

APPLICATION: MA/09/2043 Date: 10 November 2009 Received: 10 November 2009

APPLICANT: Mr D Adams

LOCATION: STUBBLE HILL COTTAGE, SANDWAY ROAD, HARRIETSHAM, MAIDSTONE, KENT, ME17 1HT

PARISH: Harrietsham

PROPOSAL: Erection of a replacement dwelling with double garage and creation of a new driveway (re-submission of MA/09/1298), shown on drawing numbers 08.15.35 Rev B, 08.15.34 Rev B, 08.15.30, 08.15.31 Rev A, 08.15.32 Rev A, 08.15.33 Rev A, 08.15.36, 08.15.29 Rev C and 08.15.28 Rev B, a Design & Access Statement and a Tree Survey received on 10/11/09.

AGENDA DATE: 18th March 2010

CASE OFFICER: Louise Welsford

The recommendation for this application is being reported to Committee for decision because:

- it is contrary to views expressed by the Parish Council

POLICIES

Maidstone Borough-Wide Local Plan 2000: ENV28, H32.
South East Plan 2009: C4, CC4.
Government Policy: PPS1, PPS7.

HISTORY

MA/09/1298 Erection of a replacement dwelling.

This application was withdrawn, due to concerns over the impact that the development would have upon the protected Oak tree.

MA/83/1486 Single storey extension and porch - Approved

CONSULTATIONS

Harrietsham Parish Council: Wishes to see the application refused and request the application is reported to the Planning Committee for the planning reasons set out below:

- The footprint for the development is far too large;
- The scale and mass of the development is obtrusive

Maidstone Borough Council Landscape Officer:

"The issue that I have been consulted on is specifically whether the development will compromise a maturing Oak tree growing toward the rear of the existing property made subject to TPO 23 of 2009.

Having looked at this amended proposal, I welcome the relocation of the dwelling and retaining wall a further 2m away from the protected Oak tree. Moving the dwelling by this amount has now positioned the retaining wall, new access drive, garage and property outside the Oaks Root Protection Area (RPA) as prescribed in British Standard 5837: 2005. Therefore, I am satisfied that this revised development will not compromise the tree's long-term health or stability.

Recommendation - It is, therefore, recommended that on arboricultural grounds no objections are raised to the application subject to the following conditions.

1. Tree Protection details – Fencing etc
1. Details on construction of the nearby retaining wall & garage."

Maidstone Borough Council Environmental Health Manager: No objections.

Recommends a drainage condition and informatives.

Kent Highway Services: No response.

REPRESENTATIONS

Neighbouring occupiers were notified and raised no objection

CONSIDERATIONS

SITE AND SITUATION

The application site contains a detached bungalow, dating from c.1930s. It is located in the parish of Harrietsham, between Harrietsham village and Sandway, and it is one of a scattered group of houses in Sandway Road.

The house is set above the road level by approximately 2.5m and is set back from the road by between approximately 8 and 11m (the road is at an angle to the house). The western boundary with the road is lined with a mixed hedge, (over which the dwelling

is visible) and a high row of conifers, located further southwards, which obscure views of the dwelling.

Beyond the house, the land slopes upwards further. To the south of the dwelling is what appears to be a disused quarry, (which, incidentally, is within the Channel Tunnel safeguarding area) and perched on the edge of the quarry is a mature Oak Tree. This Oak Tree is of high amenity value and is clearly visible from Sandway Road, to the front of the house. It is protected by Tree Preservation Order 23 of 2009.

To the north of the house lies a driveway leading to an outbuilding, (which is understood to be associated with the subject dwelling), and also "Three Wyches", the nearest neighbouring dwelling to the site, which is located upon the opposite side of the driveway.

"Three Wyches" is a much taller, two storey dwelling and this is seen in the background when approaching from the south. To the north, boundary hedging and trees at "Three Wyches" provide some screening of the site, together with, to a certain degree, the alignment of the road.

The existing dwelling upon the site is a modest bungalow of no aesthetic merit. It has an eaves height of approximately 2.4m and a ridge height of approximately 5.5m.

PROPOSAL

Planning Permission is sought for the demolition of the existing dwelling and the erection of a replacement dwelling, with associated double garage and driveway. The proposed dwelling would have an eaves height of approximately 2.9m – 3.8m and ridge heights of approximately 4.8m and 5.5m. It would have three gables facing the road. Accommodation would include three bedrooms and there would be a lower ground floor, (mainly below the existing ground floor level), with a double garage projecting out into the disused quarry.

