

REPORT SUMMARY

REFERENCE NO - 19/506376/FULL		
APPLICATION PROPOSAL Retrospective application for additional obscure glazing to previously approved application 19/504830/FULL.		
ADDRESS 29 The Landway Bearsted Maidstone Kent ME14 4BE		
RECOMMENDATION : GRANT subject to the planning conditions set out in Section 8.0 of the report		
SUMMARY OF REASONS FOR RECOMMENDATION The application seeks to regularise as built amendments to the planning permission granted under application reference 18/500831/FULL. These namely relate to the increase in size of windows to the rear and side elevations. It is considered that since an earlier refusal with the addition of obscure glazing and the proposed addition of slatted weatherboarding that the proposed alterations would on balance be acceptable and would not significantly harm neighbouring residential amenity or the visual amenity of the street scene or surrounding area. The proposed development would be in accordance with current policy and guidance.		
REASON FOR REFERRAL TO COMMITTEE The application has been called in by Cllr Springett on the grounds of the impact on privacy, visual amenity and light spillage from the enlarged windows.		
WARD Bearsted	PARISH/TOWN COUNCIL Bearsted	APPLICANT Mr & Mrs Gashi AGENT Architecture2interior Design
DECISION DUE DATE 28/02/20	PUBLICITY EXPIRY DATE 8/02/20	OFFICER SITE VISIT DATE Visited on a number of occasions

Relevant Planning History

19/506121/FULL : Erection of front boundary wall and a screen in the rear garden (Retrospective) – Permitted

19/504830/FULL : Retrospective application for amendment to windows to previously approved application 18/500831/FULL (Demolition of existing garage, raising of roof height to create first floor level and habitable space in loft area, two storey side extension creating annexe, internal/external alterations including rear patio area and additional parking spaces to front). (Resubmission of 19/502214/FULL) - Permitted

19/502214/FULL : Part retrospective application for the insertion of a 2.5m screen in rear garden and amendment to windows to previously approved application 18/500831/FULL (Demolition of existing garage, raising of roof height to create first floor level and habitable space in loft area, two storey side extension creating annexe, internal/external alterations including rear patio area and additional parking spaces to front). – Refused

18/500831/FULL : Demolition of existing garage, raising of the roof height to create 1st floor level and habitable space in loft area, 2 storey side extension creating annex,

internal/external alterations including rear patio area and additional parking spaces to front – Permitted

Neighbouring site

16/507816 – 2, Five bedroom dwellings. – Permitted (these are now built and occupied)

MAIN REPORT

1.0 DESCRIPTION OF SITE

- 1.01 The application site is a detached dwelling which is situated on the corner of The Landway and The Morlings. The site was previously occupied by a bungalow with extensions and alterations approved under application 18/500831/FULL, for the property to become a 2-storey dwelling with loft accommodation.
- 1.02 Works have been completed to implement this permission, however the works have not been carried out in accordance with the approved plans and this application seeks to regularise some of these unauthorised works.
- 1.03 The site is within the urban area and benefits from an area of parking to the front of the property and a rear garden with an approximate depth of 10m.

2.0 PROPOSAL

- 2.01 The application seeks to regularise the window arrangement to the rear and side of the extended dwelling. The windows inserted are as follows, the lower part of the side windows have been fitted with obscure glazing film and the whole of the side window has been filled with obscure glazing film.

Side elevation (South west)

Window serving bedroom 1 increased in size from 1.8m x 1m to 1.8m x 1.8m

Rear elevation

Window serving bedroom 1 (first floor) increased from 2.1m x 1m to 2.2m to 1.8m

Windows serving bedroom 2 (first floor) increased from 1.7m x 1m to 1.8m x 1.8m

- 2.02 The applicants have submitted plans to provide a further amendment to these windows by providing angled matching weatherboarded slats to the lower proportion of the windows.

3.0 POLICY AND OTHER CONSIDERATIONS

The National Planning Policy Framework (NPPF)
National Planning Practice Guidance (NPPG)
Maidstone Borough Local Plan 2017 : DM1 and DM9
Supplementary Planning Documents: Residential Extensions Supplementary Planning Document (adopted May 2009)

4.0 LOCAL REPRESENTATIONS

4.01 Three letters of objection have been received from local residents raising the following (summarised) issues :

- Loss of privacy and loss of privacy
- New window design out of keeping and more intrusive
- Increased noise levels
- Windows are openable and not obscure glazed where they should be

4.02 Cllr Springett

I understand that this application is purely to regularise the height of two of the first floor windows in the north west (rear) elevation of this property, and the same for the first floor side window in bedroom 1.

