

APPLICATION: MA/11/1481 Date: 18 August 2011 Received: 22 December 2011

APPLICANT: Golding Homes

LOCATION: LAND SOUTH OF 1, BELL LANE, STAPLEHURST, KENT, TN12 0BA

PARISH: Staplehurst

PROPOSAL: Demolition of existing garage blocks and the erection of six two-bedroom elderly persons bungalows with associated parking and private amenity space, together with the alteration/improvement of the existing vehicular access from Bell Lane as shown on drawing nos. BL/01, K10/0176/001/B, K10/0176/014/A, K10/0176/015/A, design and access statement, extended phase 1 habitat survey and Great Crested Newt and Reptile Survey received 30/08/2011, drawing K10/0176/011/B and transport statement received 10/10/2011 and drawing nos. K10/0176/12revH, K10/0176/013revC, arboricultural implications assessment and method statement and Great crested newt mitigation strategy received 24/05/2012.

AGENDA DATE: 14th March 2013

CASE OFFICER: Steve Clarke

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

- It is contrary to the views expressed by Staplehurst Parish Council
- It is a Departure from the Development Plan

## **1. POLICIES**

- Maidstone Borough-Wide Local Plan 2000: ENV6, ENV25, T13, T23, CF1
- South East Plan 2009: SP2, SP3, CC1, CC4, CC6, H3 H4, H5, T4, NRM5, S6, BE1, BE4, BE6, AOSR6, AOSR7
- Government Policy: NPPF 2012

## **2. BACKGROUND**

- 2.1 This application was reported to the Planning Committee on 30 August 2012. A copy of the previous report urgent update and approved minute is attached at Appendix One.

2.2 At the meeting on 30 August 2012, Members resolved to give delegated powers to the Head of Planning to grant planning permission subject to the prior completion of a s106 agreement or the receipt of a satisfactory s106 unilateral undertaking to secure:

- The provision of an alternative allotment land site "near at hand" to the development site and within the Parish of Staplehurst.

2.3 Discussions have taken place with the applicant since the Committee and it has not been possible to identify a suitable area of land for inclusion within the agreement. The application is therefore being brought back to this Committee for re-consideration.

### **3. HISTORY**

3.1 There is no previous relevant planning history on the site

### **4. CONSULTATIONS**

4.1 No additional responses from consultees have been received since those set out in the appended previous report was published

### **5. REPRESENTATIONS**

5.1 No additional representations have been received since those set out in the appended previous report and urgent update reports were published

### **6. CONSIDERATIONS**

#### **6.1 Site Description**

6.1.1 The site comprises an area of some 0.21ha and is located on the south side of Bell Lane. It is accessed via an existing access road that passes to the east side of 1 Bell Lane and to the west of the garden of The Bell Public House. (The Bell PH is currently closed and has ceased trading). The access road runs southwards from Bell Lane and serves a group of 28 lock-up garages and associated hardstanding areas. These are located on the eastern side of the site. On the western side of the site is an area of former informal allotments located to the rear of 1-7(odd) South Bank. The dwellings in Bell Lane and South Bank that back onto the site are all two-storeys in height.

6.1.2 The site lies within the defined settlement boundary of Staplehurst and adjoins on its eastern side the Staplehurst Conservation Area. The site itself has no specific designation on the Maidstone Borough-wide Local Plan 2000.

- 6.1.3 Land levels on the site and the access road fall to the south away from Bell Lane. A footpath link (not a registered Public Right of Way) runs southwards from the south east corner of the site towards the dwellings in Church Green/South Bank and also connects to the High Street.
- 6.1.4 The former allotments have not been used for a number of years (since 2007) and are now somewhat overgrown.
- 6.1.5 There are a number of trees within and adjoining the site that have been the subject of an arboricultural assessment and report. It is proposed to retain all the trees.

