760 - Erection of 5 No dwellings with garaging and parking provision and new private driveway (Resubmission of MA/08/1666) - Approved

MA/08/1666 - Erection of 8 No dwellings with garages and new highway and service roads - Refused

### **3. CONSULTATIONS**

BEARSTED PARISH COUNCIL initially stated:

"The parish council has discussed the above application and wishes it to be refused and reported to the planning committee for the following reasons:

- The chimney stack on plot 5 has an impact on the NE boundary of the development. The boundary has a high hedge screening Maybank from the development, a hedge which is to be maintained by the developers at 3m. The footings and brickwork which should be 1.5m from this boundary have been laid and are 1.15m from the boundary.
- The inclusion of a double garage instead of a single is not as stated in the application, additional parking, but additional building work.

There is additional concern regarding comments made by the developer in the application form. This questions whether there are trees and hedges on the site – which the developer has answered no to. As you are aware there are a number of trees on the site so why are these not referred to?"

Following consultation on further details the parish council wrote to reiterate its objections and enclosed a letter from Mrs Marshall MBE which raises the following points:

- a) This is an improvement on the withdrawn application [MA/10/1499] in terms of lower provision of car parking but there is still an over-provision of parking space.
- b) It is recognised that there is a planning permission [MA/09/0760] for the erection of 5 houses but the loss of trees and the impact on neighbouring properties is deplored.
- c) The presence of trees on and adjacent to the site is not properly recognised in the application.
- d) Planners appear to have missed the absence of chimneys on the approved scheme.

THE CONSERVATION OFFICER considers the scheme to be acceptable.

THE LANDSCAPE OFFICER has no objection (see discussion below).

THE ENVIRONMENTAL HEALTH MANAGER has no objection.

#### **4. REPRESENTATIONS**

THE OCCUPANTS OF 3 NEARBY DWELLINGS OBJECT and the following points are raised:

- a) The development would cause extra traffic that Church Lane and other local roads could not satisfactorily accommodate. There would be highway danger and harm to the living conditions of local residents.
- b) Work on this site is well advanced. Details appear to have been modified without waiting for the Council's consent.
- c) The application is misleading: substantial new garaging is now proposed not just minor changes.
- d) The new garaging would not be available to visitors.
- e) The new garaging would be harmful to the character of the Conservation Area and the setting of listed buildings. It would affect the outlook and amenities of neighbouring houses.
- f) External chimneys were not previously approved but appear now. The stack to plot 5 is too close to the north eastern boundary hedge and will damage it to the detriment of the neighbour's amenities.
- g) The existence of trees on and around the site is not properly recognised in the application documentation, including the yew tree at Maybank.

#### **5. CONSIDERATIONS**

##### **5.1 Site Description**

5.1.1 The site lies within the urban area of Maidstone as defined in the Maidstone Borough-Wide Local Plan 2000. At present the site is a construction site (see history) but it previously accommodated a chalet bungalow, which was likely to have been constructed in the 1920's. There are a number of substantial trees around the edges of the site covered by Tree Preservation Order no. 09 of 2008, including substantial trees on the road frontage.

5.1.2 The site is bounded on the north eastern side by Maybank, a substantial listed building set within a corner plot, part of which fronts onto Bearsted Green. Within the grounds of this property, (and indeed closer to the application site), lies 'The Flat' which is a residential unit located over a double garage. To the south-west of the site lies Mount Lodge, a Victorian property which sits at a higher level to Church Lane (approx 2.5/3metres higher). To the north of the site lies The Bell House, which is set a significant distance away from the boundary of the site (over 45metres), with more modern properties sited to the north-west of the site. On the opposite side of Church Lane, there are a number of residential properties, all of which front on to this highway, albeit with differing set backs. These gardens contain a good level of soft landscaping, together with parking areas for motor vehicles.

