

REPORT SUMMARY

REFERENCE NO: - 22/500119/FULL		
APPLICATION PROPOSAL: Retrospective application for the change of use to garden land and the erection of 1no. outbuilding to house home gym with associated decking, patio and hot tub area.		
ADDRESS: Cliff House Cliff Hill Boughton Monchelsea Maidstone Kent ME17 4NQ		
RECOMMENDATION: GRANT subject to the planning conditions set out in Section 8.0 of the report		
SUMMARY OF REASONS FOR RECOMMENDATION: The proposal is not considered to adversely impact the character and appearance of the site, the surrounding areas or openness of the countryside, does not significantly impact on any designated heritage asset and does not harm the amenity of neighbouring properties, such that it would be in accordance with current policy and guidance.		
REASON FOR REFERRAL TO COMMITTEE: The application has been called in by Boughton Monchelsea Parish Council by reason of the recommendation being contrary to their comments (see report below for reasons).		
WARD: Boughton Monchelsea And Chart Sutton	PARISH/TOWN COUNCIL: Boughton Monchelsea	APPLICANT: Mr Andrew Coombe AGENT: Bluelime Retail LTD
CASE OFFICER: Jake Farmer	VALIDATION DATE: 02/12/22	DECISION DUE DATE: 27/01/23
ADVERTISED AS A DEPARTURE: NO		

Relevant Planning History

89/0875 : Erection of detached garage with children's games room over as amended by Drawing No.8939/1/B received 24 August 1989 Approved 27.10.1989

89/0876 : Listed Building consent for garage with children's games room over as amended by Drawing Nos.8930/1/B received 24 August 1989 Approved 27.10.1989

12/0437 : Erection of a detached double garage as shown on drawing numbers 1204/01, 1204/02, 1204/03 and 1204/04, supported by a design and access statement, all received 9th March 2012. Approved 02.05.2012

MAIN REPORT

1. DESCRIPTION OF SITE

- 1.01 The application site is located to the northeast of Boughton Monchelsea, along Cliff Hill just before the junction with Cliff Hill Road. The application site is located outside the Boughton Monchelsea settlement boundary and is considered to be countryside for the purposes on the Local Plan.
- 1.02 The red line application site boundary includes Cliff House (Grade II listed building), and the original garden of Cliff House which is immediately to the west of the house. The current planning application seeks the retrospective change of use of an area of land immediately to the west of the original garden. The existing house and original garden are within the Boughton Monchelsea The Quarries Conservation Area whilst the land for which retrospective permission is sought is just outside the conservation area.

- 1.03 This is a retrospective application with the outbuilding located on the land where permission is sought to change to garden land. The outbuilding is in close proximity to the southern boundary of the site which runs to the rear of the residential properties along The Quarries. The site is situated in an elevated position in comparison to those properties within The Quarries with an existing established hedge located on the boundary.

2. PROPOSAL

- 2.01 This retrospective application seeks the erection of an outbuilding to the west of Cliff House with a change of use of part of the site to garden land to reflect this. The outbuilding is proposed to be used as a home gym ancillary to the residential property of Cliff House.
- 2.02 Along with the use of the outbuilding as a home gym, the application proposes the erection of a timber patio area to accommodate a hot tub and outdoor seating area. The outbuilding itself is approximately 16m in width, 5m in depth with a flat roof with a height of approximately 2.9m. The building is black timber clad.
- 2.03 The applicants have submitted a revised location plan and site plan to reflect the extent of change of use from agricultural land to garden land. The area of land measures approximately 30m x 90m with the front part of the site following the angle of Cliff Hill to the north.
- 2.04 This is to regularise the use of land to the west of the dwelling as residential garden; this land has not previously been included as part of the red line curtilage for the dwellinghouse.

