

REPORT SUMMARY

REFERENCE NO: - 22/504433/FULL		
APPLICATION PROPOSAL: Retrospective application for the replacement and reconfiguration of patio to the rear of the house with proposed privacy screen; the erection of a gazebo with surrounding decking; the erection of an orangery; and the part conversion of the integral garage to a utility room and WC (Resubmission of 22/500345/FULL).		
ADDRESS: 8 Nethermount Bearsted Maidstone Kent ME14 4FE		
RECOMMENDATION: Grant Permission subject to conditions set out in 8.0.		
SUMMARY OF REASONS FOR RECOMMENDATION: Subject to conditions being imposed with regard to the provision and retention of the proposed privacy screening, the development complies with the relevant development plan policies.		
REASON FOR REFERRAL TO COMMITTEE: The application has been called in by Councillor Springett for the reasons set out in the 5.0 of the report		
WARD: Bearsted	PARISH/TOWN COUNCIL: Bearsted	APPLICANT: Mr Tim Croom AGENT: Kent Planning Consultancy Ltd
CASE OFFICER: Georgina Quinn	VALIDATION DATE: 27/10/22	DECISION DUE DATE: 06/07/2023
ADVERTISED AS A DEPARTURE: NO		

Relevant Planning History

22/500345/FULL Retrospective application for the replacement and reconfiguration of patio to the rear of the house with proposed privacy screen; the erection of a gazebo with surrounding decking; the erection of an orangery; and the part conversion of the integral garage to a utility room and WC - Refused 30.06.2022

13/1795 - Loft conversion with dormer window to rear elevation, and rooflights to front and side elevations as shown on drawing numbers 368-01, 368-02, 368-03, 368-04, 368-05, 368-08 and 368-09 received 21st October 2013 - Approved 16.12.2013

13/1560 - An application for a Certificate of Lawfulness for a Proposed Development being the introduction of rooflights to front and side elevations and rear dormer Refused 26.09.2013

09/2222 - Part retrospective planning permission for construction of timber decking, raising of ground levels and erection of 2.4m fencing and trellis to plots 1, 2 and 3 as shown on drawing no.s P108/PL/19A, 1433/2c received on 4 December 2009 and a site location plan and letter received on 11 December 2009 - Approved 04.02.2010

08/1183 - Amendments to approved scheme MA/07/0152 for the erection of three detached houses and six semi-detached houses with associated garaging - Approved 01.08.2008

07/0152 - Erection of three detached houses and six semi-detached houses with associated garaging - Approved 19.06.2007

Enforcement History:

21/500972/OPDEV - Enforcement Enquiry - Pending Consideration

Appeal History:

An appeal was lodged in relation to the refusal of application 22/500345/FULL, however the Planning Inspectorate did not receive all of the necessary documents from the Appellant within the required timeframe and therefore the appeal submission could not be validated.

MAIN REPORT

1. DESCRIPTION OF SITE

- 1.01 The application site comprises a detached house located to the north-eastern side of Nethermount. The land levels fall heading to the north-east and consequently, the rear garden is on a lower level than the floor level of the dwelling and continues to drop towards the boundary with 2 Little Orchard to the rear. The dwelling has previously been the subject of a loft conversion and orangery extension as well as internal and external alterations to convert part of the integral garage to a utility room and WC.
- 1.02 Nethermount is located within Bearsted and is a relatively new development of 9 houses located to the north-west of Church Lane.

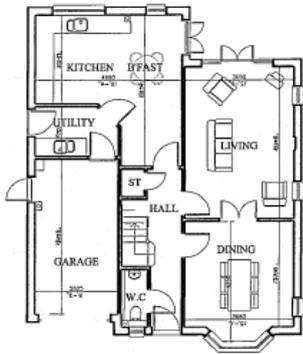
2. PROPOSAL

- 2.01 This application represents a resubmission following the refusal of application 22/500345/FULL in July 2022 which was made in response to an enforcement investigation regarding the construction of a raised patio and alterations to an existing orangery as well as the addition of a gazebo structure in the rear garden. The application was presented to the Planning Committee on 23.06.2022 and was refused by Members for the following reason:

