

<b>REFERENCE NO - 19/505893/FULL</b>		
<b>APPLICATION PROPOSAL</b> Erection of 2no. dwellings with associated access, parking and amenity space.		
<b>ADDRESS</b> Land to the rear of 1-3 Highland Road Maidstone Kent ME15 7QQ		
<b>RECOMMENDATION</b> Refuse planning permission for the reasons set out below.		
<b>SUMMARY OF REASONS FOR RECOMMENDATION</b> The proposal, by reason of design, siting and location, would result in an incongruous and cramped form of development that is detrimental to the established pattern of local development and local character contrary to policies DM1 and DM11 of the Maidstone Local Plan and policies within the NPPF which seeks to secure appropriate and high quality design.		
<b>REASON FOR REFERRAL TO COMMITTEE</b> Cllrs McKay and Kimmance requested that the application be referred to the planning committee if officers were minded to recommend refusal. The issues raised included: overlooking/loss of privacy, layout and density of building, design, appearance and materials and Government policy.  Cllr McKay generally prefers to support self build developments and the design has some merits. In addition, there should be some clarification with regard to garden developments. Cllr Kimmance is of the opinion that the development proposal would not contravene planning policies.		
<b>WARD</b> Shepway South	<b>PARISH/TOWN COUNCIL</b>	<b>APPLICANT</b> Mr Zoren & Paul Cheek <b>AGENT</b> ABA
<b>TARGET DECISION DATE</b> 31/01/20		<b>PUBLICITY EXPIRY DATE</b> 20/12/19

### **Relevant Planning History**

19/503165/LDCEX

Lawful Development Certificate (Existing) to establish lawfulness of created hard standing parking area.

Permitted 21.08.2019

19/505829/LDCEX

Lawful Development Certificate for rear parking to serve 1 & 3 Highland Road (existing). Pending Consideration

### **MAIN REPORT**

#### **1. DESCRIPTION OF SITE**

1.01 The proposal site forms part of the rear gardens of the properties at 1 and 3 Highland Road. Highland Road is characterised by uniform development of modest terraced homes in small terraces with good sized rear gardens linked to this family sized accommodation. The properties at 1 and 3 Highland Road and their layout is similar in character to the existing properties to the south numbered 5 to 23 Highland Road (odd no's) that all currently have rear gardens of circa 25 metres in depth.

- 1.02 The back gardens of residential properties in Westmorland Road are located to the east of the application site. To the north is a small allotment with existing properties at 1 and 3 Highland Road to the west and 5 Highland Road to the south.
- 1.03 The area has an open character on a leafy estate and in general terms the properties in the immediate vicinity have a good set back from the highway. For the purposes of the Development Plan, the proposal site is within the defined urban area.
- 1.04 There is currently an access to the rear of the application site along the northern side of No 1 Highland Road. A lawful development certificate establishing its existing use for off street parking was granted in August 2019, and a further lawful development certificate determining the use of the land for parking by the occupants of Nos 1 and 3 is currently being assessed.

## **2. PROPOSAL**

- 2.01 The proposal is for the erection of two new semi-detached dwellings with flat roofs situated towards the rear (eastern) boundary of Nos 1 and 3 Highland Road. The properties would be located to the rear of the amenity areas serving Nos 1 and 3, and would be two storeys in height with a contemporary design and a flat roof.
- 2.02 Both units would have an entrance off the shared driveway leading into an open plan ground floor with a WC off the entrance. At first floor level each unit would have one large bedroom and an ensuite bathroom.
- 2.03 Amenity space would be located to the south of the proposed units, and one car parking space for each unit would be allocated to the west of them.

## **3. POLICY AND OTHER CONSIDERATIONS**

Maidstone Borough Local Plan 2017 SP1, DM1, DM3, DM11, DM12, DM23  
Supplementary Planning Documents:  
Maidstone Landscape Character Guidance 2012  
National Planning Policy Framework (NPPF)  
National Planning Practice Guidance (NPPG)

## **4. LOCAL REPRESENTATIONS**

### **Local Residents:**

- 4.01 1 letter of objection was received from local residents raising the following (summarised) issues
- Construction noise
  - Overshadowing
  - Potential overlooking
- 4.02 Members are advised that 9 letters of support have been received, with 5 unsigned and sent using the applicant's email address. A separate letter of support contained the phrase, 'we have carefully considered all of these residents concerns in our newly designed scheme...'.
- 4.03 The letters of support refer to the current impact of large conifers and antisocial behaviour on the area and that there is a demand for new housing . The letters of support state that any problems of overlooking and loss of privacy can be overcome through the use of evergreen screening.