I still object strongly to the design of these windows. The size of the windows makes them overly dominant in their respective elevations. Planning application 19/502214 refused these windows, and although the privacy and overlooking issue has been mostly addressed by the proposal to use obscure glass, the issue of the poor design which means the windows are overly dominant and create a cluttered appearance to the rear and south-west side elevation has not been addressed. In addition, no consideration appears to have been given to the amount of light clutter that will be generated by these full height windows at night, which could have a detrimental effect on residents in neighbouring properties if no curtains or blinds are drawn, and bright modern lighting is installed in these upstairs rooms. They are therefore contrary to DM1 and DM9 and this application should be refused.

I would also ask that in the case of your recommendation to approve, a condition be added that the material used in the windows be properly manufactured obscure glass and that they be maintained as such in perpetuity to ensure the privacy of neighbouring properties. The side window in bedroom 1 should be obscure glazed over it's entire dimensions, and not just the lower section as shown in drawing P158-PL22 Sept 2019 Rev.

5.0 CONSULTATIONS

5.01 Bearsted Parish Council

Objection due to the visual appearance and failure to keep to the original approved plans

6.0 APPRAISAL

Main Issues

6.01 The key issues for consideration relate to:

- Background history
- Visual amenity
- Residential amenity

- Other matters

Background history

6.02 The application site has been subject to a number of recent planning applications, firstly that which approved the extensions and alterations to the dwelling and more recently those applications which have sought to regularise works that were not carried out in accordance with approved plans. The following summarises these applications, in particular with reference to the works to enlarge two windows to the rear and one window to the side which have not been carried out in accordance with the original submission (those serving Bedroom 1 and 2) and the subject of this application.

6.03 ***18/500831/FULL : Demolition of existing garage, raising of roof height to create first floor level and habitable space in loft area, two storey side extension creating annex, internal/external alterations including rear patio area and additional parking spaces to front. – Permitted 16th April 2018***

This application showed one rear window to measure 2.2m in width with a height of 1.1m. and the other rear window and side window to measure 1.8m in width and 1.1m in height. The design of these windows were split into 4 and 3 casements respectively.

6.04 ***19/502214/FULL : Part retrospective application for the insertion of a 2.5m screen in rear garden and amendment to windows to previously approved application 18/500831/FULL (Demolition of existing garage, raising of roof height to create first floor level and habitable space in loft area, two storey side extension creating annexe, internal/external alterations including rear patio area and additional parking spaces to front).- Refused 12 August 2019***

This application sought to regularise the windows as built (together with other amendments to fenestration and a screen to the rear garden), whereby the windows measure 2.2m in width with a height of 1.8m. and the other rear window and side window to measure 1.8m in width and 1.8m in height, an increase in height of the three windows by approximately 0.7m.

The application was refused for the following reason :

'The proposed window enlargements and design amendments to the south-west and north-west facing elevations would be harmful to residential amenity of neighbouring occupiers by reason of causing greater overlooking, loss of privacy and perception of overlooking, exacerbated by the intention to not obscure glaze windows that have been conditioned as such. These amendments have resulted in poor design by failing to reflect the hierarchy of windows, created a cluttered elevation, overly dominated by glazing harmful to both residential and visual amenity contrary to the National Planning Policy Framework 2019, Policies DM1 and DM9 of the Maidstone Borough Local Plan 2017 and the guidance contained with the Councils Residential Extensions Supplementary Planning Document.'

6.05 ***19/504830/FULL : Retrospective application for amendment to windows to previously approved application 18/500831/FULL (Demolition of existing garage, raising of roof height to create first floor level and habitable space in loft area, two storey side extension creating annexe, internal/external***

**alterations including rear patio area and additional parking spaces to front).
(Resubmission of 19/502214/FULL) – Permitted 26th November 2019**

This application sought to regularise the amendments to the design of the fenestration as built compared to the original plans approved under application 18/500831/FULL, but did not include the increases in size of the windows.

- 6.06 As set out in section 2.0 above, the application now, similarly to application 19/502214/FULL seeks again to regularise the increase size of those windows serving bedrooms 1 and 2 to the rear and side. The main difference is the addition of obscure glazing to the lower parts of the window and the use of angled weatherboarding to the lower parts. It should also be noted that since the earlier refusal obscure glazing has been added to the entire side window and to the rear projecting bay.

Visual Impact

- 6.07 The main consideration is whether the proposed amendments to the fenestration would be harmful. The alterations to the original property are extensive, this however in itself is not reason for refusal. The original application set out that:

'The design of the development is considered acceptable in itself and although it would significantly change the scale and character of the existing dwelling, the existing dwelling is not considered of such high visual amenity value that the change in scale and character would result in significant harm.'