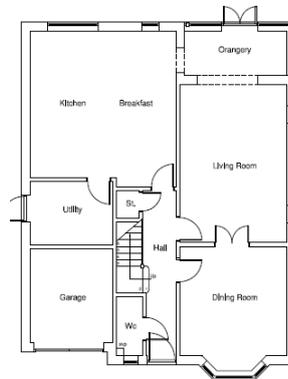
Without adequate screening, the extended deck, by virtue of its rearward projection and height results in a loss of privacy to No.8. The proposed privacy screen by virtue of its height in relation to the neighbouring site and position on the boundary would be overbearing resulting in a loss of amenity contrary to Policy DM1 of the adopted Maidstone Local Plan 2017 (NB The impact relates to no.9, the reference to no.8 is a typing error. An additional note to explain this has been added to the file).

- 2.02 The original planning consent for the housing development at Nethermount included a condition that withdrew householder permitted development rights under classes A to E; as well as the right to erect any fences, walls and/or gates. There was also a restrictive condition added in relation to the parking spaces detailed on the approved plans in that they must remain available for such use at all times. By virtue of these constraints, it transpired during the assessment of the initial submission made under reference 22/500345/FULL that the orangery addition, and alterations to the original integral garage to form a utility room and WC should have had the benefit of planning consent. To regularise matters, these items were also added to the planning application. The reason for the refusal of application 22/500345/FULL did not cite the garage conversion; orangery; or gazebo but as such, these elements do not currently benefit from express planning consent.
- 2.03 Accordingly, the present submission seeks to regularise all of these matters, i.e. the conversion of the garage; orangery extension; garden gazebo structure; and the raised patio area, including an alternative means of privacy screen to the previous scheme.

- 2.04 As originally approved (figure 1), 8 Nethermount had an irregular footprint to the ground floor and according to the evidence provided by the applicant, the previous owners of the house constructed an orangery extension in 2012 to effectively 'square - off' the ground floor. Internal alterations were also made in 2011 to enlarge the kitchen and reposition the utility room within the garage area (Figure 2)

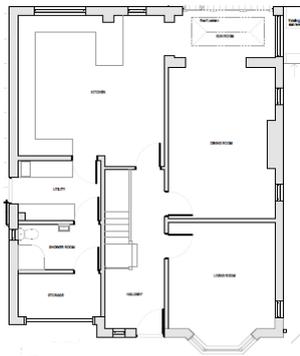


Original Layout (Figure 1)



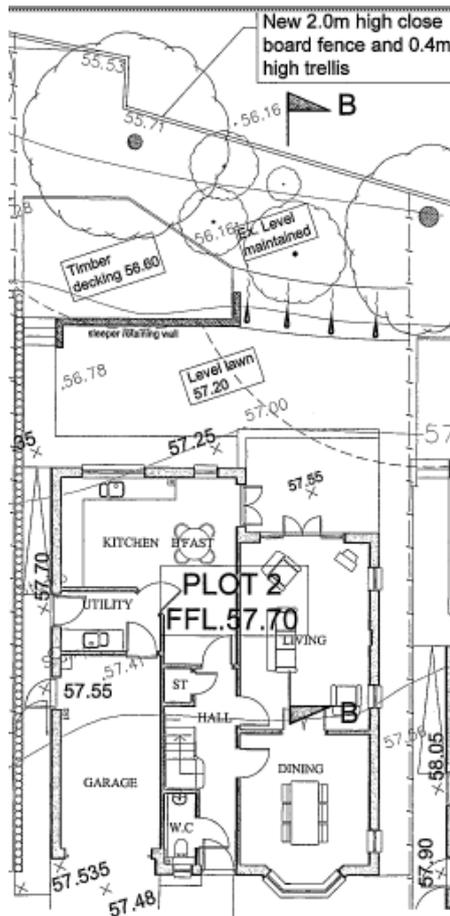
Layout Following Orangery Extension and garage alterations (Figure 2)

- 2.05 Further alterations were then carried out to relocate the downstairs WC to within the former garage space, including the insertion of a small window. A storage area is retained to the front together with the garage doors to the front elevation of the dwelling (figure 3).



