

APPLICATION: MA/09/1347 Date: 22 July 2009 Received: 8 November 2010

APPLICANT: Mr I Mutch, Harrison Mutch Ltd

LOCATION: LAND AT LONGSOLE CHURCH, LONG REDE LANE, MAIDSTONE, KENT, ME16 9LB

PARISH: Maidstone

PROPOSAL: Outline application for the erection of a detached two storey dwelling with all matters reserved for future consideration (re-submission of MA/09/0018).

AGENDA DATE: 3rd February 2011

CASE OFFICER: Richard Timms

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

- It is a departure from the Development Plan due to the loss of some allotment land

1. POLICIES

Maidstone Borough-Wide Local Plan 2000: ENV25, T13
The South East Plan 2009: CC1, CC4, CC6, H1, H4, H5, T4, NRM5, BE1, BE6
Government Policy: PPS1, PPS3, PPS5, PPS9, PPG17

2. HISTORY

MA/09/0018 Outline application for the erection of a detached two storey dwelling with all matters reserved for future consideration – REFUSED

3. EXTERNAL CONSULTATIONS

- 3.1 **CLlr Vizzard:** Raises objections – *"this is a loss of amenities to the local residents in that some allotment sites will be lost to use with the erection of a dwelling on this amenity land."*

4. INTERNAL CONSULTATIONS

- 4.1 **Landscape Officer:** No objections

"No objections to the dwelling as it would not have a detrimental impact upon the pine tree protected under TPO no.9 of 2007."

4.2 Conservation Officer: No objections with regards to the setting of Longsole Church.

"Long Sole Mission church has been identified as a non-designated heritage asset as defined in PPS5 for its significance to the local community. As such, the impact of development on its heritage value is material consideration in this application. The potential impact of the proposed development would be on the church's setting, not its fabric.

According to historic map analysis, this late Victorian mission room was originally built in a rural setting. Throughout the 20th century, its setting has become increasingly eroded due to the encroachment of residential development of a suburban character. Nevertheless, the immediate grounds of the church maintain a sense of its earlier rural setting as can be appreciated in views along Long Rede Lane.

In my view, the siting of a dwelling in this location could secure a sufficient distance from the church to preserve its rural character. While I recognise that in Outline Planning details will be determined at a later date, the illustrative plans submitted set the proposed dwelling back to follow the building form and line of other dwellings in the immediate vicinity, which I would recommend in urban design terms. This also would set the building back further than the church, preserving reasonable views to the church and allowing it to stand as an important focal point for the streetscape. The proposal to include landscaping could also soften the impact of a dwelling further, subject to details."

4.3 Environmental Health Manager: Raises no objections subject to informatives concerning any construction works.

5. REPRESENTATIONS

5.1 Cllr Gooch (Member of adjacent Barming & Teston Ward): Supports application

"I write as Member for the adjacent ward of Barming & Teston, (I am also Chairman of Barming Parish Council) and I write in support of the above application as amended. I regularly walk my dogs along Long Rede Lane and I am therefore fully aware of - and particularly value - its quiet environment and 'rural-like' ambiance.

The area the church has set aside to sell has been carefully and sensitively thought through to enable one dwelling plot to fit appropriately into the street scene. I am fully aware that this involves a net loss of amenity land, and that this in itself is contrary to policy. However, I consider the loss to be marginal, particularly in view of the low density levels of the immediately surrounding area.

I fully support what St Margaret's Church are proposing to do, which is to use the proceeds of the sale of its land to pay for urgently needed repairs to the fabric of St Margaret's church - a beautiful, historic building which forms a vital part of Barming's landscape. Also to pay for the extension/upgrading of Church Cross House in Church Lane to provide improved kitchen/toilet facilities, to meet DDA requirements and to help meet an increasing community need. Indeed, Barming Parish Council is also looking to upgrade/replace its own pavilion in the field just opposite Church Cross House for the very same reasons, and is liaising with St Margaret's (and others) as our local community needs expand: youth clubs, educational activities, meetings and all sorts of general activities, both church based and non church based. I believe St Margaret's to be a very open church and that most of us regard ourselves in Barming as being part of one community.