Materials comprise facing brickwork and render for the walls and it is suggested that cedar shingles may be used upon the roof.

A sweeping driveway is proposed around the protected Oak Tree, outside of its Root Protection Area. It is also proposed to increase the residential curtilage into the disused quarry area.

PLANNING CONSIDERATIONS

Principle of Development

Central Government Guidance contained within PPS7 advises that built development within the open countryside should be strictly controlled and this theme of restraint is

filtered down to the Maidstone Borough-Wide Local Plan 2000. However, Policy H32 of the Local Plan does allow for the rebuilding of existing dwellings which have a lawful residential use, providing that a number of criterion are met.

The planning history for the site indicates that the dwelling does have a lawful residential use. The principle is therefore considered acceptable.

The main issues arising from this case relate to the visual impact of the development on the character and appearance of the open countryside and the impact upon the Protected Oak Tree.

Visual Impact upon the Countryside

Policy H32 of the Local Plan requires replacement dwellings to be "no more visually intrusive" than the original dwelling upon the site. The reason for this is to protect the character, appearance and openness of the countryside.

The existing dwelling is a bungalow, which is of no aesthetic merit. In essence, it is a rectangular block, with little visual interest in the way of materials or detailing. The house is visible from Sandway Road, outside the site, but longer views are limited by the mature conifer hedge to the south, hedging and trees at "Three Wyches", to the north and, to a certain degree, the alignment of the road.

With a proposed increase of approximately 247m², the proposed dwelling would clearly have a substantially greater footprint than the existing dwelling. However, the policy requirement relates to visual intrusion, rather than footprint.

The ridge height of the proposed dwelling would remain the same as existing, at approximately 5.5m. The main section of the building would be positioned no closer to the road than the existing building. Other elements of the building which would be above ground level would be set back from the front gable by more than 5m and more than 10m, which would substantially reduce their visual impact when viewed from the road.

In terms of design, the new dwelling would be more visually interesting than that existing. The use of several ridges means that the mass of the building would be broken up and it would not appear as one solid, rectangular block. This also results in a low height and mass at roof level.

The use of various ridgelines, gables and details such as exposed rafter feet all contribute, in my view, to creating a good design within the policy requirements.

The retaining wall and garage would be well within the site to the south east of the dwelling. Given their positioning and heights in relation to the land levels, it is not

considered that they would have a significant or detrimental visual impact upon the character of the countryside.

In conclusion, the open character and rural appearance of the surrounding countryside would be adequately preserved by this application.

Although there is not a lot of landscaping upon the site, I do not consider that strong belts of additional landscaping would be appropriate, because the nature of the site is predominantly open, as are the surroundings. However, I do consider some further landscaping to soften the development to be appropriate and I therefore propose such a condition.

Impact upon the Protected Oak Tree

Initially, the previous application, MA/09/1298 proposed that the dwelling be sited closer to the oak tree with a retaining wall to be built within its Root Protection Area. The tree is of high amenity value to the landscape and is in good condition, and the previous application was therefore withdrawn due to concerns over the adverse impact it was considered likely to have upon this tree.

The house has therefore now been removed a further 2m away from the tree, closer to the road (but in line with the existing house), so that the dwelling and retaining walls are shown to be outside of the Root Protection Area. The driveway and re-grading works are also shown to be located outside of the Root Protection Area.

The Landscape Officer has been consulted and considers that this proposal is unlikely to result in significant harm to the health or stability of the oak tree, providing that conditions are attached regarding the method of construction of the retaining walls and garage and tree protection measures to be put in place during the course of construction. I agree with the Landscape Officer's view that, subject to the above conditions, there is unlikely to be a significant adverse effect upon this important tree, which is to be retained.

Visual Impact of the Proposed Driveway

The addition of a further driveway is not to be welcomed. However, it would not be of an excessive width, (being approximately 3m) and positioned relatively close to the house. It cannot be positioned closer to the house, because of the position of the protected Oak tree. The driveway would not be highly visible from the road, with only part of it visible from the entrance area. A condition regarding the proposed materials to be used would ensure suitable materials which would have a satisfactory appearance within this rural location and which would not appear harsh or obtrusive.