5.1.3 The site lies adjacent to, but not within, two conservation areas (Bearsted and Bearsted Holy Cross).

## **5.2 Proposal**

5.2.1 Permission MA/09/0760 allows the erection of 5 No dwellings with garaging and parking provision and a new private driveway. The development is now almost complete but not in the manner approved. This current application represents proposed amendments to the approved scheme as discussed below.

5.2.2 The principle changes are:

- i) The enlargement of the garage at the western end of the site (ie between plots 1 and 2) from single to double.
- ii) The removal of the refuse store previously proposed close to the Church Lane frontage.
- iii) The realignment of pathways on the site.
- iv) Small changes to the elevations of the dwellings (principally internal layout and fenestration). The main elements of this being an additional first floor bathroom window in the side elevations of the dwellings on Plots 1 and 5; a rearrangement of the ground floor fenestration on Plots 2 and 3; the deletion of the balcony window and replacement with a more traditional window on the rear elevation of the Plot 4 dwelling; and the deletion of some first floor windows on various plots around the site.

The total number of parking spaces (both in garages and externally) has gone up from 11 to 13.

5.2.3 A previous application (reference MA/10/1499) to amend the approved scheme was withdrawn following concern expressed by officers that there would be an oversupply of parking spaces (for example, a triple garage was proposed between plots 3 and 5) and that the enlarged garages would harm the character of the area. In addition the wall to the site frontage would have been constructed wholly of brick which was considered to be a retrograde step. This current application before members seeks to address those concerns by reverting back to a double garage and by reducing the overall parking provision from 16 down to 13. Clarification has been received that the wall is of ragstone with brick piers and capping (and this has now been constructed).

## **5.3 Principle of Development**

5.3.1 A development of this broad type and scale has already been accepted by this Council through the grant of permission MA/09/0760. The significant issues here surround the planning impact of the proposed changes. Some of the

representations here seek to revisit that earlier application and I can give those representations little weight, given the decision to permit MA/09/0760.

## **5.4 Visual Impact**

- 5.4.1 In my consideration the proposed fairly minor revisions to the design of the dwellings are acceptable. Similarly the enlarged garage and driveway between plots 1 and 2 is reasonably well designed and would not have a significant adverse impact, not least because it is sited well into the site between the houses. The removal of the bin store from the front of the site is a positive step in terms of visual amenity and the realignment of pathways is appropriate.
- 5.4.2 A materials schedule has now been submitted which proposes multi-red stock bricks under clay tile roofs generally, with a range of clay tile hanging and cream coloured weather boarding and render according to design type. Timber joinery is proposed. I consider this palette of materials appropriate to the design approach and to the character of the locality. Bollard lighting is proposed with no street lighting columns. I agree with the Conservation Officer that the amended scheme is acceptable in the context of impact on the Conservation Areas and the setting of the listed buildings, including the neighbouring Maybank. I consider the development results in no harm to visual amenity.

## **5.5 Residential Amenity**

- 5.5.1 The amended scheme would not have a significant adverse impact on neighbours (including permitted dwellings to the south of the site) due to loss of light, outlook, privacy or increased noise and disturbance. The new double garage between plots 1 and 2 is a relatively small building with a fully hipped roof such that there would be no impact on housing to the west. I note the comments of the occupiers of Maybank but it seems to me that the new scheme is not significantly different to that already approved in terms of the impact on their amenities. The chimney stack between the flank wall of plot 5 and the Maybank boundary was shown on the previously approved scheme and is a part of this current application and I do not agree that it potentially compromises the neighbours' amenities. The leylandii hedge on that boundary is shown to be retained notwithstanding the Landscape Officer's view that it is of no particular amenity value.

## **5.6 Highways**

- 5.6.1 In broad terms the erection of 5 houses and the general impact on the highway has already been considered and accepted. On the parking issue, this Council does not have adopted parking standards. 13 spaces are now shown to serve 5 large dwellings and I consider this provision reasonable given Central Government's current stance on new developments and parking which

essentially allows developers, in most circumstances, to set an appropriate level of parking provision.