Long Rede Lane lies within a residential area. An additional dwelling, if sensitively designed, would constitute infilling appropriate to the street scene and to the locality. I am not aware of any sustainable reason why this application should not be approved."

5.2 Neighbours: 45 representations received raising the following points:

- Loss of privacy/overlooking.
- Overbearing impact.
- Visually cluttered and cramped development.
- Too close to existing property.
- Harmful to the character of the area.
- Poor design.
- Highway safety/congestion/parking issues.
- Access for emergency vehicles.
- Potential damage to private lane.
- Noise and disturbance.
- Loss of allotments is contrary to policy.
- The area for the dwelling was an allotment until 2008.
- Plot 13 is only unused because the applicant wanted it unused.
- Allotment space has been reduced in preparation for this development and subsequently allocated non-allotment land.
- There are limited allotments locally and there will still be loss of allotment space which are in demand and an important aspect of the community.
- Plans do not accurately show allotment loss.
- Two large protected trees which could be damaged by building works and could become under threat by future building proposals and use of the land.

- Rear boundary is not in line with existing properties.
- Contractor's vehicles should approach the site from the Banky Meadow public highway.
- Loss of wildlife.
- Not a 'brownfield' site.
- Precedent for further development.
- Support for application.

5.3 **Petition:** A petition in support of the application with 118 signatures has been received.

6. CONSIDERATIONS

6.1 Introduction & Background

6.1.1 This is an outline application for the erection of a two storey detached dwelling with all matters reserved for future consideration at land at Longsole Church, Long Rede Lane, Maidstone.

6.1.2 The application was originally submitted in July 2009 but a decision on the application has been delayed due to the need for a reptile survey of the site, in line with Natural England's standing advice. The applicant provided this survey in November 2010, hence the delay in reaching a decision.

6.2 Site Description

6.2.1 The site relates to land owned by Longsole Church and includes some land currently in use as allotments. The single storey church building fronts the lane within the centre of the grounds. The allotments are not Council owned but privately owned by the church, and rented by the public to use with payment made on an annual basis. Around 77% of the land here is given over to allotments. Allotments are classified as 'greenfield' land under PPS3.

6.2.2 The application site is within the northwest corner of the grounds fronting the lane and adjacent to no. 17 Long Rede Lane to the west. It includes some allotment land and some unused grass land. To the west on Long Rede Lane are large detached dwellings set back from the road by 7m. Opposite are detached and semi detached dwellings fronting Long Rede Lane. To the south are rear gardens of dwellings and a village hall on Heath Road and to the southwest the rear gardens of dwellings on Maplesden Close. There is a protected pine tree (TPO no. 9 of 2007) just to the east of the site. Along the front of the site is a hedge some 1.2m in height.

6.2.3 It is on the south side of Long Rede Lane and is sited off a section of the lane that is not adopted and is privately owned by residents.

6.2.4 The application site is within the defined urban area and not within any specially designated areas.

6.3 Planning History

6.3.1 Application MA/09/0018 for outline permission for a detached dwelling was refused under delegated powers in March 2009 for the following reason:

The development would result in the loss of currently used allotment land and in the absence of information to demonstrate the allotment land is surplus to requirements in the area and without alternative provision, the development would result in the loss of a community facility for which it is considered there is a current and future need and which is of value to the local community. This is contrary to policy ENV25 of the Local Plan, policy QL11 of the Structure Plan and advice contained within PPG17: Planning for Open Space, Sport and Recreation.

6.3.2 Officers considered that a two storey dwelling could be provided at the site without causing unacceptable harm to visual or residential amenity or detriment to highway safety. The reason for refusal solely related to the loss of allotment land.