## **5. 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)

### KCC Highways

- 5.01 No objection. This development proposal does not meet the criteria to warrant involvement from the Highway Authority in accordance with the current

consultation protocol arrangements. An informative was requested relating to highways owned land.

Environmental Services

- 5.02 No objection to the application subject to the restriction in the hours of building construction and an informative relating compliance with the Mid Kent Environmental Code of Development Practice.

Natural England

- 5.03 No comment

**6. APPRAISAL  
Main Issues**

- 6.01 The key issues for consideration relate to:

- Sustainability
- Character of the surrounding area
- Design/Layout and landscaping
- Residential amenity
- Highways
- Ecology

**Sustainability**

- 6.02 The Council's adopted Local Plan, (Policy SS1) states that the principle focus for new development in the borough will be the urban area, where the current proposal site is located.

- 6.03 The urban area is considered to be the most sustainable location in the borough where residents can make sustainable travel choices and access goods, services and facilities without the use of a private car. The proposal site consisting of private residential land within the built-up area is excluded from the NPPF definition of previously developed or 'Brownfield' land.

- 6.04 This focus on new development in the urban area is dependent on a proposal also meeting other policy requirements such as maintaining or enhancing local character and these matters are considered below. In relation to the need for the new dwelling, the Council has a good track record on housing delivery (as evidenced by the Housing Delivery Test) and has a five year housing land supply in place and as a result there is no need for the proposed two new units

**Character of the surrounding area**

- 6.05 Local Plan policy DM11 states that development of domestic garden land will be permitted if a proposal meets a number of criteria. These criteria include where the higher density resulting from the development would not result in significant harm to the character and appearance of the area.

- 6.06 The character of the local character and an existing positive feature is the defined layout of development with properties in small terraces with a fairly rigid and uniform siting. In contrast, the proposed semi-detached dwellings would introduce an incongruous feature standing alone in the rear garden area of the two existing terraced properties at 1 and 3 Highland Road.

- 6.07 I consider that this backland proposal would not reflect and would be damaging to the existing established pattern and grain of development in the area that forms local character.

- 6.08 Whilst the presence of the existing tree to the north of 1 Highland Road is noted, the adjacent open space would allow public views of the proposed dwelling. In addition, there would be views from many adjacent properties and their rear gardens. The

introduction of these dwellings in the rear garden area of the properties on Highland Road would appear as an incongruous feature that conflicts with the established pattern of development and local character.

- 6.09 As such this proposal, by virtue of its siting, scale and the intensification of built development in this backland location, would result in inappropriate development of residential garden land, causing adverse harm to the character of the area and would therefore be contrary to DM1, DM11 and policies of the NPPF which seek to secure appropriate and high quality design.

**Design/Layout and landscaping**

- 6.10 Policy DM1 encourages development which responds positively to and where possible enhances, the local, natural or historic character of the area. Particular regard will be paid to scale, height, materials, detailing, mass, bulk, articulation and site coverage incorporating a high quality modern design approach and making use of vernacular materials where appropriate.

- 6.11 The development proposal would comprise two, one bedroom dwellings, largely open plan, constructed in brick with flat roofs. They would be sited to the rear of 1 and 3 Highland Road and would be accessed via a driveway adjacent to No 1.

- 6.12 The existing local character is formed by the uniform layout of buildings, the setback from the road, the separating rear gardens and the general open character with the properties themselves of a simple building design. Whilst there is no objection to a contemporary design approach, the design of the proposed properties appears bland, with little to provide relief from the expanses of the walls on the flank and rear elevations and the high level windows provided on main building elevations do not provide much in the way of relief to the walls of the buildings.

- 6.13 I acknowledge that the bulk and massing of the development proposal has been reduced following the withdrawal of the previous application (referenced above) but the siting and location of the development as a whole is considered inappropriate when assessing it in conjunction with policies DM11 and DM1. The development reducing the existing garden depth from 25 metres to 7.5 metres and with the new houses in close proximity to the rear boundary would provide a cramped form of development.

- 6.14 The intention to incorporate planting in order to reduce the overall impact of the proposal would not be considered sufficient to overcome the concerns raised as oversized planting could result in an adverse impact on neighbouring amenity.

