

## REPORT SUMMARY

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| <b>REFERENCE NO - 15/506552/FULL</b>  |  |  |
| <b>APPLICATION PROPOSAL</b><br>Erection of a detached two storey, two bedroom dwelling with associated changes to fenestration and external appearance.   |  |  |
| <b>ADDRESS</b> Land Rear Of 22 Albert Street Maidstone Kent ME14 2RN  |  |  |
| <b>RECOMMENDATION – Grant Planning Permission subject to conditions</b>   |  |  |
| <b>SUMMARY OF REASONS FOR RECOMMENDATION/REASONS FOR REFUSAL</b><br>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 there are no overriding material considerations to indicate a refusal of planning consent. |  |  |
| <b>REASON FOR REFERRAL TO COMMITTEE</b><br>- Called in by Councillor Harwood for the reasons outlined below   |  |  |
| <b>WARD</b> North Ward  | <b>PARISH/TOWN COUNCIL</b>               | <b>APPLICANT</b> Mr Steve Burrows<br><b>AGENT</b> Philip Holley Architects |
| <b>DECISION DUE DATE</b><br>06/10/15  | <b>PUBLICITY EXPIRY DATE</b><br>06/10/15 | <b>OFFICER SITE VISIT DATE</b><br>04/09/15 & 15/4/16                       |
| <b>RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):</b><br>None relevant  |  |  |

### MAIN REPORT

#### 1.0 SITE DESCRIPTION:

- 1.1 The site lies between the rear gardens of 22 Albert Road and 96 Sandling Road (The Flower Pot PH) and fronts on to Sandling Road. The land was formerly part of the rear garden serving 22 Albert Road but has been severed from the domestic garden by a fence in recent years. Since this time the land has been vacant however its use class remains domestic.
- 1.2 The plot has a 1.8m high wall running around its perimeter with timber vehicular access gates opening on to Sandling Road. The site backs on to the rear garden of 21 Albert Road. The site is relatively level with a few conifer trees which would be removed as part of the application.
- 1.3 Access is currently gained via timber vehicular gates which open on to Sandling Road. Directly to the west of the site lies a narrow private access drive which serves rear access to several neighbouring properties.
- 1.4 The site is characterised by Victorian terraced housing with the nearby Shell petrol filling station being fairly dominant in the streetscene to the north west. Directly north lies a car park which is well screened by mature trees and to the far north east lies access to a large area of allotments. There are currently double yellow lines and part of an on-street parking bay on the highway

immediately in front of the site.

1.5 The site lies within the urban area and an Area of Archaeological Importance.

## **2.0 PROPOSAL:**

2.1 The application seeks planning approval for a detached two bedroom dwelling and car port with associated garden area. The house would be gable fronted and set out over two floors. The proposed dwelling is detailed to be constructed from yellow stock bricks and black cement slate effect tiles. Dark grey aluminium windows have also been detailed.

2.2 The proposed dwelling would have a small hallway with WC, a kitchen and living room at ground floor and two bedrooms, an en-suite and a family bathroom at first floor.

2.3 The building has been designed with a relatively low eaves and ridge heights with the low pitched roof facilitating the overall height of 7.2m.

2.4 Windows are proposed at ground floor to the north (front) and east (side) of the building. At first floor two glimpse windows are proposed to the south (rear) serving bedroom 2 and the bathroom, and two further glimpse windows to the west (side) serving the landing and en-suite. Two windows are proposed to the front (north) at first floor serving bedrooms 1 and 2.

2.5 A detached car port with a pitched roof is proposed on the eastern boundary of the site and would be accessed via timber gates which would open on to Sandling Road. Separate approval from KCC Highways would be required to form a new crossover and separate agreement would be required with the parking team at MBC along with payment of costs in relation to altering the on street parking bay and yellow lines.

## **3.0 POLICY AND OTHER CONSIDERATIONS:**

- The National Planning Policy Framework (NPPF)
- National Planning Practice Guidance (NPPG)
- Maidstone Borough Wide Local Plan 2000: ENV6, T13
- Draft Maidstone Local Plan (2011-2031) - Submission Version: SS1, SP1, DM1, DM2, DM3, DM10, DM12,

## **4.0 LOCAL REPRESENTATIONS:**

4.1 20 representations have been made on the application from 14 households as a result of the initial and secondary consultations and site notice. The comments are summarised below:

- Loss of privacy
- Parking
  - Loss of existing off street spaces for 22 Albert Road

- Loss of on street parking bay
- Narrow road
- Additional parking permits will be issued for a parking zone which is already at capacity
- Poor turning space on road to allow car to exit the car port
- Impact of construction traffic/parking on local roads
- Garden grabbing (backland development)
- Loss of sunlight
- Nuisance from external lighting
- Overdevelopment/cramped
- Lack of landscaping
- Impact on wildlife
- Overbearing impact to neighbours
- Design
  - Not in keeping with locality
  - Grey aluminium windows not in keeping with local area
  - Car port should have a flat roof
- Conflict with adjacent pub garden use

4.2 Councillor Harwood: Called in due to significant local interest and controversy.

## 5.0 CONSULTATIONS:

5.1 **Kent Highways:** No detailed comments, general parking/technical standards apply.