6.4 Proposed Development

6.4.1 The application seeks outline permission for a two storey detached dwelling. The site has a 13m width to the front narrowing to 10m at the rear and a depth of 27m from the lane. All matters are reserved so the Council is being asked whether the principle of such a dwelling is acceptable at the site. Although detailed plans and elevations of the dwelling have been provided, they are illustrative and do not form part of the formal consideration under this application. It is also intended to provide a new footpath across the front of the site to link with the existing footpath in Long Rede Lane to the west to provide access to the church building and allotments.

6.4.2 The difference from the previous application to compensate for the loss of allotment space is a reduction in the size of the site for the dwelling by 13.5m² and bringing an un-used allotment back into use (Plot 13).

6.4.3 The applicant states that the proposals would provide funding for the upkeep and essential maintenance of other community facilities including repairs and maintenance of Longsole Church, re-pointing, re-decorating and a replacement heating system for St Margaret's Church, Barming and works to Church Cross House, Barming.

6.5 Principle of Development

- 6.5.1 The site is within the defined urban area at a sustainable location with good access to jobs, services and public transport. A key objective of PPS3 is to provide *"housing developments in suitable locations, which offer a good range of community facilities and with good access to jobs, key services and infrastructure."*
- 6.5.2 The site is 'greenfield' land and it is acknowledged that there is currently no overriding need for residential development of greenfield sites in housing supply terms within the Borough due to the existence of a 5 year supply. However, because there is a five year supply of housing land this should not mean that windfall sites should be refused out right. This is a sustainable location with surrounding housing development and it has been accepted by officer's that it is suitable in principle to develop this greenfield site due to the absence of harm and this was did not form a ground for refusal. (I have outlined the considerations of visual impact at paragraph 6.7 below for Members)
- 6.5.3 Therefore the main consideration is that the application involves the development of allotment land, the loss of which is considered under policy ENV25 of the Local Plan and PPG17: Planning for Open Space, Sport and Recreation. Clearly, this was the only reason for refusal under the previous application.

6.6 Loss of Allotment Land

- 6.6.1 The allotments are privately owned by the Church but available for members of the public to use via an application to the owners. Representations state that they have been in use for around 50 years and it is understood that they are currently full. Private sites do not have the same protection as 'statutory' public owned sites (a change of 'statutory' sites requires permission from the SoS). Clearly the use of the allotments could cease without any need for permission.
- 6.6.2 Policy ENV25 of the Local Plan relates to allotments within the Borough but makes no distinction between private or public sites. The policy states that, *"Development of allotments for other uses will not be permitted unless alternative provision is made near at hand, and ground conditions are fully appropriate."*
- 6.6.3 Clearly, it may not be practical to comply with this policy for privately owned allotments, where any landowners may not have land available for alternative provision.

- 6.6.4 PPG17 relates to planning for open space, sport and recreation and defines allotments as open space for planning purposes. (It makes no distinction between private or public owned allotments). It states that to ensure effective planning for open space it is essential that the needs of the local community are known through robust assessments of existing and future needs. In this respect a Green Spaces Strategy was carried out in 2005, which is discussed below.
- 6.6.5 In order to address the previous reasons for refusal, the changes from the last application are as follows:
- A reduction in the size of the application site and therefore the amount of allotment land lost.
 - The reinstatement of Plot 13 to compensate for the loss of land.
- 6.6.6 Firstly, the site is smaller than the previous application by 13.5m² so this represents a reduction in the amount of allotment land loss.
- 6.6.7 Secondly, under the previous application, the agent had implied that the allotment on Plot 13 was being used and from a site inspection at that time this was incorrectly assumed to be the case. However, the agent has now stated that this allotment is only actually used as a 'dumping ground' for surplus soil etc. from other plots. Having more closely inspected this plot, I consider this to be the case and it was clearly not in use being overgrown and unlike the other allotments which had soil turned and evidence of past crops etc. The agent considers that this plot should now be taken into account as compensation for the loss to the development. With this plot currently not being used, I consider it can be taken into account as compensation.
- 6.6.8 As such there are currently 21 useable plots at the site. The application site would result in the loss of two plots but with plot 13 reinstated this would be a net loss of one plot. In land space terms, the development would result in the loss of some 143m² of currently used allotment land and the re-instated plot 13 would provide some 66m². As such, there would be a small net loss of 77m² of allotment land. This is a relatively small loss equating to some 4.8% of the total allotments compared to a loss of over 140m² under the previous application. It is a clear reduction in the amount of allotment space being lost from the previous application.
- 6.6.9 The 2005 Green Spaces Strategy outlines that the level of allotment provision within the urban area meets the Council's minimum standard of 0.21ha per 1000 residents. (The Strategy does not identify this site for specific protection as it does for some other allotment sites). In an update report from 2009 it is