- 6.08 Policy DM1 of the Local Plan sets out that proposals would be permitted if they would create a high quality design. The NPPF sets out at Paragraph 124 *'The creation of high quality buildings and places is fundamental to what the planning and development process should achieve.'*, continuing at paragraph 130 *'Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions, taking into account any local design standards or style guides in plans or supplementary planning documents.'*

- 6.09 The Residential Extensions SPD, sets out in relation to windows and doors (officer's emphasis in bold):

The proportion of windows is particularly important in successfully integrating an extension with an existing building' (para 4.51)

*New windows should usually be arranged to line up vertically and horizontally with those of the original house, **to give a sense of balance and proportion*** (para 4.53)

*Additionally, the proportion or ration of solid wall to window should normally reflect that of the house or local buildings. **The number and size of windows in an extension should generally be limited to those absolutely necessary, otherwise the elevation could appear too cluttered.***' (para 4.55)

- 6.10 The earlier refused application (19/502214/FULL) described the impact of the enlarged windows as follows:

The windows to the rear and the size however would be increased by significant proportions and are not at all reflective of the design approach for the extensions and do not respect the hierarchy of windows that would be expected at first floor, they are

neither picture windows nor provide any design merit or interested to the rear elevation. As discussed above they have resulted in a significant amount of unnecessary glazing at first floor which is harmful to the overall character and appearance of the resultant dwelling. As such it is not considered that the proposed window enlargements are acceptable and is harmful and contrary to policy and guidance which seek good design.

- 6.11 The window design and proportions would remain the same as previously refused, however the application now proposes the introduction of the angled weatherboarding on the lower part of the window. This is to allow additional light into the rooms but to try and assimilate the design better with the extended dwelling.
- 6.12 The dwelling as extended has subsumed the original bungalow and altered the design of the dwelling considerably. The street scene itself is varied with no uniform characteristics. The rear elevation itself is not visible from The Landway, but can be viewed from The Morlings, the view of the windows is above the existing boundary treatment which consists of close boarded fencing and hedging. These views are at somewhat oblique angles due to the housing development to the rear of the site.
- 6.13 The contrast between the lower glazing and the weatherboarding of the existing walls does make the enlarged openings more visually prominent within the elevation and is in contrast to the normal hierarchy of windows. The proposed weatherboarding would however mitigate this contrast in material and although may appear slightly at odds with the weatherboarding on the rest of the elevation would not have such a harmful impact on the visual amenity of the street scene such that the application should be refused.
- 6.14 Detailed plans of the proposed panelling could be conditioned to ensure that it would assimilate acceptably with the existing dwelling.

Residential Amenity

- 6.15 Policies DM1 and DM9 of the local plan seeks to protect the amenity of neighbouring occupiers. The Residential extensions SPD re-iterates and expands on this guidance and developments amongst other things should not result in an unreasonable loss of privacy.
- 6.16 To the south-east facing elevation, this elevation faces towards number 27 The Landway, which has a number of windows in their flank elevation serving a number of different rooms. The properties are separated by a narrow roadway (The Morlings). As the window is in situ, it can clearly be seen from the neighbouring property. The earlier report in relation to application 18/500831/FULL which approved the extensions set out the following:

To the South West side the site is separated from the next dwelling, number 27, by a road, however, this is a narrow road. Number 27 has 3 1st floor flank Windows facing the site, the rearmost of which is understood to serve a bedroom and is not obscure glazed. The proposed first-floor window to the South West side elevation would be in a position where it would face almost directly towards the said window, and although there is a road separating the buildings, this is a narrow road, with the actual separation distance being only approximately 13 m. Views from the road are limited, because of the proximity of the road to number 27's window and the sharp angle upwards. There is a conifer hedge to the site boundary, but this is not considered to wholly prevent views and also may be cut or lost in the future. It is therefore considered, that it is necessary to place an obscure glazing condition upon this

window, which is in any case a secondary window to bedroom 1 in order to prevent significant overlooking of number 27's bedroom.

- 6.17 The later refusal under application 19/502214/FULL set out:

This appraisal still remains pertinent, views are clearly available from number 29 and vice versa. The increased window size has also made the area of glazing and perception of overlooking and loss of privacy greater. It was a balanced decision allowing the window in this elevation, the mitigation was obscure glazing and fixing shut, neither of these to date have occurred and to exacerbate the situation the opening has been nearly doubled in size. There is no justification for this size increase, in particular being a secondary window. It has been considered whether the window could again be conditioned to be obscure glazed however this would not overcome the size of the opening and the greater perception of overlooking that has occurred. The applicant has also shown a clear intention not to obscure glaze the windows by fitting them with clear glazing and as such although there are powers of enforcement available it is not considered this would overcome the overall harm.

- 6.18 With regard to the rear facing windows the same report set out the following:

The enlargement to the bedroom windows for bedrooms 1 and 2 has again exacerbated a balanced decision with regard to the impact on neighbouring amenity. Windows of proportions that would be expected of a domestic dwelling (as approved) are considered acceptable, however the larger windows although may not exacerbate any potential actual overlooking would create a greater perception of overlooking by the glazed area being almost doubled. This is considered unneighbourly and harmful to neighbouring amenity.