3. POLICY AND OTHER CONSIDERATIONS

Maidstone Borough Local Plan (2011-2031): Policies SS1, SP17, SP18, DM1, DM2, DM4, DM30, DM32 and DM33

Emerging Policies: Maidstone Borough Council – Local Plan Review Regulation 22 Submission. The Regulation 22 Submission comprises the draft plan for submission (Regulation 19) dated October 2021, the representations and the proposed main modifications. It is a material consideration and some weight must be attached to the document because of the stage it has reached. This weight is limited, as it has yet to be the subject of an examination in public.

Relevant Policies:

Policy LPRSP9 – Development in the countryside

Policy LPRSP15 – Principles of Good Design

Policy LPRQ&D4 – Design principle in the countryside

Policy LPRHou11 – Rebuilding, Extending and Subdivision of Dwellings in the countryside

Policy LPRENV1 : Historic Environment

Policy LPRENV2 : Change of use of agricultural land to domestic garden land.

Neighbourhood Plan: Boughton Monchelsea

Kent Waste and Minerals Plan (amended 2020)

The National Planning Policy Framework (NPPF)

National Planning Practice Guidance (NPPG)

Supplementary Planning Documents: Residential Extensions (2009)

Boughton Monchelsea The Quarries Conservation Area Appraisal dated February 2009

Cock Street, The Green and The Quarries Conservation Areas Boughton Monchelsea Management Plan dated April 2017

4. LOCAL REPRESENTATIONS

Local Residents: 2 representations received from local residents raising the following (summarised) issues

- general noise and disturbances
- position of development within the site
- overlooking to neighbouring properties
- impact upon setting of the listed building.

5. CONSULTATIONS

Boughton Monchelsea Parish Council:

- 5.01 Object to the application due to impact upon the setting of a listed building, design of the proposals, impact upon landscape and the location of the outbuilding. The application is contrary to policies PWP4, PWP5, RH1 and RH7 (*Officer comment: Policy PWP 4 is not relevant to the application as this policy relates to the provision of new housing development*)

6. APPRAISAL

The key issues are:

- Principle of development/Policy
- Impact on visual amenity
- Heritage matters
- Residential Amenity
- Other matters

Principle of Development/Policy

- 6.01 The proposed development seeks the change of use from agricultural land to residential garden land in order to facilitate the retrospective erection of an outbuilding for use as a home gym and decking area.

- 6.02 Policy DM33 of the Local Plan relates to the change of use of agricultural land to domestic garden land. It sets out that :

'Planning permission will be granted for the change of use of agricultural land to domestic garden if there would be no harm to the character and appearance of the countryside and/or the loss of the best and most versatile agricultural land.'

- 6.02 The pre-ambule to the policy sets out :

'The domestication of the countryside, through the replacement of open pasture with lawns, domestic plants and garden furniture is generally harmful to the integrity and character of rural landscapes.'

'In some cases, applicants may seek development that results in the infill of an area between existing clear boundaries to existing built development. Where

development constitutes such infilling and is in keeping with the layout of the existing built environment, the impact upon the countryside is likely to be minimised.'

- 6.03 Sections 16(2) and 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires special regard to be had to the desirability of preserving listed buildings and their settings and any special architectural or historic features which they possess. The court have determined that considerable weight and importance should be given to any harm found to the significance of listed buildings.
- 6.04 Section 72(1) of the Town and Country Planning Act 1990 requires that special regard is had to the question of whether or not a proposed development would preserve or enhance the special character of the conservation area. There is a presumption that development which would not do so should be refused.
- 6.05 Local plan policies DM4 and SP18 similarly seeks to preserve listed buildings and their settings, and the special character of conservation areas, in an appropriate manner and this is also carried forward into emerging policies.
- 6.06 Policy DM1 (Principles of good design) outlines the importance of high-quality design for any proposal. Amongst other things, well-designed proposals respond positively to their context in visual terms by respecting landscape character and the character and form of the host building, as well as preserving the amenities of neighbouring occupiers.
- 6.07 The countryside is a valuable and finite resource which should be protected for its own sake and for the benefit of future generations. Consequently, development there should be limited and Local Plan Policy SP17 requires that "*Development proposals in the countryside will not be permitted unless they accord with other policies in this plan and they will not result in harm to the character and appearance of the area.*"
- 6.08 Policy DM30 requires, *inter-alia*, that where built development is proposed, there would be no existing building or structure suitable for conversion or re-use to provide the required facilities. Any new buildings should, where practicable, be located adjacent to existing buildings or be unobtrusively located and well screened by existing or proposed vegetation which reflect the landscape character of the area. Policy DM32 echoes similar sentiments, requiring that proposals for the construction of new or replacement outbuildings should be subservient in scale, location and design to the host dwelling and cumulatively with the existing dwelling remain visually acceptable in the countryside.
- 6.09 Relevant design guidance in the adopted SPD includes:

Garages and other outbuildings should not impact detrimentally on the space surrounding buildings. They must be smaller in scale and clearly ancillary to the property. (Paragraph 5.28)

Their scale should not exceed what might reasonably be expected for the function of the building. Garages and outbuildings for domestic purposes do not normally need to exceed a single storey in height or have excessive volume. (Paragraph 5.29)

There should be no adverse impact on the character or openness of the countryside. (Paragraph 5.30)

The impact of a garage or other outbuilding would be greater if located in a prominent location where it would be highly visible (Paragraph 5.30)

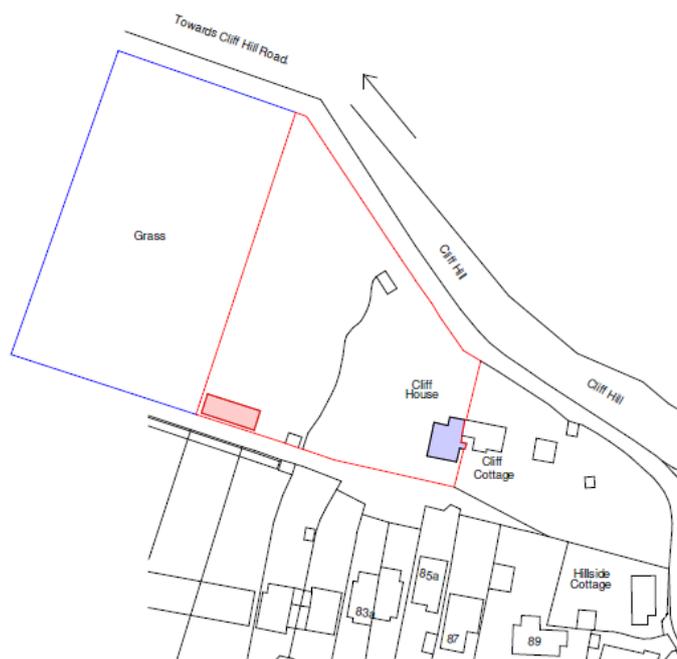
Garages and outbuildings should not compete with the main house and consequently should be sympathetically positioned away from the front of the house and should be simpler buildings. (Paragraph 5.32)

- 6.10 Turning to residential amenity, criterion iv of Local Plan Policy DM1 requires new development to respect the amenities of occupiers of neighbouring properties and states that it should not result in, *inter alia*, unacceptable overlooking or visual intrusion, or an unacceptable loss of privacy or light for the occupiers of nearby properties.
- 6.11 Consequently, there is general Development Plan policy which allows for the proposals sought to be regularised subject to proposals being of appropriate scale and design and having an acceptable impact on the surroundings and neighbours etc. It is therefore concluded that the proposed development is acceptable in principle. The finer detail of the proposals will now be considered.

Impact on visual amenity

Change of use

- 6.12 The proposal seeks to regularise the use of land to the west of the curtilage of the Cliff House for use as garden land. The resultant extended garden would be as shown in red on the site plan extract below, the remaining land outlined in blue as within the applicants ownership is not sought to become garden land. The area relating to the change of use would approximately double the existing garden area.