considered that future population forecasts for the Borough suggest that if the popularity of allotments remains as it is, then future provision will be required. The Council's Draft Allotments Strategy from Spring 2008 also identifies a demand for allotments.

- 6.6.10 This information would suggest a current demand for allotments and that further provision is likely to be required in the future due to population growth. There is not evidence of surplus allotment land available but I still consider it would prove extremely difficult to defend a refusal based on the loss of 77m² of allotment land, especially bearing in mind it is a privately owned site. The applicant is clearly providing some compensation for the loss to the development through the reinstatement of an allotment. With this in mind and there otherwise being no harm resulting from the development, I consider that on balance, the development can be accepted as a departure from Development Plan policy ENV25.
- 6.6.11 I am mindful that the use of the allotments could cease without the need for permission at any time in order for the applicant to obtain planning permission, which would be a clear loss to the wider community.

6.7 Visual Impact

- 6.7.1 Clearly, under the previous application, officer's considered a dwelling could be suitably accommodated on the site and this was not a ground for refusal. My view on this matter remains the same as previously, being as follows.
- 6.7.2 With a plot width between 13m and 10m and a depth of some 27m, it is considered that there is sufficient room to provide a dwelling and accompanying garden land, driveway, pathways etc. without compromising the appearance and general character of the area. The size of the plot is broadly comparable to that of surrounding housing and would not appear unduly out of character. It is considered that it would be possible to provide an acceptable detailed scheme that would respect and complement the surroundings and not compromise the character and appearance of the area. I note that the indicative plans demonstrate that a two storey dwelling can be accommodated at the site whilst respecting building lines, heights and spacing between buildings.
- 6.7.3 The Council's landscape officer has confirmed that a dwelling could be sited without compromising the health of the adjacent pine tree protected under TPO no.9 of 2007.

6.8 Heritage Considerations

- 6.8.1 Since the previous decision, PPS5: Planning for the Historic Environment has been published which requires consideration of non-listed buildings regarded as being a heritage asset. Longsole Church has been identified by the Conservation Section as a non-designated heritage asset as defined in PPS5 for its significance to the local community. As such, the impact of development on its heritage value is a consideration in this application. The potential impact of the proposed development would be on the church's setting, not its fabric.
- 6.8.2 The Conservation Officer's view is that the dwelling would be sited a sufficient distance from the church to preserve its rural character. The officer states that,
- "While I recognise that in Outline Planning details will be determined at a later date, the illustrative plans submitted set the proposed dwelling back to follow the building form and line of other dwellings in the immediate vicinity, which I would recommend in urban design terms. This also would set the building back further than the church, preserving reasonable views to the church and allowing it to stand as an important focal point for the streetscape."*
- 6.8.3 I agree with this assessment and therefore consider there are no objections from a heritage conservation point of view.