(Figure 3)

- 2.06 In terms of the raised patio, given the land level differences in the rear garden, the original design of the dwellings in this part of Nethermount incorporated a patio and stepped access down to the main garden areas (approved as an amendment to the original scheme under reference 09/2222). The construction of the orangery at no.8 had reduced the patio space and the current occupants of the dwelling wished to increase its size. Consequently, the area to the rear of the orangery was replaced and enlarged in length and width.
- 2.07 The original area projected approximately 1.5m from the rear elevation of the orangery and incorporated steps into the rear garden (Figure 4)



(Figure 4)



(Figure 5)

- 2.08 The sales history of the property that are available online indicate that the rear elevation of the dwelling appeared as follows in May 2018 (Figure 5)
- 2.09 The new patio addition has a depth of approximately 2.3m and is positioned adjacent to the boundary fence with no.9. The height at approximately 1.4m from the garden level aligns with the floor level of the dwelling. A glazed balustrade of approximately 1.1m in height is also proposed along the end of the patio. The original patio incorporated steps into the garden to the north-eastern elevation and these have been repositioned to the north-western elevation. The orangery addition has also been altered to incorporate glazed bi-folding doors across the rear elevation leading onto the patio as well as amendments to the design of the window on the flank elevation facing the boundary with no.9 Nethermount. Due to the higher ground levels in the garden for the application property when compared to no.9 (the adjacent property to the east) it is proposed to erect a solid timber privacy fence along this side to the same length as the highest part of the patio. This is detailed as being 1.8m in height topped with a trellis of 0.3m bringing the total height to 2.1m. The submitted plans indicated that the fence will be directly adjacent to the existing boundary fence (which belongs to no.9) but will be constructed independently.



- 2.10 The gazebo addition has been constructed at the end of the rear garden to house a hot tub. The ground immediately adjacent to the gazebo has been surfaced with decking. The structure has a height to eaves of approximately 1.9m and a maximum height of 2.15m. The building is 2.3m in width and 2.3m in depth. The exterior walls are finished in timber. The gazebo is open to the elevation facing into the garden and is used to house a hot tub.



(Figure 7)

3. **POLICY AND OTHER CONSIDERATIONS**

Maidstone Borough Local Plan (2011-2031):

Policy DM1 – Principles of Good Design;

Policy DM9 – Residential Extensions, Conversions and Redevelopment within the Built Up Area;

Policy DM23 – Parking Standards;

Maidstone Borough Council Draft Local Plan Review (Regulation 22):

Policy LPRSP15 – Principles of Good Design;

Policy LPRHOU 2 - Residential extensions, conversions, annexes and redevelopment in the built-up area;

Policy LPRTRA4 – Assessing the Transport Impacts of Development

The National Planning Policy Framework (NPPF)

National Planning Practice Guidance (NPPG)

Supplementary Planning Documents: Residential Extensions (2009)

4. **LOCAL REPRESENTATIONS**

Local Residents: The consultations on the initial submission attracted representations from one neighbouring property, no.9 Nethermount, which raised the following (summarised) objections:

- When referring to decking, the comments relate to the decking extending from the conservatory and not the decking built adjacent the gazebo;
- We request that the decking adjacent to the house at no.8 be removed or lowered to an acceptable level and also request that no development take place within 1.0m of the boundary fence and any such unlawful construction be removed;
- The proposed amendments to the refused scheme set out do not overcome the substantive reason for refusal in the previous scheme relating to the unacceptable impact on the neighbouring amenities;
- The height of the proposed screen, its solid appearance, notwithstanding the trellis on top, will appear unacceptably dominating and overbearing, it will affect our immediate outlook from the garden and house;
- The proposed fence (screen) is higher than the previous application which was refused. It would measure a total height of 3.1m from the ground level of no.9;
- We do not have an issue with the garage conversion or gazebo, we question why the applicants wished to build raised decking;
- We do not have an issue with the conservatory itself, but we do have an issue with the definition of the original patio slab which has been raised and extended sideways to our boundary fence;
- Elements of the submitted plans are inaccurate and could be misleading;
- The suggestion of an additional fence with trellis and planting is merely a sticking plaster to the original issue, as it will not address noise issues nor provide privacy to/from our entire garden;
- The proposals do not comply with the requirements of Maidstone Borough Local Plan Policies DM1 and DM11 and the original removal of PD Rights demonstrates that there were valid reasons for doing so as this is a requirement of the NPPF (paragraph 54);
- The statement supporting the application is inaccurate in the references to application 09/2222 as this relates to the rear boundary fence only and there are also inaccurate references to the original slab levels;
- When the houses were originally built, there was circa 1m between the side of the house and the boundary fence that was lower than the level of the original patio. Therefore, there was no issue of overlooking. When the conservatory was built in 2017, this reduced the area to around 0.9m which was not enough space to permit socialising;
- The construction of the decking against the fence (without any gap) does not permit any future essential maintenance and the proposed privacy fence will also prevent access;
- The boundary length is considerably shorter than shown on the plans meaning that the raised decking runs two thirds of the way along our boundary, reiterating the lack of privacy over a high percentage of our smaller garden;
- The height of the decking measured from the ground level of no.9 will be at least 3.1m, add to this the proposed (unspecified) planting, could result in heights of 3.5m to 5m and could constitute a high hedge. There is a lack of detail and specific information of the proposed planting should be part of the consultation;
- Upon our objection being upheld, we request that the decking at no.8 be removed or lowered to an acceptable level i.e. no more than 30cm above ground level to negate all the other issues i.e. overlooking, loss of amenity and screening. No development should take place within 1.0m of the boundary fence and any such unlawful construction adjacent the fence be removed;

- 4.1 Following discussions with the agent for the application, the originally submitted plans were amended to correct a number of errors. In order to ensure that the proposals had been accurately conveyed, a further consultation process was undertaken. This attracted one neighbour objection, from no.9 Nethermount, stating the following (summarised comments):
- There are no perceived material changes to the previous documents and our original comments still apply;
 - The decking is too high, affecting privacy;
 - The proposed screen acts as a sticking plaster and would be too high and overbearing;
 - The proposed screen would be excessively high for a home and for a fence between gardens, when measure from no.9 it would be approximately 3.1m;
 - It would have a severe impact on our amenity and outlook;
 - There are still errors on the original plans which incorrectly show the original patio and steps abutting the fence. The original situation was that they finished in line with the side wall of the house. The length of the fence between 8 and 9 is still inaccurate such that the impact on no.9 would be much greater than the diagram portrays.
- 4.2 Issues relating to the maintenance of the boundary fence and access to carry out any such works are a civil matter and are not material planning considerations.

5. **CONSULTATIONS**

Bearsted Parish Council

- 5.01 BPC recommend refusal based on the height of the decking and the loss of privacy to the neighbours and the visual impact.

Bearsted Parish Council – Response to Consultation on Revised Plans

- 5.02 Planning Committee voted to make no comment on this application and for it to be decided by MBC.

Councillor Springett

- 5.03 As with the previous application, I wish to make no comment on the part conversion of the garage to a utility room nor the gazebo and surrounding decking, but my objections remain with regards to the replacement and reconfiguration of the patio to the rear of the house and the proposed fence and trellis.
- 5.04 The current application fails to address the reason for refusal of the previous application 22/500345. The main cause of the loss of privacy and amenity issues for number 9 Nethermount is the height of the decking which has been installed without permission. Permitted development rights were removed from these properties at the initial approval of the development.
- 5.05 The height of the decking has introduced a privacy and amenity issue for the neighbours, as users of the decking can see into the kitchen window and private patio area of number 9. The previous proposal for a glazed screen was odd and out of character. Whilst use of a timber fence with trellis on top would seem to be more in keeping with a garden environment, the fact that this fence and trellis are set on top of the decking, means that in reality, the overall height of the fence and trellis is now approximately 3.1 metres above the terraced lawned area in the garden of number 9, which would be very overbearing and affect the amenity of the occupiers of number 9 and their enjoyment of their garden. Because of the height of the

proposed fence and trellis relevant to the existing fence line, and the fact that the patio area has been extended circa 1 metre towards the neighbouring property, the outlook from the kitchen window of number 9 will be severely impacted.