## **6.2 Proposal**

- 6.2.1 The application is a full application and seeks permission to demolish the existing lock-up garages and for the erection of 6 elderly persons' bungalows on the site of the garages and the former allotment land to the west.
- 6.2.2 The bungalows would be formed in a terrace of five along the southern side of the site with the sixth unit located in the north-west corner of the site behind 1-5 (odd) Bell Lane.
- 6.2.3 The units would be 2-bedroomed. They would be 6m to ridge and between 2.3m and 3m to eaves. Plot 5 at the western end of the terrace would be set forward some 2m to leave a larger gap to a retained Oak tree located just beyond the southern site boundary, the patio (and access to it from the lounge/dining room) for this unit has also been moved to the west elevation to reduce the impact of shadowing from the oak tree.
- 6.2.4 Other than plot 5 the units on the southern side of the site are located 7m in from the site boundary, Plot 5 is located 7m from this boundary. Plot 5 is also located 4m in from the site's western boundary at the rear of 1-7 (odd) South Bank leaving a distance of approximately 31m between the flank wall of plot 5 and the rear walls of the dwellings in South Bank. The roofs on the front elevations of plots 1-5 would extend forward to provide a canopy over the entrances.
- 6.2.5 Plot 6 is a detached unit located approximately 19.2m south of the existing dwellings in Bell Lane and 28m from the properties in South Bank. It is 5.5m to the ridge and 2.2m to eaves.
- 6.2.6 Indicated materials include brickwork plinth with a snapped header course and render for the walls, timber boarding under interlocking roof tiles. Plot 6 would

additionally have some timber boarding to a gable feature. The units would also be provided with solar panels on the south facing roof slopes.

- 6.2.7 A total of 6 allocated parking spaces, 2 dedicated visitors' spaces and 3 unallocated parking spaces would be provided resulting in a total of 11 car parking spaces.
- 6.2.8 The site access road would be maintained at a width of 3.75m for the first 8m adjacent to Bell Lane then narrowing to 3.5m and then to 3m for a 17m section before widening again to 4.8m. The turning head would be 6m in width. The junction of the access with Bell Lane would be provided with 33m x 2.4m x 33m visibility splays. A new short section of footway along Bell Lane would be provided to the east of the access.
- 6.2.9 Due to the overgrown nature of part of the site, reptile and great crested newt surveys have been undertaken and mitigation measures proposed. The Bell Lane Local Nature Reserve (LNR) will be used as receptor site and enhanced to accommodate any Great Crested Newts found on the site. No newts were found during the survey in 2011 however. It is also proposed and considered necessary by the KCC Biodiversity Team to provide 2 hibernacula on the site. These would be located outside the garden area of plot 6. A pond is also to be restored further along Bell Lane.

### **6.3 Principle of Development**

- 6.3.1 This is the key determining issue for this application.
- 6.3.2 The demolition of the lock-up garages and the erection of residential development on the site of these; is acceptable in principle as the site is located in a defined settlement boundary and the development would take place on previously developed land.
- 6.3.3 In relation to the former allotments, the development should be assessed against saved Borough-wide Local Plan policy ENV25 which states:-

**POLICY ENV25: DEVELOPMENT OF ALLOTMENTS FOR OTHER USES WILL NOT BE PERMITTED UNLESS ALTERNATIVE PROVISION IS MADE NEAR AT HAND, AND GROUND CONDITIONS ARE FULLY APPROPRIATE.**

- 6.3.4 Policy ENV25 makes no distinction between statutory and non-statutory allotments and neither does it make allowance for allotment land no longer in active use. In addition, Staplehurst is an area where according to the Green Spaces Strategy Provision Tables 2007 there is a shortage of allotment land.

Green Space Tables 2007							
Allotments and Community Gardens (Hierarchy: Middle Order)							
Ward Name	PMP Analysis Area	Total Population	Current Provision (ha)	Hectares per 1000 pop	Local Minimum Standard	Above / Below standard per 1000/pop	Above / below standard (ha)
Staplehurst	Southern	5900	0.11	0.02	0.18	-0.16	-0.94

- 6.3.5 Attempts have been made since the Planning Committee on 30 August in conjunction with the applicants to identify a potentially suitable plot of land in the vicinity of the site, including land at the end of Chapel Lane and further to the west of the site at the far end of Bell Lane. None of the Chapel Lane sites are considered suitable due to access problems and existing uses. In the case of the Bell Lane land in addition to the access being potentially unsuitable as narrow, un-made and also being a Public Right of Way (KM302A), there are also potential ecological issues due to the presence of nearby ponds and also the need to remove parts of an established hedgerow and potentially some trees to physically gain access to the land. On this basis none of the potential sites have been pursued further.
- 6.3.6 I also understand that the Parish Council allotment group are still seeking to find potentially suitable land in the Parish without success to-date.
- 6.3.7 Additionally, I have also looked again at the application site and its previous use.
- 6.3.8 Members will note that the land has not been used as allotments since 2007. Prior to this they were only used as such under licence from the landowner (the applicants). Physically, the land is not divided into plots and does not have the characteristics of an allotment site. In addition, there is no prospect of the land reverting to its former use, the applicants having made this clear.
- 6.3.9 Given the length of time that has now passed since the land was last used as allotments and the change in characteristics of the land that has also occurred, it is my view that seeking to refuse permission solely on the grounds of the application being contrary to policy ENV25, with all other elements of the application being acceptable as set out below, is unlikely to be sustainable at appeal.
- 6.3.10 On this basis and on this occasion, based solely on the time period that has passed and the history of the use of the land, whilst approval of the development would be a departure from the Development Plan, I do not consider that such an approval would be unacceptable in principle. I no longer consider it reasonable therefore for alternative provision to be sought in this instance.

