

APPLICATION: MA/11/0701 Date: 21 April 2011 Received: 2 November 2011

APPLICANT: Mr S Nagar

LOCATION: 11, GABRIELS HILL, MAIDSTONE, KENT, ME15 6HL

PARISH: Maidstone

PROPOSAL: Change of use of first and second floors to form two self contained flats as shown on drawing numbers 2015/01, 2015/02 and 2015/03 and Noise Assessment by Peter Moore dated 9th February 2007 received 16th May 2011; drawing numbers 2015/15 and 2015/16 received 26th October 2011; and drawing numbers 2015/13A and 2015/15A and Design and Access Statement and Heritage Statement dated October 2011 received 2nd November 2011.

AGENDA DATE: 12th January 2012

CASE OFFICER: Catherine Slade

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

- The applicant is married to an employee of the Council.

## **1. POLICIES**

- Maidstone Borough-Wide Local Plan 2000: T13, R7, R19
- South East Plan 2009: SP3, CC1, CC6, H1, H4, T4, BE1, BE6
- Village Design Statement: Not applicable.
- Government Policy: PPS1 Delivering Sustainable Development, PPS3 Housing, PPS5 Planning for the Historic Environment, PPG13 Transport, PPG24 Planning and Noise
- Other: Maidstone Centre Conservation Area Appraisal

## **2. HISTORY**

- MA/11/0702 An application for listed building consent for works to facilitate the change of use of first and second floors to form two self contained flats – CURRENTLY UNDER CONSIDERATION
- MA/08/1983 An application for listed building consent for alterations and extensions to provide 2 (no) one bed apartments inc. addition of a single storey rear extension to roof terrace, addition of part external staircase and new door entry at second floor level and restoration /alterations to existing outbuilding - REFUSED

- MA/08/1982 Alterations and extensions to provide two one bed apartments - REFUSED
- MA/07/0290 Conversion of upper floors from shop storage into a studio at first floor and a maisonette at second and third floor - REFUSED
- MA/07/0289 An application for listed building consent for conversion of upper floors from shop storage into studio at first floor and a maisonette at second and third floor - REFUSED
- MA/06/2248 An application for listed building consent for the removal of internal staircase, new external staircase to rear for access to upper floors and insertion of rear door to rear elevation for access into upper floors – APPROVED WITH CONDITIONS
- MA/06/2247 New External staircase to rear for access to upper floors and insertion of door to rear elevation for access into upper floors - APPROVED WITH CONDITIONS

- 2.1 The proposal site has an extensive development management history, in respect of applications for planning permission, listed building consent and advertisement consent, some of which are not directly applicable to the current proposal. The details of the relevant history are summarised above.
- 2.2 Planning permission and listed building consent have previously been refused for the conversion of the upper floors of the building to provide two independent residential units. The reasons for the refusal of the previous applications for planning permission and listed building consent are summarised in the table below.

Application reference number	Application type	Reason(s) for refusal
MA/08/1983	Listed building consent	The insertion of the staircase, in particular the external section between the first and second floors would provide a modern feature that would not compliment the character and historic integrity of the Grade II listed building.
MA/08/1982	Planning permission	<p>Due to insufficient acoustic protection and the site's proximity to nearby noise sources, the proposal would result in an unsatisfactory living environment for future occupiers.</p> <p>The installation of the external staircase between the first and second floors would provide a modern feature that would not compliment the character and historic integrity of this listed building or the surrounding conservation area.</p>
MA/07/0290	Planning permission	Due to insufficient acoustic protection and the site's proximity to nearby noise sources, the proposal would result in an unsatisfactory living environment for

		future occupiers.
MA/07/0289	Listed building consent	<p>The removal of the original staircase between the first and second floors would result in the loss of a valuable feature of the Grade II listed building, which would be detrimental to its character, special interest and historic integrity.</p> <p>The installation of acoustic protection measures required to mitigate noise pollution for future occupiers would, in the opinion of the local planning authority, involve works which would substantially alter the glazing and structure of the building, causing unacceptable harm to its character, appearance and historical integrity.</p>

- 2.3 The current proposal is the subject of a concurrent application for listed building consent, the details of which are set out above.