- 5.06 The lack of measurements on any documents makes it difficult to assess the change in levels and dimensions, no datum heights have been shown on the current documents to highlight the various levels involved, but when referenced to the original datum heights of the lawns and decking shown in application 09/2222, the difference in heights can be clearly seen. The applicant should be asked to provide measurements and or datum heights on the documents to assist in determining the various levels involved. In addition, the decking approved under 09/2222 did not extend eastwards towards the boundary fence, it remained aligned with the side wall of number 8. Therefore, the extension eastwards towards the boundary fence of circa 1 metre, has increased the amount of overlooking and loss of amenity that would have been considered when 09/2222 was determined. Therefore the additional harm is greater than indicated on page 6 of the planning statement.
- 5.07 In addition, no reference has been made to policy DM9, which relates to redevelopment within the built-up area, and this proposal fails to comply with parts i, ii and iii of this policy. I therefore ask that this application is refused, as it fails to comply with DM1 and DM9, parts i, ii and iii.
- 5.08 I wish to call this application back to the planning committee should you be minded to approve it. My reason is that I do not consider the applicant has overcome the original reason for refusal on the previous submission, 22/500345/FULL.

Councillor Springett – Comments on Revised Plans

- 5.09 The revised plans seem to show little difference to the previous ones. The overall height of the fence and trellis above the decking area is still quite significant and will be overbearing to the outlook and amenity of the residents of number 9. Number 9 is set further forwards to the road frontage and so this proposed fence extends some length along the rear boundary between the properties, and its overall height is exacerbated by the fall of the land away from the rear of the properties. The slope of the land is the main reason why permitted development rights were removed from these properties, in order to protect the privacy between properties.
- 5.10 The decking should be lowered where it abuts the rear of number 8 so that it sits lower down the slope. My call-in to committee remains.

6. **APPRAISAL**

The key issues are:

- The principle, design and visual impact of the raised patio and proposed privacy screen;
- The impact on the amenities, privacy and outlook of the neighbouring occupants.

Orangery extension, garage conversion and the gazebo

- 6.01 The planning merits of the orangery extension, garage conversion and the gazebo with its surrounding decking have been considered in the previous submission. These elements were not referred to in the reason for refusal. The design and impact of these alterations and additions was set out in the committee report relating to application 22/500345/FULL. The current submission does not detail any alterations to these aspects of the scheme and furthermore, the objections received from the occupants of no.9 Nethermount as well as the objection from Cllr Springett

specifically indicate that the garage conversion and gazebo with related decking surround, are not of concern.

- 6.02 In the context of policies DM1 and DM9 as well as the SPD guidelines relating to domestic extensions, the design and appearance of the orangery extension is reflective of the existing dwelling and the addition is also subservient to the original house. The alterations to the garage have seen the retention of the original garage door and consequently, the appearance to the street facing elevation of the dwelling remains unchanged. The small ground floor window serving the new WC does not make a significant or unacceptable change to the appearance of the dwelling and has a suitable relationship with the neighbouring dwelling at no.7. The level of parking provision is also of an acceptable standard for this type of location.
- 6.03 The gazebo style addition that has been constructed at the end of the rear garden is a relatively modest building that is comprised of timber. The addition has a shallow pitched roof that is hipped on all sides. Its position within the garden is such that the building is seen against the backdrop of the boundary fence and this in combination with its overall scale and massing means that it is not visually dominating in its setting or in the general outlook from the properties at the rear (24 The Orchard and 2 Little Orchard). The decking path that has been added around the gazebo is also visually acceptable and is not significantly greater in height than the established ground level.
- 6.04 The substantive issues therefore remain the impact of the raised patio and privacy screen and whether the proposals suitably overcome the previous reason for refusal.