6.9 Residential Amenity

- 6.9.1 As before, I consider that a design could be arrived at that does not lead to any significant loss of privacy or loss of light to neighbouring houses and gardens. There are no side windows on no. 17 Long Rede Lane immediately to the west and the nearest any other properties would be to a dwelling respecting the building line, would be 21m opposite. Other dwellings are over 23m from the site.
- 6.9.2 With there being no windows on the east side of no. 17, no loss of light would occur to any rooms on this property. With appropriate design and siting there should be no unacceptable over-bearing or overshadowing to this property. The distance to other properties would ensure no overbearing impacts.
- 6.9.3 Noise and disturbance from one additional dwelling and its vehicle movements would not be so great as to cause significant residential amenity problems.
- 6.9.4 Although the new dwelling would have allotment land bordering its boundaries, it could still benefit from sufficient privacy with appropriate boundary treatments to maintain privacy.

6.10 Highways & Parking

6.10.1 I note concern has been raised by local residents in terms of highway safety, congestion and parking, however, it is considered that a safe new access could be provided onto Long Rede Lane, which at this point is a single lane with a 30mph speed limit and sufficient space for at least 2 parking spaces and turning could be provided within the site. Sufficient visibility could be provided on this part of the road where vehicles do not travel at high speeds. I do not consider that one additional dwelling would add greatly to congestion in the area or be detrimental to conditions of highway safety.

6.11 Ecology

6.11.1 A reptile survey of the site has now been provided with the application. The report summarises that a single individual slow-worm was detected during the survey of the site. On the basis of the findings the report considers that a low population of slow-worm is present at the site. The report states that,

"The population of slow-worm present is likely restricted in size due to the small area of available habitat, the regular management of the majority of the allotment site and the isolation of the site from other large areas of suitable habitat."

6.11.2 The report concludes that as long as suitable precautionary mitigation for a low population of slow-worm is undertaken at the site prior to the start of development works, that the proposals will have no significant impact upon the population of slow-worms in the locality. The following precautionary vegetation managements is therefore recommended.

- *Brush piles should be carefully cleared by hand at a time when reptiles are active (late March – early October)*
- *Rough grass, vegetation and scrub present within any area proposed for development works, including areas proposed for storage of materials are cut to a height of 10cm, at a time when reptiles are active, and left for two weeks. This will encourage any reptiles present to disperse into the surrounding environment.*
- *After a period of two weeks, the grass/vegetation/scrub within the area of proposed works should then be cut and maintained at a short sward prior to the start of development works to discourage reptiles from entering the site.*
- *If reptiles are discovered during the vegetation management they should be carefully removed from the site and placed in an area, outside but close to the development site, that supports suitable habitat, such as rough vegetation and scrub.*

6.11.3 It is apparent that there is a low population of slow worm present and that suitable measures can be taken not to harm that population. However, the

proposals would result in the loss of a small area of this habitat. There is an area that would remain between the site and the church and I consider that this area should be maintained and improved as a habitat for slow worms and that it should be available prior to any development or recommended vegetation management clearance. This way, an improved habitat would be available for any slow worms and therefore suitable mitigation as required by PPS9. I have discussed this with the agent for the application who has confirmed the applicant is willing to provide this. With this secured by condition, I consider there would not be any significant harm to biodiversity from the development.

6.12 Other Matters

- 6.12.1 I note that many local residents state that people have been prevented from using some of the site for allotments in order to help the case for development. I am uncertain whether this has been the case, however this does illustrate the fact that the allotment users have no control over the land and their use could cease. Notwithstanding this, any assessment of the development can only be made on the basis of the current situation on the ground at the time of the decision.
- 6.12.2 Access for emergency vehicles has been raised as an issue but the site is located close to the adopted part of Long Rede Lane where access could be provided. Potential damage to the private lane from construction vehicles and services to the site has been raised. Any damage to the private road would be a matter between land owners and developers and is not a planning consideration. However, the usual informatives can be attached with regard to construction vehicles and works.
- 6.12.3 Concern has been raised that approval of the application may set a precedent for further development. Each application must be judged on its own merits and this cannot form a reason for refusing the application.

6.13 Conclusion

- 6.13.1 I consider a two storey dwelling could be designed so as to not cause harm to the character of the area, residential amenity or be detrimental to highway safety. The latest proposals would result in a low amount of allotment land being lost and balancing this against the lack of harm and the fact that the allotments are privately owned, I consider the application should be approved subject to the following conditions.