- 6.19 The report concluded in terms of amenity that:

Overall the retrospective changes to the windows would result in an increase in actual and the perception of overlooking exacerbated by the applicants clear intention not to comply with conditions and install clear not obscure glazing harmful to the amenity of neighbouring occupiers.

- 6.20 The application again seeks the same proportion of windows, however since the earlier refusal obscure glazing has been fitted to the full extent of the side window and the lower part of the rear windows. The application also now proposes to fit angled weatherboarding to match the existing dwelling on the lower part of the windows. The justification by the applicant for enlarging the windows is to allow further light into the bedrooms.

- 6.21 The obscure glazing of the lower part of the windows and the entire side window has mitigated the impact of actual overlooking, although this alone has not impacted upon the perception of overlooking. As a compromise to still allow additional light into the rooms, the applicants now proposes the addition of angled weatherboarding. This would act as a greater screen from both the extent of glazing and any light emittance (as highlighted in Councillor Springett's concerns).

- 6.22 The earlier refusal was on a balanced judgement that additional harm to neighbouring amenity would result. It is considered that this additional measure to mitigate harm would tip the balance in favour of the scheme. On balance it is considered that due to the extent of additional glazing, the obscure glazing, together with the slanted weatherboarding (both of which can be conditioned) and the

relationship with neighbouring properties are such that no significant additional harm would result to neighbouring amenity.

Other Matters

- 6.23 Neighbour representation and the Parish Council have raised the fact that the works were not carried out in accordance with approved plans. It is noted that the application is retrospective but this is not a reason to refuse the application and the applicant is seeking to regularise the works.
- 6.24 Representation has been received regarding failure to comply with the conditions requiring obscure glazing. This has now been rectified by the applicants and apart from the additional lower glazing the development is considered to be in accordance with the approved plans and conditions.
- 6.25 The application solely relates to the amendment identified in the above report, however as the description makes reference to a previous approval and the plans would supersede those plans it is considered those conditions on the earlier approval be replicated on this decision. As such there will be conditions which are not wholly relevant to those matters for re-consideration.

PUBLIC SECTOR EQUALITY DUTY

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.

7.0 CONCLUSION

- 7.01 The application seeks to regularise as built amendments to the planning permission granted under application reference 18/500831/FULL. These namely relate to the increase in size of windows to the rear and side elevations. It is considered that since an earlier refusal that with the addition of obscure glazing and the proposed addition of slanted weatherboarding that the proposed alterations would on balance be acceptable and would not significantly harm neighbouring residential amenity or the visual amenity of the street scene or surrounding area. The proposed development would be in accordance with current policy and guidance.

8.0 RECOMMENDATION – GRANT Subject to the following conditions:

- 1) The development hereby permitted shall be carried out in accordance with the following approved plans:

Drawing Number P158-PL22 Rev A received 12/2/2020 (Proposed Elevations – showing the addition of slanted weatherboarding)

Reason: To clarify which plans have been approved.

- 2) Within 1 month of the date of this approval details in the form of large scale drawings (at a scale of 1:20 or 1:50) of the proposed slatted weatherboarding shown on Drawing Number P158-PL22 Rev A shall be submitted to and approved by the Local

Planning Authority. These details shall include details of the proposed angle, finish, material and means of fixing to the existing elevation. The weatherboarding shall be fitted in accordance with these details within 2 months of the approval and maintained as such at all times.

Reason : In the interests of the visual and residential amenity

- 3) The following window/parts of windows/rooflights shall be obscure glazed and fixed shut, unless the part(s) of the window/rooflight which opens are at least 1.7 m above the finished floor level of the room in which it is installed:

- Both rooflights to the first floor serving bedroom 3, to the North East side elevation
- the part of the bay window to the first floor serving bedroom 3, to the North East side elevation
- the part of the bay window to the first floor serving bedroom 3, to the North West rear elevation
- the lower proportion of the rear facing windows serving bedrooms 1 and 2 as indicated on drawing number P158-PL22 Rev A

The first floor window serving bedroom 1 to the South West side elevation shall be fully obscure glazed and fixed shut.

They shall subsequently be maintained as such at all times.

Reason: In order to protect privacy for the surrounding properties.

- 4) The annex accommodation hereby permitted shall only be used for purposes ancillary to the use of the main dwelling known as 29 The Landway and it shall not be used as a separate, independent dwelling;

Reason: Its use as a separate dwelling would have an unsatisfactory relationship with the main house.

- 5) No new windows, rooflights, voids or other openings shall be placed, formed or inserted above ground floor level in the North West rear and South West side elevations of the development hereby permitted;

Reason: In order to protect privacy for adjoining property.