**Residential amenity**

- 6.15 Policy DM1 encourages development which respects the amenities of occupiers of neighbouring properties and uses and provide adequate residential amenities for future occupiers of the development by ensuring that development does not result in, or is exposed to, excessive noise, vibration, odour, air pollution, activity or vehicular movements, overlooking or visual intrusion and that the built form would not result in an unacceptable loss of privacy or light enjoyed by the occupiers of nearby properties.

- 6.16 The previous development proposal in this location would have resulted in potential overlooking, loss of privacy and loss of outlook to the rear elevation and rear private amenity space of 150 Westmoreland Road (to the east); the rear elevation and garden of 1 Highland Road (to the west) and the private rear gardens of properties to the south of the proposed dwelling. The previous development proposal in this location would have resulted in potential overlooking, loss of privacy and loss of outlook to the rear elevation and rear private amenity space of 150 Westmoreland Road (to the east); the rear elevation and garden of 1 Highland Road (to the west) and the private rear gardens of properties to the south of the proposed dwelling.

- 6.17 The current application has now overcome the over-looking issues by reducing the standard of the accommodation for future occupants with high level fenestration to the bedroom windows as well as the western facing bathroom window.
- 6.18 The fenestration on the ground floor would not result in overlooking either by the neighbours or the future occupiers due to the incorporation of boundary treatment (marked as a 5 metre high tree screen to the east and west boundaries). The fenestration on the northern elevation would be a sufficient distance for any amenity issues to be minimised with regard to the neighbours or future occupiers.
- 6.19 In terms of overlooking and over-shadowing issues, the proposed dwellings would be a sufficient distance to alleviate any potential impact on the neighbouring properties.

### **Highways**

- 6.20 Local Plan policy DM11 states that development of domestic garden land will be permitted if a proposal meets a number of criteria.
- 6.21 These criteria include a requirement that there should also be an appropriate access to the highway. The proposed access is acceptable in terms of its width, and there is sufficient parking and bin storage for the units. If otherwise considered acceptable electric vehicle charging points would be requested by way of a planning condition. For these reasons, the details supplied would be considered acceptable in relation to highways impact.

### **Biodiversity**

- 6.22 The land is currently disused and has had rubbish and debris on it which has been tidied recently. The land is unlikely to have any biodiversity value as it stands. In the event that other issues were resolved a condition would be recommended to seek ecological enhancements in the site and landscaping with use of native species.

### **CIL**

- 6.23 The proposed development is CIL liable. The Council adopted a Community Infrastructure Levy on 25 October 2017 and began charging on all CIL liable applications approved on and from 1 October 2018. The actual amount of CIL can only be confirmed once all the relevant forms have been submitted and relevant details have been assessed and approved. Any relief claimed will be assessed at the time planning permission is granted or shortly after.

### **PUBLIC SECTOR EQUALITY DUTY**

- 6.24 Due regard has been had to the Public Sector Equality Duty, as set out in Section 149 of the Equality Act 2010. It is considered that the application proposals would not undermine objectives of the Duty.

## **7. CONCLUSION**

- 7.01 The proposed development would result in an inappropriate form of development that would have an unacceptable impact on the character and appearance of the more uniform development that makes up the pattern of the surrounding area, contrary to Local Plan policies.

## **8. RECOMMENDATION**

REFUSE planning permission for the following reasons:

The proposal, by reason of design, siting and location, would result in an incongruous and cramped form of development that is detrimental to the established pattern of local development and local character contrary to policies

DM1 and DM11 of the Maidstone Local Plan and policies within the NPPF which seeks to secure appropriate and high quality design.

Informatives

- 1) The applicant is advised that as of 1st October 2018, the Maidstone Community Infrastructure Levy (CIL) Charging Schedule came into effect. Whilst the above application has been refused by the Local Planning Authority you are advised that CIL applies to all planning permissions granted on or after this date. Thus any successful appeal against this decision may therefore be subject to CIL (depending on the location and type of development proposed). Full details are available on the Council's website [www.maidstone.gov.uk/CIL](http://www.maidstone.gov.uk/CIL)
- 2) The plans taken into consideration in reaching the decision to refuse planning permission are:

27 Nov 2019	Site Location and Block Plan
27 Nov 2019	2613/PL/200 B      Layout and Ground Floor
27 Nov 2019	2613/PL/201 B      Proposed Elevations and Floor Plans
27 Nov 2019	Planning Statement Appendices
27 Nov 2019	Planning Statement Part 1
27 Nov 2019	Planning Statement Part 2

Case Officer: Jocelyn Miller