5.2 **Environmental Health:** The site is in an urban area, but traffic noise is unlikely to be a significant problem for this particular site. The site is within the Maidstone Town Air Quality Management Area, but I do not consider the scale of this development and/or its site position warrants either an air quality assessment or an Air Quality Emissions Reduction condition applied to it.

There is no indication of land contamination based on information from the contaminated land database and historic maps databases. There is no indication of any significant chance of high radon concentrations for this site.

Section 9 of the application form states that there will be “External patio and security lighting”, I consider there is potential for light nuisance to be caused (particularly since neighbours report that previously a security light in the West corner of the site caused problems for them), a condition regarding lighting should therefore be applied to any planning permission granted.

The application form states that foul sewage will be dealt with via mains system; and there are no known Private Water Supplies in the vicinity. Any demolition or construction activities may have an impact on local residents and so the usual informatives should apply in this respect.

5.3 **KCC Archaeology:** The site of the application lies close to the discovery of a Roman coin and is adjacent to the possible route of a Roman road. Remains associated with Roman activity may be encountered and I recommend a

condition to secure a watching brief.

- 5.4 **Heritage Landscape and Design:** In my view this modest dwelling will not look out of place in this area of high density development and will not have a detrimental impact on the setting of nearby listed buildings in Sandling Road. The site is currently somewhat scruffy and development could enhance the area. Conditions recommended for materials, removal of permitted development rights and landscaping.

## 6.0 APPRAISAL:

- 6.1 Key issues in this case are a) the principle of housing development in this location, b) the impact of the siting, scale and appearance of the proposal on the local area in terms of residential and visual amenity, and c) the impact of the proposal on parking provision within the site and within the locality.

### Principle of Development

- 6.2 The site lies within the urban confines of Maidstone where the principle of housing development is acceptable in broad policy terms, subject to the detailed design being acceptable in terms of visual and residential amenity, parking etc.
- 6.3 Paragraph 17 of the NPPF encourages the effective use of land by reusing land that has been previously developed (brownfield land), provided that it is not of high environmental value (excluding residential gardens) and goes on to state that LPA's should actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling, and focus significant development in locations which are or can be made sustainable.
- 6.4 Paragraph 53 of the NPPF goes further to state that LPA's should consider the case for setting out policies to resist inappropriate development of residential gardens, for example where development would cause harm to the local area. The NPPF at Paragraph 53 therefore makes it clear that residential garden development can be acceptable provided the local area is not unduly harmed. As such, it is my view that the proposal must be assessed first in terms of its impact on the visual and residential amenities of the local area before the principle of the development on garden land can be established in this instance. In terms of whether the site is in a sustainable location, Albert Street/Sandling Road is within walking distance to the town centre and train stations and is close to the A229 Royal Engineers Road which has regular bus services. Accordingly, the proposal does lie within a sustainable location for new housing development.

### Visual Impact

- 6.5 The proposal has been amended during the course application to alter the layout of the first floor to a two bedroom house and reduce the size of the rear (south) facing windows. The scheme represents a compact development which clearly seeks to make use of a relatively small plot of land between the

rear gardens of 22 Albert Road and The Flower Pot PH. However, the site does seem capable of accepting a dwelling of this size in my view, especially in terms of the relatively low eaves and ridge heights for a two storey dwelling. Purely from a streetscene point of view I do not consider the proposal, in its amended form, would give rise to harm to the character and appearance of the area. Moreover, details of materials, fenestration, timber gates and landscaping can all be fully conditioned to ensure that the detail of the final development is closely controlled. Accordingly, in terms of visual amenity/impact on the streetscene, I do not consider the proposal would give rise to harm to the local area as required by Paragraph 53 of the NPPF.