### **3. CONSULTATIONS**

- 3.1 **MBC Conservation Officer:** Raises no objection to the proposal.
- 3.2 **MBC Environmental Health Manager:** Initially raised objection to the proposal on the grounds that "as in 2007 – the application should be rejected on noise grounds – the building is not capable of being mitigated against noise because of its listed status".

This objection was subsequently withdrawn as a result of the submission of additional documentation by the applicant which detailed works to the external and party walls, ceilings and floors for thermal and acoustic upgrading of the building, as shown on drawing numbers 2015/13A and 2015/15A received 2<sup>nd</sup> November 2011, subject to the acoustic protection measures proposed being carried out in accordance with the recommendations of the Acoustic Report undertaken by Peter Moore in 2007. The following detailed comments were subsequently made by the officer:

*"My last comments in connection with this application were made on 27<sup>th</sup> June 2011. I reiterated at that time that there was nothing to change my opinion, first described for application MA/07/0290, that this building was not capable of being sufficiently modernised to give adequate protection to future inhabitants regarding entertainment noise, not helped by the fact that this property is listed. I am now informed that there have been recent discussions with the conservation officer and he is prepared to allow alterations which will include sound insulation. This information has been submitted in a series of drawings*

*which purport to be in line with the suggested noise mitigation measures described in Peter Moore's original 2007 acoustic assessment. If that is the case, then these details are about as good as this building can expect. There has also been a change in the noise environment in this vicinity, resulting in less noise being generated, particularly to the rear of this property. Taking all these factors into account these measures are acceptable, though with the usual proviso that the workmanship must be of the highest order. The condition imposed in 2007 for MA/07/0290 may perhaps be too onerous now for the noise climate that exists in and around Gabriel's Hill. Therefore, I am prepared to accept these measures as being the only way forward to protect future residents from excessive entertainment noise. If they are carried out as described in these amended plans, i.e. as per Peter Moore's 2007 description I will withdraw my objection to this development from a noise perspective."*

#### **4. REPRESENTATIONS**

- 4.1 No representations were received as a result of the publicity procedure.

#### **5. CONSIDERATIONS**

##### **5.1 Site Description**

- 5.1.1 The application site is located to the north east of Gabriel's Hill, a highway subject to traffic control within the core shopping area of the town centre of Maidstone, as designated by policy R7 of the Local Plan.
- 5.1.2 The site comprises a three storey eighteenth century terraced property fronting directly onto the highway which is Grade II listed as group comprising number 11-15 Gabriel's Hill. The buildings were listed in 1974. The site is also located within the Maidstone Centre Conservation Area.
- 5.1.3 The application relates to above ground floor level accommodation of number 11 only, which is accessed from the rear of the premises via an alley way from Gabriel's Hill. The building has been extended to the rear through the introduction of various single storey outbuildings, and access to the interior of the building is gained via an external stairway and existing flat roof.
- 5.1.4 The building is in commercial use at ground floor level, and is vacant above. The ground floor has a modern shop front, but internal and external features of interest have been retained in other parts of the building, including dormers, sash joinery, fireplaces and cornices. It is understood that the use of the building would originally have been as a shop at ground floor level with associated living accommodation above.

5.1.5 The property adjoining the site to the north has a lawful use falling within Use Class A4, although it is currently vacant. Most other buildings along this stretch of Gabriel's Hill are in commercial uses falling within A1, A2, A3 and A5 with ancillary uses, offices or residential accommodation above.

## **5.2 Proposal**

5.2.1 The application seeks planning permission for the change of use of the first and second floors and the space within the roof of the building to use as two separate residential units; and associated development including the introduction of a first floor rear extension and works to an existing outbuilding including the rearrangement of openings to facilitate the change of use.

5.2.2 The works to the exterior of the building comprise the introduction of a first floor extension to the rear of the property to provide an enclosed access to the premises which would comprise a mono-pitched structure which would be partially timber boarded with a slate roof, and partially glazed with resin bonded roof and elevations. These works would include the rearrangement of the openings to an existing outbuilding to the rear of the property which would enable use of the roof space of the outbuilding to enable enclosed access to the proposed residential units and provide additional storage for the properties.