7. RECOMMENDATION

GRANT PLANNING PERMISSION subject to the following conditions:

1. The development shall not commence until approval of the following reserved matters has been obtained in writing from the Local Planning Authority:-
 - a. Layout
 - b. Scale
 - c. Appearance
 - d. Access
 - e. Landscaping

Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.

The development hereby permitted shall be begun before the expiration of two years from the date of approval of the last of the reserved matters to be approved;

Reason: No such details have been submitted and in accordance with the provisions of Section 92 of the Town and Country Planning Act 1990.

2. The details submitted pursuant to condition 1 shall show 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 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;

Reason: No such details have been submitted and to ensure a satisfactory setting to the development in accordance with policy CC6 of the South East Plan 2009, PPS1 and PPS3.

3. Allotment number 13 as shown on the 'following development' plan on drawing no. 1000.18D received on 2nd February 2010 shall be made available for use as a public allotment for public use prior to the commencement of the development hereby approved. This plot shall subsequently be maintained as available for use as an allotment for a period as long as any part of the remainder of the site edged in blue on the site location plan (drawing no. 1000.PLA received 28th July 2009) is in use as allotment land.

Reason: In the interests of maintaining provision of community facilities in accordance with policy ENV25 of the Maidstone Borough-Wide Local Plan 2000.

4. The development or the precautionary vegetation management measures as outlined in the 'Reptile Survey Report' received on 8th November 2010 shall not commence until details of the compensation hibernacula for slow worms to the east of the site have been submitted to and approved in writing by the Local Planning Authority. The approved details shall be provided prior to any of the precautionary vegetation management measures being undertaken.

Reason: In the interests of biodiversity and ecology pursuant to PPS9.

5. The precautionary vegetation management measures as outlined in the 'Reptile Survey Report' received on 8th November 2010 shall be carried out prior to any works in association with the development hereby approved being carried out at the site.

Reason: In the interests of biodiversity and ecology pursuant to PPS9.

6. The dwelling shall achieve a minimum of Level 3 of the Code for Sustainable Homes. The dwelling shall not be occupied until a final Code Certificate has been issued for them certifying that (at least) Code Level 3 has been achieved;

Reason: To ensure a sustainable and energy efficient form of development in accordance with Policy CC4 of The South East Plan 2009.

Informatives set out below:

Attention is drawn to Sections 60 and 61 of the Control of Pollution Act 1974 and to the Associated British Standard Code of practice BS5228:1997 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 Environmental Health Manager regarding noise control requirements.

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

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 Sundays and Bank Holidays.

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

You are advised to ensure that the appointed contractor(s) is/are registered with the 'Considerate Constructors Scheme' and that the site is thereafter managed in accordance with the Scheme. Further information can be found at www.considerateconstructorsscheme.org.uk

No development shall commence until a scheme for the use of wheel cleaning, dust laying and road sweeping equipment, have been submitted to and the scheme approved in writing by the local planning authority. The approved scheme shall be

implemented in its entirety once development has commenced, for the duration of demolition/construction works at the site.

The developers shall provide adequate space within the application site for the parking/turning/unloading of contractors vehicles before any works commence on site. Such space shall thereafter be maintained during the construction process where practicable.

There shall be no burning of waste materials on site.

The provision of 'swift bricks' on the external faces of the buildings should be employed in the interest of nature conservation and biodiversity enhancement.

REASON FOR APPROVAL:

The proposed development is not in accordance with policy ENV25 of the Maidstone Borough-Wide Local Plan 2000 as there would be a small loss of allotment land despite the proposed alternative provision. However, due to the special circumstances of this case as it relates to privately owned allotments and because the development is otherwise not considered to cause any harm to the area, it is considered that this represents circumstances that outweigh policy ENV25 of the Maidstone Borough-Wide Local Plan 2000.