

## Planning Committee Report

### REPORT SUMMARY

<b>REFERENCE NO - 18/502213/FULL</b>			
<b>APPLICATION PROPOSAL</b> – Retrospective construction of a detached garage to the front of the property.			
<b>ADDRESS</b> – The Firs, Boxley Road, Walderslade, ME5 9JE			
<b>RECOMMENDATION</b> - Approval			
<b>SUMMARY OF REASONS FOR RECOMMENDATION</b> –			
<ul style="list-style-type: none"> <li>• The design, scale, location and visual appearance of the garage do not detract from the general character of this part of Boxley Road;</li> <li>• There are no identifiable impacts upon the amenities of neighbouring householders;</li> <li>• A sufficient level of off-street parking remains available for the property.</li> </ul>			
<b>REASON FOR REFERRAL TO COMMITTEE</b> – Boxley Parish Council object to the proposal and request that the application is reported to the Planning Committee in the event that a recommendation of approval is made.			
<b>WARD</b> Boxley	<b>PARISH/TOWN COUNCIL</b> Boxley Parish Council	<b>APPLICANT</b> Mr & Mrs Byhurst <b>AGENT</b> Cre8room Limited	
<b>DECISION DUE DATE</b> 11/07/2018	<b>PUBLICITY EXPIRY DATE</b> 19/06/2018	<b>OFFICER SITE VISIT DATE</b> 29/05/2018	
<b>RELEVANT PLANNING HISTORY</b>			
<b>App No</b>	<b>Proposal</b>	<b>Decision</b>	<b>Date</b>
18/501708/FULL	Erection of a rear conservatory	Approved	22.05.2018
16/501752/FULL	Two storey side and rear extension	Approved	26.04.2016

### MAIN REPORT

#### **1.0 DESCRIPTION OF SITE**

- 1.01 The application site is located within the settlement of Walderslade and comprises a semi-detached bungalow style property that has rooms within the roof space. The dwelling is located to the western side of Boxley Road and is set back from the highway by 12.5m. The boundary with the highway is defined by a timber picket fence of approximately 1m in height. The land levels along this part of Boxley Road fall from east to west and accordingly, The Firs occupies a position that is lower than the highway.
- 1.02 The area surrounding the application site is comprised of residential dwellings of varying styles and designs and there is a varied building line. Due to the topography of this part of Boxley Road, the properties on the opposite side of the street occupy a higher ground level than those on the western side of the road. These dwellings are also set back from the highway and a number of the properties have a garage to the front.
- 1.03 This part of Boxley Road is not subject to any specific designations within the Local Plan.

#### **2.0 PROPOSAL**

- 2.01 This is a retrospective application that seeks planning permission to retain a detached, flat roof garage at the front of The Firs. At the time of my site visit, it appeared that the building works were fully complete. The garage is located 0.1m from the front boundary fence and 0.1m from the adjoining property (Tralee). There is a distance of 8m between the front elevation of the garage and the front elevation of the dwelling and this has been retained as

parking provision. The vehicular access to the property is located adjacent to the southern boundary of the site.

- 2.02 The garage has been designed with a flat roof and measures 5.1m in width and 3.8m in depth. The main elevation features 2 garage doors that face towards the front elevation of the dwelling. Due to the changes in land levels, the height of the garage on its principal elevation is 2.3m but its rear elevation (adjacent to the highway) is 1.4m.
- 2.03 The exterior walls of the garage are finished in timber cladding; the doors are black metal roller doors and the roof is fibreglass in a dark grey colour.

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

National Planning Policy Framework (NPPF)  
National Planning Practice Guidance (NPPG)  
Supplementary Planning Documents: Residential Extensions (2009)  
Maidstone Local Plan (2011-2031): DM1; DM9; DM23

### **4.0 LOCAL REPRESENTATIONS**

- 4.01 **Local Residents:** One representation has been received raising the following (summarised) issues:

The building is not in keeping with other detached garages built recently in the road;  
The flat roof looks hideous as we look over an expanse of 12 sq.m of grey waterproof surface;  
The roof is not in keeping with the area, a pitched roof with tiles would be more appealing;  
It is disappointing that the freeholder did not consult with neighbours or lodge a formal application with MBC in 2017;  
The retrospective application for start of works in November 2017 is incorrect as photographic evidence shows the garage already built on 1<sup>st</sup> October 2017.

### **5.0 CONSULTATIONS**

*(Please note that summaries of consultation responses are set out below with the response discussed in more detail in the main report where considered necessary)*

- 5.01 **Boxley Parish Council:** The Parish Council wish to see this refused for the following planning reasons:

- The structure has an adverse and unacceptable impact on the streetscene.
- The structure brings forward the build line on Boxley Road. There is concern that if is allowed this will set an unacceptable precedent in the area.

The Parish Council considers that the right of the Borough Council to object or manage a planning application is seriously eroded by the legislation allowing retrospective planning applications. If the Planning Officer is minded to grant permission then the Parish Council asks that the application is reported to the Planning Committee.

### **6.0 APPRAISAL**

#### **Main Issues**

- 6.01 The key issues for consideration relate to:

The retrospective nature of the application;  
Design and visual impact including the building line;  
Impact on neighbouring amenities.