Principle and Visual Impact

- 6.05 As set out above, the original planning consent for the residential development of Nethermount included a condition that withdrew the permitted development rights that residential dwellings would usually enjoy. Even if this were not the case, the raised patio would have required consent because it does not fall within the limitations of permitted development due to its height above the ground level.
- 6.06 The design of the raised patio, which incorporates a light grey composite decking material together with the proposal to complete the addition with a glazed balustrade will overall be of a relatively modern appearance but would not appear at odds with the somewhat contemporary style of the dwelling. It is often the case that garden patios are completed in contrasting materials to the related dwelling.
- 6.07 The overall size of the patio area is not disproportionate to the original house and its height relates to the floor level of the dwelling. The raised area adjoins part of the patio relating to the original property that is to be retained. Due to the changing levels across the entirety of the site, it is a characteristic of the garden area that there are grassed and hard surfaced areas of differing heights, albeit lower than the proposed patio, however such variations are an intrinsic part of the character of the garden. Due to the location of the proposal being to the rear, it will not be visible in the general streetscene of Nethermount.



(Figure 8)

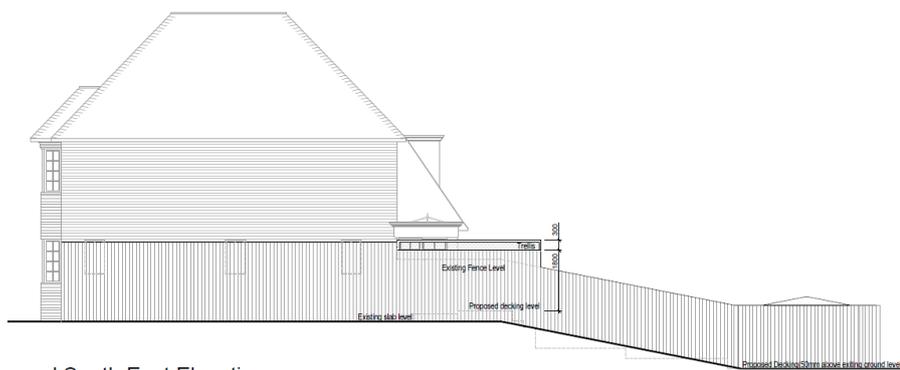
- 6.08 The proposed privacy screen largely resembles a boundary fence topped with trellis. The boundary lines of the rear gardens on Nethermount are generally defined by close boarded timber fencing of varying heights and therefore this is a feature of the street in general as well being a common characteristic of suburban areas. The privacy screen will largely be viewed in the context of the established boundary fence given its proximity to the boundary treatment that is in the ownership of no.9. The upper 0.3m being comprised of a trellis will see that the fence does not appear overly solid and will add some degree of visual interest. The extent of the screen will be the length of the patio and flank elevation of the orangery only. The boundary fences themselves will remain unchanged.
- 6.09 Policy DM1 requires that developments respond positively to the local character of the area. Policy DM9 is supportive of extensions to dwellings in built up areas where they fit unobtrusively with the existing building and character of the streetscene. Support is also given to the retention and reinforcement of the traditional boundary treatment of an area. Similar guidance is also given in the Residential Extensions SPD which notes that developments will be expected to retain and reinforce (where feasible) traditional boundary treatments. On balance, in considering the above assessments, this proposal would comply with these requirements.