- 6.13 As set out above Policy DM33 of the Local Plan does allow for the change of use of agricultural land (the fallback use of land) to residential garden, provided that the land is not best and versatile and harm to the character and appearance of the countryside would not result.
- 6.14 The land in question is currently enclosed by a mature hedge along the northern boundary limiting views into the site from the road. Aerial photographs show that the area has been maintained by mowing for sometime (see images on the next

page) and the boundary between the garden of Cliff House and adjoining land has historically been ill-defined. It is not considered to be best and versatile agricultural land and as such its loss for such purpose is not considered unacceptable on this ground.

- 6.15 The impact of the use of the land as garden land on the character and appearance of the countryside would be limited, the character of the land to the south of Cliff Hill is a cluster of more residential properties with the application site, its neighbour and The Quarries beyond. Land to the west is highlighted in the Boughton Monchelsea Neighbourhood Plan as public open space.

Aerial photos of the application site

September 2008



July 2013



- 6.16 The change of use to garden land to regularise how the site is currently used and facilitate the use of the land for an outbuilding in association with the dwelling (discussed below) is considered in itself acceptable. However due to the sensitive location of the site, it is considered that permitted development rights for further outbuildings, hardsurfacing, accesses and fencing should be restricted by way of condition to ensure that any future development is sensitively controlled.
- 6.17 Policy PWP 5 of the neighbourhood plan seeks to improve "...landscape and amenity access between South Maidstone and Boughton Monchelsea" The submitted application is in line with policy PWP5 in that the building due to its location and external facing materials and the change of use do not unduly detract from the open and undeveloped character of the area.

Outbuilding

- 6.18 The application proposes the retrospective erection of an outbuilding to accommodate a 'home gym'. The outbuilding, positioned to the south-west of Cliff House, is constructed with a finishing material of timber cladding, with a flat roof and a timber porch and decking.
- 6.19 The proposed materials are considered to be suitable for outbuildings within the countryside and in accordance with the Residential Extensions SPD in terms of the materials used and the architectural design of the outbuilding.
- 6.20 In this instance, it is considered that due to the distance between Cliff House and the proposed outbuilding being such that the proposed outbuilding can be seen as ancillary to the original dwelling.

- 6.21 The building is sited 'discreetly' to the southern boundary of the site, a significant distance from Cliff Hill and screened by existing landscaping along the northern and southern boundaries. There are very limited public views of the building and in views from the road the black stained timber building is seen against the backdrop of the established hedge. With the buildings single storey nature, design and materials it would not harm visual amenity, the openness of the countryside or the street scene in general.
- 6.22 To ensure future protection, the existing hedges and planting to the northern and southern boundaries can be protected by condition to retain the open and verdant character of the countryside.
- 6.23 The proposal is in accordance with policy RH 1 of the neighbourhood plan in that whilst there is a stated "Preference...to development on brownfield land, within settlement boundaries" there is "...no significant adverse impact on the landscape or infrastructure..." from the proposal. The application through the building siting and discrete materials demonstrates how it responds "...positively to the established local character, including rural character and topography". The application sits "...comfortably alongside existing development respecting the privacy, wellbeing and quality of life of any existing residents. The application is in line with policy RH 7 of the neighbourhood plan as the building fits well in their context, and does "...not harm neighbours' amenity or privacy",

Overall

- 6.24 Overall the proposed enlarged garden and outbuilding would accord with local and national policy in terms of the impact on the visual amenity of the street scene and character, appearance and openness of the countryside.

Residential Amenity

- 6.25 The built outbuilding is located on the southernmost boundary of the land owned by the applicant. Beyond the southern boundary are the rear garden areas of the properties along 'The Quarries', at the base of a steep slope.
- 6.26 The properties along The Quarries benefit from reasonably deep rear gardens, resulting in a reasonable separation distance from the proposed outbuilding. The rear elevation of the proposed outbuilding does not feature any windows, meaning that there is no impact upon overlooking matters to the rear gardens of the properties along The Quarries and in any event, there is an established hedge on the boundary.
- 6.27 The outbuilding would not result in any undue impacts upon the outlook of the adjacent neighbouring properties due to the significant separation distances. The scale is also appropriate in ensuring that no unacceptable harm to residential amenity results from the development.
- 6.28 The proposed development is for ancillary residential use and as a result there are no planning grounds to refuse planning permission in relation to unacceptable levels of noise and disturbance.
- 6.29 Therefore, in light of the above, the proposed development is acceptable in terms of its impact upon residential amenity.