- 6.6 I note the concerns raised by some local residents in terms of the character of the area being Victorian terraced properties, however this scheme is relatively simple in its form and scale. It is considered that, with appropriate materials, a clean contemporary finish is preferable in my view to a pastiche interpretation of the surrounding properties which would always appear as a modern copy rather than an individually designed house as currently proposed. Moreover, the NPPF is clear at Paragraph 58 that development should respond to local character and history, and reflect the identity of local surroundings and materials, while not preventing or discouraging appropriate innovation.
- 6.7 For the reasons set out above, I am satisfied that the proposal also meets the requirements of Paragraphs 57 and 58 of the NPPF in relation to achieving a high quality development which adds to the overall quality the area whilst optimising the potential for the site to accommodate development.

### **Residential Amenity**

- 6.8 As the site lies in close proximity to the rear elevations of several properties and adjacent to residential garden areas, while also directly abutting the boundary of Nos. 22 and 21 Albert Street, there is a need to consider the impact of the proposal on the residential amenity of these properties.
- 6.9 As stated previously, the proposal has been designed with relatively low eaves and ridge heights with the first floor utilising part of the roof height to achieve the necessary internal head height. Notwithstanding this, the proximity to neighbours is still a concern which must be fully assessed. The main bulk of the building would sit directly north of the informal parking area serving No.21 Albert Street thereby ensuring the most overbearing elevation would not affect the main garden area of this property, which lies to the southeast of the footprint of the proposed dwelling.
- 6.10 By locating the garden area and car port between the footprint of the proposed dwelling and the rear elevation of No.22 a flank-to-rear separation distance of 19m at first floor would be achieved which is an acceptable distance in this instance. For this reason I do not consider the position, size and mass of the proposed dwelling would give rise to harm to the occupants of Nos.22 or 21 Albert Street. Turning to the properties to the west, being The Flower Pot PH and 94 Sandling Road, These would also be approximately 23m away when measured flank-to-rear at first floor which, in such an urban

area with very high densities of development, is also an acceptable distance in my opinion.

- 6.11 Whilst it is not disputed that a noticeable impact would occur to the nearest neighbours, as they are used to an open site in this location, the impact must be adverse to warrant a refusal of planning permission. As stated above, the relative separation distances, and the availability of other areas of garden away from the development, i.e. closer to the rear building lines of the properties, are such that the impact in terms of overbearing/oppression would not be adverse in this location.
- 6.12 Turning to overlooking/loss of privacy, there have been several objections received on this basis. The original application included two standard sized window openings on the rear (south) elevation at first floor which directly overlooked the surrounding garden areas to an unacceptable degree. However, following advice from Officers the application has been amended to have single narrow “glimpse” windows on this elevation and the flank (western) elevation facing The Flower Pot PH, all of which can be conditioned to be obscured glazed in my view to ensure that no overlooking would occur. Each bedroom would retain a front facing (north) principal window which would not result in any loss of privacy to neighbours.
- 6.13 In terms of loss of sunlight, it is my view that the proposal is a sufficient distance from neighbouring building lines to result in an undue loss of sunlight or daylight due to the position of the proposed dwelling relative to the tracking of the sun and nearest sensitive premises.
- 6.14 In light of the above considerations in relation to various aspects of residential amenity, I am of the view that the proposal would accord with the requirements of Paragraph 17 of the NPPF in terms of residential amenity which states that planning should “always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings.”
- 6.15 In light of the considerations set out in paragraphs 7.5 to 7.13 above the conclusion that the proposal would not result in harm to the “local area” results in the test for development within residential gardens, as set out at paragraph 53 of the NPPF, being met. As such, the principle of development within this location is acceptable for the purposes of the Framework.

## Highways

- 6.16 The site lies on an Unclassified Road and does not amount to 5 or more dwellings. As such Kent Highways do not issue detailed advice on such proposals and Officers must rely on other available parking advice set out in KCC Parking Standards for example. As the proposal simply seeks to move an existing access to the east of the site there is no significant issue in terms of the principle of an access in this location. However, the issue of parking provision and the subsequent impact on the existing on-street parking

bay/road-markings remain pertinent to the application.