6.3.11 Balanced with this, is the fact that the development would provide affordable housing for elderly persons which is a further factor weighting in favour of the development in this instance.

## **6.4 Design and layout**

6.4.1 The application site is located largely behind existing development away from the public realm. Glimpses of the bungalows would be available from Bell Lane along the access road and from the existing footpath to the south of the site. The development itself would have little impact on the character of the adjacent Conservation Area. This has been confirmed by the Conservation Officer.

6.4.2 It is acknowledged that the site is in a backland location. However the site is already subject to built development in the form of the lock-up garages and the access road that serves these. The density as proposed equates to approximately 28 dwellings/ha, which is acceptable. The proposed development also comprises single-storey bungalows of a maximum of 6m in height, which will not be unduly visually intrusive from public vantage points given the fall in land levels away from Bell Lane.

6.4.3 The design of the dwellings themselves is simple and unfussy and is of an acceptable quality. The indicated materials are also acceptable with the provision that plain clay tiles are used for the roofs tiles to address the sole concern of the Conservation Officer.

6.4.4 I consider the appearance of the site overall will be improved as a result of the demolition of the existing garages and that there will be better surveillance of the existing footpath as a result of the development taking place.

## **6.5 Residential Amenity**

6.5.1 The proposed dwellings are all single-storey and are sited with adequate separation from the adjacent dwellings.

6.5.2 Plot 5 is located 4m in from the site's western boundary at the rear of 1-7 (odd) South Bank leaving a distance of approximately 31m between the flank wall of plot 5 and the rear walls of the dwellings in South Bank. Plot 6 is located approximately 19.2m south of the existing dwellings in Bell Lane and 28m from the properties in South Bank. On the southern side of the site the gardens of properties in Church Green are some 19m in length giving a separation of 26m between the dwellings. Given these distances and the fact that the dwellings are single storey no unacceptable loss of privacy or overshadowing will occur.

- 6.5.3 The concerns of the occupiers of a property in South Bank in relation to the potential disturbance of the use of the patio area to Plot 5 are noted. However, the separation distances are such that no unacceptable impact sufficient to warrant and sustain objection this ground is likely to occur.
- 6.5.4 I also do not consider that the use of the Beer Garden of The Bell, if the public house is re-opened in the future, is likely to result in complaints from future occupiers given the separation and relationship involved. Likewise any impact from construction would be of a temporary nature and is controlled through Environmental Health legislation if a statutory nuisance occurs.
- 6.5.5 The side garden of 1 Bell Lane is to be fenced by a new 1.8m high close boarded fence and is also already partially enclosed by a 2.5m high garage wall. Given the potential use of the access to serve the existing garages, I do not consider that the development as proposed would result in unacceptable levels of noise and disturbance to the occupiers of 1 Bell Lane.
- 6.5.6 No objections are raised to the development on grounds of residential amenity.

## **6.6 Highways**

- 6.6.1 The initial reservations of Kent Highway Services have been addressed through additional information and revised plans. There are no longer any objections to the suitability of the access to accommodate traffic associated with the development or the visibility at the junction of the access with Bell Lane. The provision of the footpath and dropped kerb crossing point in Bell Lane can be secured through a 'Grampian' condition as it involves works within the highway.
- 6.6.2 The level of car parking provision proposed is also considered acceptable.
- 6.6.3 Subject to the securing of the necessary improvements and the visibility splays by condition no objections are raised to the development on highway grounds.

## **6.7 Landscaping and ecology**

- 6.7.1 Appropriate ecological and arboricultural site investigations have been undertaken on the site.
- 6.7.2 The arboricultural survey shows that all existing trees can be retained, including the use of a no-dig construction method in the vicinity of an Ash tree along the access road.