## **5.7 Landscaping**

### **5.7.1 The Landscape Officer comments:**

"These comments include my view on the information originally submitted for the application, together with the further information received, specifically a revised plan showing the trees present on the southern site boundary and a covering letter dated 14 March 2011. I have inspected the trees present on site.

I understand that this application seeks to amend the currently approved scheme, which is partially built. Changes to the approved scheme are proposed, but these are considered a significant departure from the original scheme, requiring a fresh application. Therefore, this proposal is similar to the one approved under MA/09/0760. I will only comment on the impact of the changes to the approved scheme that I have noted.

Please note that additional tree removals have taken place since the previously approved scheme. Consent has been granted separately for some of these, as applications under the Tree Preservation Order. This applies to G2, G12 (application TA/0033/10) and G13, T14 (application TA/0122/10). Their removal does not, therefore, constitute one of the changes being considered under this application.

The new front path to the front (east) of Plot 4 is welcomed on arboricultural grounds. It was put forward as a solution to inaccuracies in the plotting of trees on the original plans, which meant that implementation of the approved scheme under MA/09/0760 would necessitate the removal of mature trees on the Church Lane frontage. I am confident that no root damage will result as the roots of the trees have effectively been isolated from the site by airspade trenching and professional pruning by the developer's arboriculturalist.

I raise no objection to the slight alteration to the path from plot 5.

The removal of the bin store at the front of the site enables the re-routing of the Plot 4 pathway, with the added advantage of increasing the opportunity for planting near the site entrance, improving the appearance of the site from Church Lane, in my opinion.

The garage to Plot 2 is larger and consequently closer to T15. The submitted drawing indicates that it is at an acceptable distance from the tree.

The addition of previously omitted chimney breasts was only likely to affect the trees to the north of plot 5, but as the base of that chimney has now been constructed, I do not consider that further tree damage is likely as a result of approving the scheme with chimneys added.

The revised plan supplied includes the previously omitted T17 Cherry, which now appears to be accurately plotted in relation to Plot 1. The plan shows the trees to the south of plot 1 as being retained. However, the accompanying letter states an intention to remove them. I therefore recommend that clarification is sought from the applicant on which trees are to be retained and which are to be removed under this proposal.

I suggest that the submission of an arboricultural method statement is required by condition, to regularise the situation on site, particularly with regard to (acceptable) tree works that have already been undertaken in accordance with the recommendations of arboricultural method statement by Rhizoecology dated May 2010, but not formally approved.

The entire site is subject to an Area Tree Preservation Order, which protects all of the trees present on the site. The 'Area' designation does not identify trees according to their individual merit and whilst it contains trees of particular merit, it also includes a number of trees that, if assessed as individuals, would not be considered to merit continued protection. I consider that the trees to the south of Plot 1 fall within the latter designation and although their loss may be considered regrettable, would not have a significant impact on the character or amenity of the area. I also consider that the impact of their loss can be easily mitigated by suitable replacement planting.

The application lacks a fully detailed landscaping scheme and I recommend the use of standard condition(s) requiring one to be submitted, to include future management details, implementation and replacement of failures for a period of 5 years. The reference to 'trees to be retained and measures for their protection' should be removed from the standard wording of the condition, as this will be included within the arboricultural method statement."

5.7.2 It has subsequently been clarified that all of the trees to the south of Plot 1 would be removed and replaced. I conclude that there is no reason to object to this scheme on landscaping or arboricultural grounds.

## **5.8 Other Matters**

5.8.1 Confirmation has been received that the development will achieve Code Level 2 on the Code for Sustainable Homes (as was required by condition on the original MA/09/0760 permission). Foul Water will discharge to the foul water sewer and

surface water to soakaways: a Building Regulations Surveyor has confirmed that this is acceptable in principle.

5.8.2 It is regrettable that the current scheme has been implemented on site without the appropriate permission but that, in itself, is not a justifiable reason for refusal of a planning application. I have reviewed the conditions attached to the existing consent (MA/09/0760) and sought to impose similar conditions in my recommendation below. In considering such conditions it must be recognised that the development is almost complete and therefore some of them need to be deleted or modified to reflect the circumstances.