- 6.17 The site was formerly used as parking for No.22 Albert Street but has recently been severed from the curtilage by a timber fence. As such, No.22 currently has no parking and the development of this site will make that situation permanent. I can appreciate the objections raised on this basis, however the erection of the fence to sever the land and the cessation of the use of the rear part of the garden for parking are outside the Council's control. The existing timber gates could be closed off by bricking up the opening under permitted development. As such this is not the same situation as loss of parking on a site where the original parking is controlled by condition and that loss of spaces can then be considered by the LPA. The loss of the use of the site as parking is not therefore, in this instance a material planning consideration.
- 6.18 The proposed development would have one space in the form of a car port and, in such a sustainable location, this provision meets the Kent Parking Standards Interim Guidance Note 3 (2008) which requires one space per two bedroom dwelling within a town centre/edge of centre location such as this. I therefore consider the parking level as proposed to be acceptable. I note the concerns raised in relation to the likelihood of such a space being used on a daily basis, however in locations such as this where parking is at a premium it is more likely especially as a car port is proposed rather than a garage. However, I do consider it reasonable to condition the car port to remain as a parking space which would be secured by way of a condition.
- 6.19 The proposal would result in the loss of an adjacent on-street parking bay to facilitate the proposed new access and car port. The existing access would be closed off and there are currently double yellow lines in this location. The lost bay could not be accommodated in front of the closed off access as this point in the road is too narrow to have bays on both sides of the carriageway. As such, the parking bay would need to be reduced in size to facilitate the proposed development. These works would require separate approval from the Council's parking department. I note the objections raised in relation to the loss of a parking space and concerns raised by the Council's parking team, which currently benefits all residents in that parking zone. However, it is considered that the loss of one on-street space would not be sufficient grounds to justify refusal of the application.
- 6.20 In light of the above considerations, and subject to conditions requiring the parking provision to be provided, surfaced and drained, and the car port to remain open-fronted, I am of the view that the parking provision for the proposal is acceptable.

## **Landscaping**

- 6.21 The application does not propose a landscaping scheme at the present time, however a scheme can be conditioned to be submitted at a later date and carried out in the appropriate planting season. Due to the size of the site the

benefit to the locality capable of being provided through landscaping is limited, especially as the site is enclosed by a tall wall with no ability for frontage planting. However, I do consider there is a need for some specimen trees to be planted on the southern boundary of the site to assist in long term screening and also in an effort to soften the impact of the development for No.21 when using their garden area. Whilst such planting would be close to foundations for the house and car port I remain of the view that some form of tree species could be safely planted in this location without long term damage to footings. As such, in this instance, I consider a landscaping scheme can be justified. Subject to such a condition I am of the view that the proposal accord with Policy ENV6 of the MBWLP 2000.

## **Other Matters**

- 6.22 Turning to other matter raised by local residents, I agree that there is the potential for harm from insensitive external lighting and recommend a condition in this respect. My colleagues in Environmental Health also raise this as a potential concern.
- 6.23 The impact of the proposal on local wildlife is also a concern raised by local residents and I do not consider it unreasonable for the proposal to include some biodiversity enhancements such as bird/bat boxes within the site. I therefore recommend a condition to be attached requiring a scheme of enhancements to be submitted as supported by Paragraph 109 of the NPPF.
- 6.24 The impact of the proposal on the use of the adjacent pub garden has been raised by several residents, including the possible concern that community events held at the PH could be at risk of being required to cease due to future nuisance complaints from residents of the proposed house. As the design of the new dwelling is such that there are only two “glimpse” windows on the western elevation which faces the PH and these serve bathrooms/landing it is unlikely that noise will affect principle habitable rooms unduly. In addition, the proposed private amenity space serving the site would be buffered from any noise from the PH by the physical bulk of the proposed house. In addition, should a noise complaint be raised in the future, the NPPG in Noise Paragraph 007 makes it clear that when a noise complaint is being investigated the “character of the locality” in noise terms is considered and the long-established sources of noise in the vicinity, such as PH’s are factored in to any assessment. Moreover, Environmental Health have not raised any concerns in this respect. It is for these reasons that I do not consider there to be a noise concern for the proposal or an indirect concern for the future normal operation of the adjacent PH which has been located in a residential area for many years.

## **7.0 CONCLUSION**

- 7.1 In light of the above considerations, I am satisfied that the proposal meets relevant national and local policy and guidance in relation to design,

residential amenity, parking, and ecology. I therefore recommend permission is granted subject to conditions.

**8. RECOMMENDATION – GRANT** Subject to the following conditions

1. The development hereby permitted shall be begun before the expiration of 3 years from the date of this decision.

Reason: To comply with the requirements 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:

Application Form received 11.08.2015, Location Plan PHA-PL-001 received on 11.08.2015, Site Plan PHA-PL-002 received 11.08.2015, Existing Elevations PHA-PL-003 received 11.08.2015, Proposed Site Plan PHA-PL-006 Rev A received 08.12.2015, Proposed Plans PHA-PL-004 Rev C received 20.05.2016, and Proposed Elevations PHA-PL-PL005 Rev C received 20.05.2016.

Reason: To clarify which plans have been approved.

3. Written details including source/ manufacturer, and samples of bricks, tiles and any cladding materials to be used externally along with full details of the proposed timber gates, shall be submitted to and approved in writing by the Local Planning Authority before the development is commenced and the development shall be carried out using the approved external materials.