Residential Amenity

- 6.10 The application property has neighbours to all sides of the rear garden, being no.9 Nethermount to the east/south-east; no.7 Nethermount to the north-west; 2 Little Orchard to the north/north-east; and a small part of the rear boundary of 24 The Orchard to the north-west. The previous submission determined that the raised patio, without screening, would materially impact the privacy of the householders at no.9 Nethermount and that the glazed privacy screen proposed at that time would be overbearing by virtue of its height and proximity to the boundary. This formed the sole reason for refusal.
- 6.11 The current submission seeks to overcome this issue by detailing a form of screen that is akin to a boundary fence topped with trellis. This will extend along the length of the patio and flank elevation of the orangery to prevent views from the existing window that faces the boundary. The screen is detailed on the plans as being directly adjacent to the boundary fence but constructed independently and therefore on land within the applicant's control. The screen will be solid timber to a height of 1.8m with a trellis of 0.3m above. The existing fence along the boundary with 9 Nethermount is in the ownership of the neighbouring occupants and not the applicant. A planter is also detailed on the plans although no specific details of what would be planted are provided.
- 6.12 The present circumstances are such that the absence of any form of screening means that the raised patio has views towards the rear windows and private garden area of no.9 Nethermount (the private garden area is defined in the Residential Extensions SPD as the first 5m beyond the rear elevation of a dwelling). This situation is at odds with the requirements of Policies DM1 and DM9 as well as the guidance contained within the Residential Extension SPD. This issue arises because of the height and position of the raised patio and its proximity in relation to the boundary, as well as the fact that the garden of no.9 Nethermount is on a lower ground level.
- 6.13 It would appear that the current boundary fencing remains the same as when the development of Nethermount first took place and is such that the fence is higher at the point where it is closer to the dwelling at no.9. Whilst the original patio area was smaller, the height of the fencing is such that there would likely have been some views towards no.9 Nethermount. That aside, it is simply not acceptable in the context of the relevant policies and guidelines to facilitate development that would

exacerbate this situation. Very clearly, the objections from the occupants of this property and the Local Ward Councillor demonstrate that the present situation impacts upon the ability of the residents to enjoy their property in a way that they can reasonably expect to.

- 6.14 In considering the planning balance, it must therefore be determined if there are alterations or conditions that could remedy this situation. The previous scheme put forward the idea of an obscure glazed privacy screen and this was refused on the grounds that it would be overbearing, consequently detracting from the amenities enjoyed by the neighbouring householders. The current solution put forward would essentially resemble a fence comprised of solid timber to a height of 1.8m from the floor level of the patio. The proposed height is the standard that would be expected to suitably protect privacy. The addition of the trellis on top would enhance this situation. The length of the proposed screen would directly address the areas where overlooking occurs.
- 6.15 Visually, this would appear similar to other boundary treatments that surround no.9 Nethermount. Whilst the existing boundary fence does not suitably obscure the views, the exposed area is limited and essentially, the proposal would appear similar to an extension of the highest part of the existing boundary fence (the existing fence is highest at the point where it is directly adjacent to no.9). The proposal will align with the maximum fence height and will be comprised of solid material to a suitable height together with a trellis above which will see that it is not overbearing:



- 6.16 The proposed planter to the patio will serve the purpose of softening the appearance of the screen but this impact would largely be confined to the application site. Due to the design and height of the timber screening, it will suitably restore the privacy of the neighbouring occupants. Consequently, although the type of planting has been queried in the objections, specific details of the proposed landscaping are not necessary. Although PD Rights are withdrawn, this would not extend to the ability to add planting within the garden and technically, it is open to any resident of Nethermount to add any soft landscaping of their choosing to their garden. Conditions relating to plants within planters would also be difficult to apply and uphold and furthermore in this case, would not appear to meet the test of being necessary. As with any garden, there is legislation that offers protection in relation to high hedges and therefore it would not seem reasonable or necessary to require that any planting be maintained at a certain height.
- 6.17 In terms of the points relating to the accuracy of the plans, the proposals are clearly set out on the block, floor and elevation plans. In terms of the extent of the boundary with no.9, it would appear that the two dimensional nature of the elevation drawing suggests a greater boundary length as it cannot reflect the turn to the north-west. The proposals relate to the rear elevation and immediate

surroundings so there is no doubt in terms of the nature of what is proposed, particularly given that the raised patio element is already constructed. In regard to the representation of the original layout of the patio and garden, the plans associated with the planning consent for the development of Nethermount have been reviewed in the assessment of this application and it is noted that the approved scheme did not detail the patio directly adjoining the boundary fence. It is however the case that the submission is seeking consent for the replacement and reconfiguration of the patio and the intentions are clearly detailed on the plans.