## **6. CONCLUSION**

6.1 This application involves amendments to a scheme already granted planning permission under reference MA/09/0760. I consider the changes to be acceptable in then context of the character, amenity and functioning of the area and I recommend that planning permission be granted.

## **7. RECOMMENDATION**

GRANT PLANNING PERMISSION subject to the following conditions:

1. Within two months of the date of this permission details of all fencing, walling and other boundary treatments shall be submitted to and approved in writing by the Local Planning Authority and the development shall be carried out in accordance with the approved details before the first occupation of the buildings or land and maintained thereafter;

Reason: To ensure a satisfactory appearance to the development and to safeguard the enjoyment of their properties by existing and prospective occupiers in accordance with PPS1 and PPS3.

2. The development hereby permitted shall be carried out in accordance with the following approved plans:  
drawing nos. 020/P1/04A, SP/09/01/6A, SP/09/01P05A and SP/09/01/GARA received on 22/12/10; and drawing no. SP/09/01/P03C received on 18/3/11. As amended by emails dated 25/5/11 and 31/5/11;

Reason: To ensure the quality of the development is maintained and to prevent harm to the residential amenity of neighbouring occupiers in accordance with the advice in PPS1.

3. The approved details of the parking/turning areas shall be completed before the commencement of the use of the land or buildings hereby permitted and shall thereafter 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 PPG13.

4. Before the first occupation of the dwelling on Plot 3, the windows within the rear first floor elevation (north-west) of that dwelling shall be provided and thereafter maintained with obscure glazing, and shall only have top hung openings.

Reason: In order to preserve the residential amenities that the occupiers of the adjoining neighbours currently enjoy in accordance with PPS1 and PPS3.

5. The development shall achieve a score of Level 2 or better for each residential unit under 'The Code for Sustainable Homes'.

Reason: To ensure a sustainable and energy efficient form of development in accordance with Policy CC4 of the South East Plan 2009, Kent Design 2000 and PPS1.

6. Within two months of the date of this permission a scheme of landscaping shall be submitted to and approved by the Local Planning Authority. The scheme shall use indigenous species and include indications of all existing trees, hedgerows and boundary planted areas on the land, and details of any to be retained and a programme for the approved scheme's implementation and long term management. The scheme shall be designed using the principles established in the Council's adopted Landscape Character Assessment and Landscape Guidelines. The submitted details shall include inter-alia full consideration of the protection of potential slow worm habitats in and around the marginal boundary areas during construction;

Reason: No such details have been submitted and in the interests of the visual amenities of the locality, the safeguarding of existing trees, hedgerows, boundary planted areas and potential slow worm habitats to be retained in accordance with Policy ENV6 of the Maidstone Borough Wide Local Plan 2000 and PPS1 and PPS9.

7. 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 buildings 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 Policy ENV6 of the Maidstone Borough Wide Local Plan 2000, and PPS1.

8. Removal of existing trees or hedgerows containing nesting birds shall take place outside of the bird-breeding season (generally March to August).

Reason: To ensure that nesting birds are not disturbed in accordance with PPS9.

9. Within 2 months of the date of this permission a detailed scheme for the retention of areas of cordwood from any tree works within the site have been submitted to and approved in writing by the Local Planning Authority;

Reason: In the interest of biodiversity enhancement in accordance with PPS9.

10. Within two months of the date of this permission an Arboricultural Method Statement (AMS) shall be submitted for approval, to include details of any works or operations in the vicinity of retained trees both on and off site to avoid damage to trees. The AMS should be in accordance with the recommendations of BS5837 (2005) and include a schedule of any proposed pruning works to retained trees. The approved details shall be strictly adhered to.

Reason: To ensure the successful long-term retention of retained trees in the interests of the visual amenity of the area in accordance with PPS1.

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.