Reason: In the interests of visual amenity

4. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking or re-enacting that Order with or without modification), no development shall be carried out within Classes A, B, C and E of Part 1 of Schedule 2 of that Order (or any Order revoking and re-enacting that Order).

Reason: In the interests of protecting the character and amenities.

5. Before the first occupation of the building hereby permitted the windows(s) at first floor level on the south (rear) and west (flank) elevations shall be fitted with glass that has been obscured to Pilkington level 3 or higher (or equivalent) and shall be non-opening up to a maximum height of 1.7m above internal floor level. Both the obscured glazing and the non-opening design shall be an integral part of the manufacturing process and not a modification or addition made at a later time. The windows shall thereafter be retained as such.

Reason: In the interests of protecting the residential amenities of adjacent dwellings

6. No development shall take place until a landscape and boundary treatment scheme has been submitted to and approved in writing by the local planning authority. The scheme shall detail all new planting including the location, species, heights and numbers of all soft landscaping and all boundary treatments in terms of location, type, material and height. The approved scheme shall be implemented prior to occupation (boundary) or within the next available planting season following occupation (landscaping). All trees and shrubs shall be retained for a period of five years from the date of planting and should any planting become damaged or diseased within that period the specimen shall be replaced unless otherwise agreed in writing by the Local Planning Authority.

Reason: No such details have been submitted and to ensure a satisfactory setting and external appearance to the development.

7. The building hereby approved shall not be occupied until the approved parking area has been provided, surfaced and drained in accordance with the approved details and shall be retained for the use of the occupiers of, and visitors to, the premises. Thereafter, no permanent development, whether or not permitted by Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking and re-enacting that Order), shall be carried out on the land so shown or in such a position as to preclude vehicular access to this reserved parking area.

Reason: Development without provision of adequate accommodation for the parking or garaging of vehicles is likely to lead to parking inconvenient to other road users and detrimental to amenity.

8. Prior to development commencing, a scheme for the enhancement of biodiversity on the site shall have been submitted to and approved in writing by the Local Planning Authority. This shall include the provision of bat/bird boxes and the use of swift bricks. The development shall be implemented in accordance with the approved proposals within it and shall be carried out in perpetuity.

Reason: To protect and enhance existing species and habitat on the site in the future.

9. No external lighting shall be installed until a detailed scheme of lighting has been submitted to, and approved in writing by the Local Planning Authority prior to the commencement of the development. The scheme of lighting shall be installed, maintained and operated in accordance with the approved scheme unless the Local Planning Authority gives its written consent to any variation.

Reason: In the interests of safeguarding the residential amenities of nearby residents.

10. No development shall take place until the applicant, or their agents or successors in title, has secured the implementation of a watching brief to be undertaken by an archaeologist approved by the Local Planning Authority so that the excavation is observed and items of interest and finds are recorded. The watching brief shall be in accordance with a written programme and specification which has been submitted to and approved by the Local Planning Authority.

Reason: To ensure that features of archaeological interest are properly examined and recorded.

#### INFORMATIVES

1. As the development involves demolition and / or construction, the applicant's attention is drawn to the Mid Kent Environmental Code of Development Practice. Broad compliance with this document is expected.
2. Attention is drawn to Approved Document E Building Regulations 2010 "Resistance to the Passage of Sound" – as amended in 2004 and 2010. It is recommended that the applicant adheres to the standards set out in this document in order to reduce the transmission of excessive airborne and impact noise between the separate units in this development and other dwellings.
3. The applicant is reminded of the need to ensure that relevant Party Wall agreements have been entered in to prior to works.
4. The applicant is reminded of the need to secure approval for a new dropped kerb or any works within the limits of the highway from Kent County Council Highways Services. Please view <http://www.kent.gov.uk/roads-and-travel/highway-permits-and-licences/apply-for-a-dropped-kerb> for further information and to apply.
5. The applicant is urged to contact Maidstone Borough Council's Parking Team at Maidstone Borough Council, Maidstone House, King Street, Maidstone, Kent ME15 6JQ. Telephone 01622 602603 or email [parkingoperations@maidstone.gov.uk](mailto:parkingoperations@maidstone.gov.uk)
6. The applicant is reminded that the development hereby approved cannot lawfully be commenced (in accordance with Condition 7 above) until separate approval has been obtained from the Council's parking team for alterations to the road markings for the on-street parking bays, and such works having been carried out in accordance with the approved works.

Case Officer: Lucy Harvey

NB For full details of all papers submitted with this application please refer to the relevant Public Access pages on the council's website.  
The conditions set out in the report may be subject to such reasonable change as is necessary to ensure accuracy and enforceability.