- 6.18 The potential use of the increased patio as a seating area in connection with the host dwelling is not considered unreasonable. No change of use is proposed and there is environmental legislation that could be invoked in the case that excessive noise is an issue. Ultimately, this is a family sized house with a garden and there is nothing within the application submission to suggest that the patio would be used for any purpose other than that which would be expected in a residential setting.
- 6.19 In terms of the relationship with no.7, the fence along this boundary is greater in height than along the boundary with no.9. In view of this together with the distance of the patio from the boundary, there are no adverse relationships. The situation is similar in relation to the property at the rear in that the separation distance and height of the boundary treatment together with established planting means that the relationships are acceptable.

Other Matters

- 6.19 Nethermount is positioned near to Bearsted Conservation Area but the location and general scale of the development proposed would have no impact on the wider views towards this designated area. It is also the case that there are listed buildings in the distance to the north-east and south-east but again, the level of separation; location of the proposals; and presence of other buildings in between will see that there is no impact upon the wider setting or general appreciation of these heritage assets. Trees on the adjoining land at Little Orchard are subject to a Tree Preservation Order however the proposals are well separated from any of these trees such that there will be no impact.

PUBLIC SECTOR EQUALITY DUTY

- 6.20 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 On balance, it is the case that subject to the conditions set out above, the proposal is acceptable in the context of the relevant development plan policies and SPD guidelines. The amended scheme is therefore considered to address the issues regarding the privacy, amenities and outlook from the neighbouring property at no.9 Nethermount that were set out in the refusal of the previous application.
- 7.02 In considering the objections received, as well as carrying out an assessment on site, the patio construction in its present form undoubtedly results in an unacceptable relationship between no.8 and no.9 by virtue of the inability of the established boundary treatment to maintain a satisfactory level of privacy for the occupants of no.9. It therefore becomes necessary to consider whether alterations and/or the use of conditions could overcome this issue. The amended proposal relating to the provision of a suitable privacy screen within the application site adjacent to the boundary will remedy the situation and can be conditioned to be maintained on a permanent basis. Whilst this proposal has raised an objection from the Local Ward Councillor, and the occupants of no.9, the amount of the screen that

will be visible from this property and its garden area, is not so significant as to be considered overbearing. Its appearance will be representative of other established boundary treatments in the immediate area.

- 7.03 The initial alterations to the garage and the construction of the original orangery took place over 10 years ago and were not reported to Planning Enforcement at the time. Under the terms of Section 191 of the Town and Country Planning Act 1990, such development would be exempt from enforcement action after a period of 10 years. Whilst these additions have been the subject of more recent alterations, the general principle is long established and no material impacts are identified that would suggest that these additions should not be accepted.
- 7.04 In assessing the details of the proposal and the objections raised, it is recommended that subject to imposing a suitably worded condition regarding the timeframe for installing the proposed screening and its retention on a permanent basis, this is an acceptable scheme.

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.

- 1) The development hereby permitted shall be carried out in accordance with the following approved plans: 3859-01F; 3859-03E; 3859-12A; 3859-14D;
Reason: To clarify which plans have been approved.
- 2) Within 2 months of the date of this decision notice, the privacy screening detailed on the plans approved under condition 1 of this decision shall be installed and fully completed and shall thereafter be maintained as approved on a permanent basis;
Reason: In the interests of the privacy and amenities of the neighbouring householders.

INFORMATIVES

- 1) It is the responsibility of the developer to ensure, before the development hereby approved is commenced, that approval under the Building Regulations (where required) and any other necessary approvals have been obtained, and that the details shown on the plans hereby approved agree in every aspect with those approved under such legislation.
- 2) The grant of this permission does not convey any rights of encroachment of the boundary with the adjacent property and any persons wishing to implement this permission should satisfy themselves fully in this respect. Regard should also be had to the provisions of the Neighbour Encroachment and Party Wall Act 1995 which may apply to the project.

Case Officer: Georgina Quinn

NB For full details of all papers submitted with this application please refer to the relevant Public Access pages on the council's website.