- 6.7.3 As discussed earlier, plot 5 has been re-sited further forwards to move it away from a retained Oak tree on the southern boundary of the site, the patio doors have also been moved to the west elevation to lessen the potential for concerns regarding overshadowing of the lounge/dining room from the tree. The Landscape officer is satisfied that these measures will assist in the long term retention of the tree and that it will not be adversely affected by the development.
- 6.7.4 There is scope within the site of the development for additional tree planting within the site and along the site boundaries. This can be secured by means of an appropriate landscaping condition.
- 6.7.5 Given the fact that the allotments have been used since 2007, they have become overgrown and have the potential to act as a suitable habitat for reptiles/great crested newts. Great crested newts occupy the ponds in the LNR on the north side of Bell Lane close to the site entrance. Ecological surveys have been undertaken and the need for a protected species licence for Great Crested Newts identified (due to the change to the site and the loss of a potential foraging area) and so a mitigation strategy has been drawn-up, because of the potential impact. No great crested newts have been found on the site during the surveys.
- 6.7.6 The mitigation proposed includes improvements to the LNR and its use as a potential receptor site as required, together with the provision of two refugia on the site itself and the improvement of a pond elsewhere on Bell Lane. The strategy is considered acceptable by the KCC biodiversity team and its implementation can be secured by means of an appropriate condition.
- 6.7.7 No objections are raised to the development on landscape or ecological grounds subject to the imposition of suitable safeguarding conditions.

## **7. CONCLUSION**

- 7.1 The scheme is of an acceptable design and will not result in an unacceptable impact on residential amenity or highway safety.
- 7.2 Appropriate mitigation for potential ecological impacts has been identified and could be secured by means of an appropriate condition.
- 7.3 Whilst the development would be contrary to policy ENV25 of the Borough-wide Local Plan 2000, given the time period that the site has not been in use as allotments and the history of the use of the land, I no longer consider it reasonable for alternative provision to be sought in this case. The development



would also result in the provision of elderly persons' affordable housing accommodation a balancing factor weighing in support of the proposals.

- 7.4 Subject to the expiry of the departure advertisement and the raising of no new issues delegated powers are sought to grant permission subject to appropriate conditions.

## **8. RECOMMENDATION**

Subject to the expiry of the departure advertisement and the raising of no new issues; The Head of Planning be given DELEGATED POWERS to 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 shall not commence until, written details and samples of the materials to be used in the construction of the external surfaces of the buildings hereby permitted have been submitted to and approved in writing by the Local Planning Authority and the development shall be constructed using the approved materials;

The submitted details shall include the use of plain clay tiles rather than the interlocking tiles indicated on the submitted drawings.

Reason: To ensure a satisfactory appearance to the development pursuant to policy CC6 of the South East Plan 2009 .

3. The development shall not commence until, details of the proposed slab levels of the buildings and the existing site levels have been submitted to and approved in writing by the Local Planning Authority and the development shall be completed strictly in accordance with the approved levels;

Reason: In order to secure a satisfactory form of development having regard to the topography of the site pursuant to policy CC6 of the South East Plan 2009.

4. 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 pursuant to policy T13 of the Maidstone Borough-wide Local Plan 2000.

5. No development shall take place until there has been submitted to and approved in writing by the Local Planning Authority a scheme of landscaping, using indigenous species which shall include indications of all existing trees and hedgerows on the land, and details of any to be retained, together with measures for their protection in the course of development 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:

- i) the provision of additional hedgerow and tree planting on the site's western boundary to maintain a continuous hedgerow along that boundary.

Reason: No such details have been submitted and to ensure a satisfactory external appearance to the development pursuant to policy 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 pursuant to policy ENV6 of the Maidstone Borough-wide Local Plan 2000.

7. All trees to be retained must be protected by barriers and/or ground protection in accordance with BS 5837 (2012) 'Trees in Relation to Design Demolition and Construction- Recommendations'. No work shall take place on site until full

details of protection have been submitted to and approved in writing by the Local Planning Authority. The approved barriers and/or ground protection shall be erected before any equipment, machinery or materials are brought onto the site and shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed, nor fires lit, within any of the areas protected in accordance with this condition. The siting of barriers/ground protection shall not be altered, nor ground levels changed, nor excavations made within these areas without the written consent of the Local Planning Authority;

Reason: To safeguard existing trees to be retained and to ensure a satisfactory setting and external appearance to the development pursuant to policy ENV6 of the Maidstone Borough-wide Local Plan 2000.

8. The development shall not commence until details of the method of construction of the access road have been submitted and approved by the local planning authority. The submitted details shall include the use of a no-dig construction method in the vicinity of the retained Ash tree (Tree 3 of Duramen Consulting Report). The development shall thereafter be undertaken in accordance with the subsequently approved details.

Reason: To safeguard existing trees to be retained and to ensure a satisfactory setting and external appearance to the development pursuant to policy ENV6 of the Maidstone Borough-wide Local Plan 2000.