Curtilage

Drawing no. 08.15.35 Rev B outlines the site area and area which the applicant wishes to be considered as the curtilage for the new dwelling.

The exact curtilage of the existing building is not clear from an inspection of the site. It appears that a change of use to residential use may be required for some of the land, however, this is predominantly only the land within the former quarry. This is of no high landscape value, nor is it considered to be best or most versatile agricultural land. The extent to which the curtilage is to be increased is considered reasonable in connection with the size of the dwelling and it would not to encroach excessively into the open countryside, or result in an excessive increase above the original curtilage.

Other Issues

The proposal would not give rise to any significant residential amenity issues, because the new dwelling would remain separated from the nearest dwelling, "Three Wyches", by approximately 20m and the new driveway would be no nearer to that property than the existing driveway. "Templetree", to the south, is separated from the site by the road.

The submitted application indicates the proposed dwelling would aim to achieve Level 2 of the Code of Sustainable Homes. This level is considered inadequate for a new replacement dwelling as policies CC4 and H5 of The South East Plan 2009 place greater emphasis on raising the sustainability levels of new dwellings. A condition has therefore been imposed to achieve Level 3 of the Code of Sustainable Homes.

No new access is being created and no objections have been received from Kent Highways with regards to the suitability of the existing access.

There would be no significant impact upon the Channel Tunnel Rail link because of the scale and type of development.

CONCLUSION

Although larger than the existing dwelling, the design and positioning of the new dwelling would ensure that it is not significantly more visually intrusive than the existing dwelling, and it would not significantly harm the character or appearance of the countryside.

In my view, the proposal complies with Development Plan Policy and I therefore recommend approval.

RECOMMENDATION

GRANT PLANNING PERMISSION subject to the following conditions:

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission;

Reason: In accordance with the provisions of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. Notwithstanding the details shown upon the submitted application form, the development shall not commence until written details and samples of the materials to be used in the construction of the external surfaces of the buildings hereby permitted, including details of the colours, have been submitted to and approved in writing by the Local Planning Authority and the development shall be constructed using the approved materials in the approved colours;

Reason: To ensure a satisfactory appearance to the development, in accordance with Policy C4 of the South East Plan 2009 and Policies ENV28 & H32 of the Maidstone Borough-Wide Local Plan 2000

3. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that order with or without modification) no development within Schedule 2, Part 1 Classes A, B, C, D, E & F and Part 2 Class A shall be carried out without the permission of the local planning authority.

Reason: To safeguard the character and appearance of the countryside, in accordance with Policy C4 of the South East Plan 2009 and Policies ENV28 & H32 of the Maidstone Borough-Wide Local Plan 2000.

4. No development shall take place until there has been submitted to and approved in writing by the Local Planning Authority a scheme of landscaping, using indigenous species which shall include indications of all existing trees and hedgerows on the land, and details of any to be retained, together with details of the measures for their protection in the course of development and a programme for the approved scheme's implementation and long term management. The scheme shall be designed using the principles established in the Council's adopted Landscape Character Assessment and Landscape Guidelines and shall include details of all hard landscaping;

Reason: No details have been submitted and to ensure a satisfactory appearance to the development in accordance with Policy C4 of the South East Plan 2009 and

Policies ENV28 & H32 of the Maidstone Borough-Wide Local Plan 2000.

5. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the first use of the access hereby permitted or the completion of the development, whichever is the sooner; and any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the local planning authority gives written consent to any variation;

Reason: To ensure a satisfactory setting and external appearance to the development, in accordance with Policy C4 of the South East Plan 2009 and Policies ENV28 & H32 of the Maidstone Borough-Wide Local Plan 2000.

6. No development shall take place until an independently verified report has been submitted to and approved in writing by the Local Planning Authority showing that the development achieves a score of Level 3 or better for each residential unit under 'The Code for Sustainable Homes'. Each residential unit shall be provided strictly in accordance with the approved report before it is occupied.

Reason: To ensure a sustainable and energy efficient form of development in accordance with policy CC4 of the South East Plan 2009 and Kent Design 2000 and PPS1.