### **Retrospective Application**

- 6.02 Boxley Parish Council have expressed the view that the right of the Borough Council to object or manage a planning application is seriously eroded by the legislation that allows the submission of retrospective planning applications. Paragraph 207 of the NPPF advises that effective enforcement is important as a means of maintaining public confidence in the planning system. Enforcement action is discretionary, and local planning authorities should act proportionately in responding to suspected breaches of planning control. Further guidance on approaching breaches of planning control is set out within the NPPG wherein it is noted that a local planning authority can invite a retrospective planning application. Most importantly, it is noted that although a local planning authority may invite an application, it cannot be assumed that permission will be granted, and the local planning authority should take care not to fetter its discretion prior to the determination of any application for planning permission – such an application must be considered in the normal way.
- 6.03 Accordingly, a retrospective planning application is treated in the same manner as a proposed application, there are no exceptions. Whilst it is regrettable that planning permission was not sought prior to this garage being erected, the submitted application has not been assessed any differently by virtue of this.

### **Design and Visual Impact**

- 6.04 The design of the proposal is quite simple and typical of other garages on the opposite side of Boxley Road. The SPD Residential Extensions (2009) advises that garages should not impact detrimentally on the space surrounding buildings, they must be smaller scale and clearly ancillary to the property. The form (including roof pitches) and materials of garages and outbuildings should be in keeping with the existing and surrounding properties. Garages or outbuildings set in front of the building line will not normally be allowed. Policy DM9 of the adopted Maidstone Borough Local Plan (2017) is supportive of extensions to dwellings within the defined settlements provided that the scale, height and form would fit unobtrusively with the existing building as well as with the character of the street scene; the traditional boundary treatment of an area would be retained; the privacy, daylight, sunlight and maintenance of a pleasant outlook would be safeguarded; and sufficient parking can be provided within the curtilage of the dwelling without diminishing the character.
- 6.05 In terms of this proposal, whilst I acknowledge that in respect of the guidance contained within the SPD, buildings that are forward of the building line will not normally be allowed, I consider that there are exceptions in this instance. Primarily, the fact that the land levels drop within the site mean that the garage does not feature prominently in the views along this part of Boxley Road. The rear elevation that aligns with the highway is not much greater in height than the front boundary fence for the property. Furthermore, there is not a particularly definitive building line along this side of the road. There are also garages located to the front of dwellings on the opposite side of the street.
- 6.06 It is therefore my view that the garage is appropriately designed in that it does not appear overly bulky and its scale and appearance also ensures that it appears ancillary to the main dwelling. The materials used in the external finish compliment the main dwelling and in my opinion, the contrast in finishes assists in defining the fact that this is an outbuilding that is incidental to the dwelling. I have considered the comments submitted by the neighbour in respect of a pitched and tiled roof being a more suitable design, however this would serve to

make the building much greater in size and more prominent within the street scene. The objection also questions the suitability of the fibreglass roofing material as in their opinion, it is hideous. In conducting my site visit, I observed that part of the character of Boxley Road is the variety of housing designs and range of materials used in the external finishes of the dwellings. The materials used in this instance do not, in my view, appear incongruous given this setting.

- 6.07 The Parish Council have also expressed concerns that if this proposal were to be allowed, then it will set an unacceptable precedent for the rest of the street. I do not believe that this would be a reason to refuse this application given that there are already garages to the front of a number of the dwellings on the opposite side of the road. Furthermore, there is not a stringent building line along this part of Boxley Road and as noted above, the drop in land levels also assists with assimilating the building in its surroundings. Should any further applications for outbuildings be received, these will be assessed on their individual merits.

### **Neighbouring Amenities**

- 6.08 The location of the garage is such that it would not appear overbearing on the outlook from the properties that are adjacent and the orientation of the dwellings is such that there would not appear to be any loss of daylight/sunlight. The neighbouring objection is from a resident on the opposite side of the road and given the separation distance together with the difference in land levels, I do not believe that there are any directly discernible impacts upon amenities. Given the discussion on the acceptable design and finish above, I do not believe that the views towards the garage from across the road would be a reason for refusal.

### **Other Matters**

- 6.09 The neighbouring objection expresses the view that discussions should have been held with neighbours prior to the garage being erected. Whilst this is good practice, it is not a formal requirement. The planning process ensures that neighbours are made aware of proposed development. As noted previously, it is regrettable that planning permission was not sought prior to the garage being erected however this has not prevented the neighbour notification process now that the application has been received.
- 6.10 The objection also queries the start date of the development as quoted on the application form. As noted above, the building is now complete and given that this is an application for planning permission and not a certificate of lawful development, I do not believe it is necessary to query if an error has occurred in this respect.
- 6.11 In the context of the requirements of Policy DM9, it is also necessary to ensure that an appropriate level of parking provision remains within the curtilage of this site. This is a 4-bedroom dwelling and there are at least 3 parking spaces on the driveway which is sufficient for a property of this size. I therefore have no concerns regarding off street parking.

## **7.0 CONCLUSION**

- 7.01 In conclusion, it would have been advisable for the applicant's to have sought planning advice prior to constructing this detached garage. In order to regularise the unauthorised nature of the development, a planning application was invited so that the proper planning process could be followed. Ultimately, in assessing the development against the policies and guidelines of the Local Plan and SPD, it is my opinion that this development complies with the relevant criteria. In reaching this conclusion, I have given consideration to the comments of Boxley Parish Council and the neighbour objection however I do not believe that there are any material planning reasons to consider a refusal in this instance. I therefore recommend

approval, subject to a condition which requires that the garage is only used for purposes incidental to the dwellinghouse.

**8.0 RECOMMENDATION**

8.01 Approval

GRANT planning permission subject to the following conditions:

- 01 The garage hereby permitted shall only be used for purposes incidental to the domestic use of the related dwelling house and/or the parking of private motor vehicles and for no other purposes or use;

Reason: To prevent the introduction of uses which would cause demonstrable harm to the enjoyment of their properties by adjoining residential occupiers.

Case Officer Georgina Quinn

Case Officer Sign	Date
Georgina Quinn	