Heritage matters

- 6.30 The land for which a change of use is sought is adjacent to the original garden of the Grade II listed Cliff House, a residential property that is listed alongside Cliff Cottage, the neighbouring property to the east. The statutory listing describes the

heritage asset as a “house pair, Later C16 or early C17, with early-to-mid C19 facade to left. Timber framed with plaster infilling to right of stack, red brick in Flemish bond under and to left of stack”.

- 6.31 The outbuilding, which is the subject of this application, is located on the land to the west of Cliff House with a separation distance of circa 50 metres. The land is outside the curtilage and currently approved garden land of the dwelling and within the setting of the Conservation Area, with the original garden and house within the Boughton Monchelsea The Quarries Conservation Area Therefore, the impact upon the setting of the listed building and impact on the setting of the Conservation Area should be considered.
- 6.32 As mentioned previously, the proposed outbuilding is located a comparatively large distance from the original dwelling. However, in accordance with guidance provided by Historic England, outbuildings and other structures should not adversely affect the setting of a listed building. The scale of the outbuilding is not considered to detract from the historic significance of the Grade II listed heritage asset.
- 6.33 The design and position of the outbuilding are not considered to detract from the setting of the Conservation Area. The building is single storey, timber clad and although fairly large in footprint, it is situated in a discreet position which is not harmful to designated heritage assets.
- 6.34 By virtue of the location of the outbuilding and its scale, the proposals would not cause adverse harm to any designated heritage assets. Therefore, the proposals are not in conflict with policies SP18 and DM4 of the Local Plan (2017) nor the policies contained within the Boughton Monchelsea Neighbourhood Plan.

Other matters

- 6.26 In itself the proposal would not result in the need for further ecological surveys, there is not considered to be any protected species which would be at risk. Policy DM1, the residential extensions SPD, the NPPF and the Boughton Monchelsea Neighbourhood Plan all promote ecological enhancement and due to the nature and extent of the proposals it is considered that biodiversity enhancements would need to be provided. Due to the retrospective nature of the proposal and the design of the outbuilding, it is unlikely that these enhancement measures can be integral therefore such measures shall be conditioned to be provided within the application site.
- 6.27 The NPPF, Local Plan and residential extensions SPD all seek to promote the use of renewables. The proposal is for an outbuilding, primarily to be used as a gym, ancillary to the main dwelling. Although a sizeable building, with the low stand-alone energy requirement, together with its proposed use a requirement to provide renewable energy generation would be reasonable and would fail to meet the statutory condition tests.
- 6.28 Due to the countryside location and the site’s ability to impact on the setting of designated heritage assets it is considered that details of any external lighting should be conditioned.

PUBLIC SECTOR EQUALITY DUTY

- 6.29 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 Overall, for the reasons set out in this report, the proposed development would not be in conflict with Policies SP17, SP18, DM1, DM4, DM30, DM32 and DM33 of the Local Plan (2017), the guidance contained within the Residential Extensions SPD (2009) nor the Boughton Monchelsea Neighbourhood Plan.

8. RECOMMENDATION

GRANT planning permission subject to the following conditions

with delegated powers to the Head of Planning and Development to be able to settle or amend any necessary planning conditions in line with the matters set out in the recommendation and as resolved by the Planning Committee.