7. The Oak tree which is the subject of Tree Preservation Order 3 of 2009 must be protected by barriers and/or ground protection in accordance with BS 5837 (2005) 'Trees in Relation to Construction-Recommendations'. No work shall take place on site until full details of protection have been submitted to and approved in writing by the Local Planning Authority. The approved barriers and/or ground protection shall be erected before any equipment, machinery or materials are brought onto the site and shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed, nor fires lit, within any of the areas protected in accordance with this condition. The siting of barriers/ground protection shall not be altered, nor ground levels changed, nor excavations made within these areas without the written consent of the Local Planning Authority;

Reason: To safeguard the existing Oak tree which of high amenity value and which is to be retained and to ensure a satisfactory setting and external appearance to the development, in accordance with Policy ENV28 of the Maidstone Borough-Wide Local

Plan 2000, Policy C4 of the South East Plan 2009 and PPS7.

8. The development shall not commence until, details of hard landscape works have been submitted to and approved in writing by the Local Planning Authority and the development shall be carried out in accordance with the approved details before the first occupation of the building(s) or land;

Reason: To ensure a satisfactory appearance to the development in accordance with Policy C4 of the South East Plan 2009 and Policies ENV28 & H32 of the Maidstone Borough-Wide Local Plan 2000.

9. The development shall not commence until, details of the method of construction of the retaining walls and the garage have been submitted to and approved in writing by the Local Planning Authority and the development shall be carried out in accordance with the approved details before the first occupation of the building(s) or land;

Reason: To safeguard the existing Oak tree which of high amenity value and which is to be retained and to ensure a satisfactory setting and external appearance to the development, in accordance with Policy ENV28 of the Maidstone Borough-Wide Local Plan 2000, Policy C4 of the South East Plan 2009 and PPS7.

10. The development shall not commence until, details of drainage works have been submitted to and approved in writing by the Local Planning Authority and the development shall be carried out in accordance with the approved details before the first occupation of the building(s) or land;

Reason: To ensure satisfactory drainage facilities in accordance with PPS23. and the following informatives:

Informatives set out below

It is possible that bats may be using the site. Should any bats or evidence of bats be found prior to or during works, works must stop immediately and a specialist ecological consultant or Natural England contacted for further advice before works can proceed. All contractors working on site should be made aware of it and provided with Natural England's contact details (Natural England, International House, Dover Place, Ashford, Kent, TN23 1HU Tel: 0300 060 4797)

As a below ground level basement is proposed, the applicant is encouraged to seek advice from the Environment Agency regarding any potential for flooding and any measures to be taken to mitigate against this.

Attention is drawn to Sections 60 & 61 of the COPA 1974 and to the Associated British Standard COP BS 5228:1997 for noise control on construction sites. Statutory requirements are laid down for control of noise during works of construction and demolition and you are advised to contact the EHM regarding noise control requirements

Clearance and burning of existing woodland or rubbish must be carried without nuisance from smoke etc to nearby residential properties. Advice on minimising any potential nuisance is available from the EHM.

Plant and machinery used for demolition and construction shall only be operated within the application site between 0800 hours and 1900 hours on Mondays to Fridays and between 0800 hours and 1300 hours on Saturdays and at no time on Sunday and Bank Holidays.

Vehicles may only arrive, depart, be loaded or unloaded within the general site between the hours of 0800 hours and 1900 Mondays to Fridays and 0800 to 1300 hours on Saturdays and at no time on Sundays and Bank Holidays.

Adequate and suitable provision in the form of water sprays should be used to reduce dust from the site.

Adequate and suitable measures should be carried out for the minimisation of asbestos fibres during demolition, so as to prevent airborne fibres from affecting workers carrying out the work, and nearby properties. Only contractors licensed by the Health and Safety Executive should be employed. Any redundant materials removed from the site should be transported by a registered waste carrier and disposed of at an appropriate legal tipping site.

It is also recommended that the applicant contacts the Environment Agency for advice on appropriate drainage for the proposed facilities. This may also be an opportunity for the applicant to investigate the possibilities of using grey water systems to save water.

Good quality materials should be used.

For the avoidance of doubt, the curtilage of the dwelling hereby permitted is as shown on drawing no. 08.15.35 Rev B received on 10/11/09.

The proposed development, subject to the conditions stated, is considered to comply with the policies of the Development Plan (Maidstone Borough-Wide Local Plan 2000

and South East Plan 2009) and there are no overriding material considerations to indicate a refusal of planning consent.