9. The development hereby permitted shall not be occupied until the visibility splays shown on the submitted plan KH/10/0176/12revH have been provided with no obstruction to visibility at or above a height of 600mm above the nearside carriageway level. The visibility splays shall thereafter be maintained free of obstruction at all times.

Reason: In the interests of highway safety pursuant to policy T23 of the Maidstone Borough-wide Local Plan 2000.

10. The development hereby permitted shall not be occupied until the section of footpath identified on drawing no. K10/0176/012/revH has been provided.

Reason: In the interests of highway and pedestrian safety pursuant to policy T23 of the Maidstone Borough-wide Local Plan 2000.

11. Prior to the commencement of any works which may affect reptiles or their habitat, and great crested newts and their habitat, the a detailed mitigation strategy shall be submitted to, and approved in writing by the Local Planning

Authority. All works shall then proceed in accordance with the approved strategy unless any amendments are agreed in writing by the local planning authority. The submitted details shall include the provision of two hibernacula located outside the plot boundary of Plot 6 within the site in the location shown on drawing K10/0176/012revH.

Reason: In the interests of ecology and biodiversity pursuant to policy NRM5 of the South East Plan 2009.

12. The development shall not commence until details of enhancement measures within the site for birds and bats have been submitted to and approved by the local planning authority. The development shall thereafter be carried out in accordance with the subsequently approved details.

Reason: In the interests of ecology and biodiversity pursuant to policy NRM5 of the South East Plan 2009.

13. Before any of the dwellings hereby approved are first occupied, a properly consolidated and surfaced access (not loose stone or gravel) shall be constructed, details of which shall have been submitted to and approved by the Local Planning Authority.

Reason: In the interests of pedestrian and highway safety pursuant to policy T23 of the Maidstone Borough-wide Local Plan 2000.

14. The development hereby permitted shall be carried out in accordance with the following approved plans:  
K10/0176/001/B, K10/0176/014/A, K10/0176/015/A received 30/08/2011,  
K10/0176/011/B received 10/10/2011, K10/0176/12revH and  
K10/0176/013revC received 24/05/2012.

Reason To ensure the quality of the development is maintained and to prevent harm to the residential amenity of neighbouring occupiers in accordance with Policy CC6 of the South East Plan 2009.

### **Informatives set out below**

Attention is drawn to Sections 60 and 61 of the Control of Pollution Act 1974 and to the Associated British Standard Code of practice BS5228:1997 for noise control on construction sites. Statutory requirements are laid down for control of noise during works of construction and demolition and you are advised to contact the Environmental Health Manager regarding noise control requirements.

Clearance and subsequent burning of existing woodland or rubbish must be carried out without nuisance from smoke, etc. to nearby residential properties. Advice on minimising any potential nuisance is available from the Environmental Health Manager.

Plant and machinery used for demolition and construction shall only be operated within the application site between 0800 hours and 1900 hours on Mondays to Fridays and between 0800 hours and 1300 hours on Saturdays and at no time on Sunday and Bank Holidays.

No vehicles in connection with the construction of the development may arrive, depart, be loaded or unloaded within the general site except between the hours of 0800 and 1900 Mondays to Fridays and 0800 and 1300 hours on Saturdays and at no time on Sundays or Bank Holidays.

Adequate and suitable provision in the form of water sprays should be used to reduce dust from demolition work.

Adequate and suitable measures should be carried out for the minimisation of asbestos fibres during demolition, so as to prevent airborne fibres from affecting workers carrying out the work, and nearby properties. Only contractors licensed by the Health and Safety Executive should be employed.

The developer may be required to produce a Site Waste Management Plan in accordance with Clean Neighbourhoods and Environment Act 2005 Section 54. This should be available for inspection by the Local Authority at any time prior to and during the development

As an initial operation on site, adequate precautions shall be taken during the progress of the works to guard against the deposit of mud and similar substances on the public highway in accordance with proposals to be submitted to, and agreed in writing by the Local Planning Authority. Such proposals shall include washing facilities by which vehicles will have their wheels, chassis and bodywork effectively cleaned and washed free of mud and similar substances.

The proposed development would be contrary to the provisions of policy ENV25 of the Maidstone Borough-wide Local Plan 2000, however, given the time period that the site has not been in use as allotments and the history of the use of the land, it is not considered reasonable for alternative provision to be sought in this case. The development would also result in the provision of elderly persons' affordable housing

accommodation a balancing factor weighing in support of the proposals. The development would, also not have an unacceptable impact on ecology or biodiversity or trees to be retained. Subject therefore to the imposition of suitable safeguarding conditions, the development is considered acceptable and there are no reasonable grounds to refuse planning permission.