CONDITIONS:

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

- Drawing No. BL/DRG/08092021/02.1 (Site Location Plan)
- Drawing No. BL/DRG/08092021/ 02 (Site Block Plan)
- Drawing No. BL/DRG/08092021/ 03 (Planning Drawings, As built layouts and Elevations)

Reason: To ensure that the development is undertaken in accordance with the approved drawings and documents

- 2) The change of use hereby permitted shall cease and the approved outbuilding demolished, and all materials brought onto the land for the purposes of such use and arising from the demolished building shall be removed and the land restored to its condition before the development took place within 6 weeks of the date of failure to meet any one of the requirements set out in (i) to (iv) below:

(i) within 3 months of the date of this decision a Site Development Scheme, hereafter referred to as the 'Scheme', shall have been submitted for the written approval of the Local Planning Authority.

The Scheme shall include:

- a) a biodiversity landscape plan setting out how the development will enhance biodiversity including clear ecological enhancement for breeding birds and bats and provision of bat boxes, bird boxes, and native planting, together with a timetable for implementation
- b) A site plan showing all existing trees and hedges along the southern and northern boundaries of the site. These shall be identified to be retained and the details shall include a plant specification (including species, position and height, a maintenance schedule and a 5 year management plan.

(ii) within 11 months of the date of this decision the Scheme shall have been approved

by the Local Planning Authority or, if the Local Planning Authority refuse to approve the Scheme, or fail to give a decision within the prescribed period, an appeal shall have been made to, and accepted as validly made by, the Secretary of State.

(iii) if an appeal is made in pursuance of (ii) above, that appeal shall have been finally determined and the submitted Scheme shall have been approved by the Secretary of State.

(iv) the approved Scheme shall have been carried out and completed in accordance with the approved timetable and thereafter maintained and retained as approved.

Reason: To ensure the visual amenity, character and appearance of the countryside location, in the interests of biodiversity and ecology.

- 3) Any trees or hedges identified in Condition 2ib) which within five years from the date of that decision dies or become so seriously damaged or diseased that their long term amenity value has been adversely affected shall be replaced in the next planting season with plants of the same species and size as detailed in the approved site plan unless the local planning authority gives written consent to removed.

Reason: In the interests of landscape, visual impact and amenity of the area and to ensure a satisfactory appearance to the development

- 4) Any external lighting installed on the site (whether permanent or temporary) shall be in accordance with details that have previously been submitted to and approved in writing by the Local Planning Authority. The approved details shall be in accordance with the Institute of Lighting Obtrusive Light Limitations for Exterior Lighting Installations for Environmental Zone E1. The submitted details shall include a layout plan with beam orientation and a schedule of light equipment proposed (luminaire type; mounting height; aiming angles and luminaire profiles) and an ISO lux plan showing light spill. The scheme of lighting shall be installed, maintained and operated thereafter in accordance with the approved scheme

Reason: To ensure lighting does not result in adverse harm upon neighbour amenity, the character of the countryside and designated heritage assets.

- 5) Notwithstanding the provisions of the Town and Country Planning General Permitted Development (Amendment) (England) Order 2015 (or any order revoking and re-enacting that order with or without modification), no further development within Schedule 2, Part 1 Classes E and F and Part 2 Classes A and B shall be carried out on the additional garden land hereby permitted.

Reason: To safeguard the character and appearance of the designated heritage asset; to safeguard the character and appearance of the countryside hereabouts; and in the interests of residential amenity.

- 6) No additional windows, doors, voids or other openings shall be inserted, placed or formed at any time in the south facing elevation of the outbuilding hereby permitted.

Reason : To prevent the overlooking of adjoining properties and to safeguard the privacy of their occupiers.

- 7) The additional accommodation to the principal dwelling hereby permitted shall not be sub-divided, separated or altered in any way so as to create a separate self-

contained unit; and shall only be used as ancillary accommodation to the main dwelling currently known as Cliff House Cliff Hill Boughton Monchelsea Maidstone Kent ME17 4NQ

Reason: Its use as a separate unit would result in an unsatisfactory relationship with the principal dwelling and would be contrary to the provisions of the development plan for the area within which the site is located.

Case Officer : Jake Farmer