5.2.3 The application also includes the replacement of the joinery to the openings of the building.

5.2.4 A separate application for listed building consent under MA/11/0702 seeks consent for internal works to enable the use of the property as two separate residential units. These include the removal of recent stud walls and the introduction of partition walls in the rear of the building; the introduction of an additional staircase in the rear of the building. In addition, works are proposed to the external and party walls, ceilings and floors for thermal and acoustic upgrading of the building.

5.2.5 Planning permission has previously been refused for the conversion of the property for residential purposes, for the reasons set out in the table in paragraph 2.2. In both previous cases planning permission was refused on the grounds that the residential amenity of the occupiers could not be secured in respect of acoustic disturbance. The supporting documentation submitted in support of the current application includes an acoustic report by Peter Moore, and detailed drawings showing the proposed acoustic (and thermal) protection measures to the external and party walls, ceilings and floors for thermal and acoustic upgrading of the building, the details of which have not previously been submitted. The previous applications were also refused on the grounds of the impact of the proposal on the character and appearance of the listed building, however the applicant has sought to overcome these reasons for refusal though

the retention of the original staircase (MA/07/0289) and the omission of an external stairway to a new second floor opening (MA/08/1983).

### **5.3 Principle of Development**

- 5.3.1 The proposal site is located well within the defined centre of Maidstone in a sustainable location in close proximity to the town's bus station and three railway stations well served by local facilities and amenities. The principle of residential use in this location is therefore acceptable, in accordance with central government planning guidance in PPS1 Planning for Sustainable Development and PPS3 Housing.
- 5.3.2 The site is also located in the core shopping area of Maidstone, and as such is subject to Maidstone Borough-Wide Local Plan 2000 saved policy R7 which seeks to maintain existing retail uses falling within Use Class A1. However, the proposal would not result the loss of the existing retail unit at ground floor level.
- 5.3.3 For the reasons set out above, it is considered that the principle of the change of use is acceptable in the context of local, regional and national planning policy and guidance.

### **5.4 Visual Impact**

- 5.4.1 The works proposed to the rear of the building comprise a modest lean to extension formed of a mixture of materials including timber boarding, slate and resin glazing, and works to an existing building. It is considered that the extension, through its design and scale and the choice of materials, pay respect to the character and appearance of the original building.
- 5.4.2 In the circumstances of this case it is considered that the impact of the proposal on public views of the building is acceptable, and that it would make a positive contribution to the overall appearance of the listed building. In any case, the works would be subject to limited views from ground floor level, which would be restricted to views from the private access alley way to the rear of the building, which members of the public would not be expected to use on a regular basis. The frontage of the unit is to remain largely unchanged and therefore there would be limited impact upon the appearance of the streetscene.
- 5.4.3 The site fronts directly onto the highway, and is laid to hard surfacing to the rear. Under these circumstances it is not considered reasonable and necessary to attach landscaping conditions to the permission.

## **5.5 Residential Amenity**

- 5.5.1 The key issue of residential amenity arises from conflict between existing “town centre night economy” activities in the surrounding area, which includes bars, pubs and clubs, and the proposed residential use of the building.
- 5.5.2 The applicant has submitted a report undertaken by Peter Moore dated October 2007, which contains a measurement of the levels of noise experienced within the property (undertaken at 2200 on a Saturday night), together with recommendations for reducing this through the introduction of secondary glazing and wall lining (specified as a Gyproc Gyplyner System, as set out in the report). Details of how and where this would be implemented within the property are shown on drawing numbers 2015/13A and 2015/15A. The report was submitted previously in support of the refused applications, but not the details of how the mitigation measures would be achieved. The measures include in addition to the measures set out in the Peter Moore report, the introduction of flooring and ceiling linings, which would allow the retention of the existing cornices.
- 5.5.3 As set out above, comments have been received from both the Maidstone Borough Council Conservation and Environmental Health Officers in regard to the proposals. The Conservation Officer has confirmed that the mitigation measures, as shown on the submitted drawings, are acceptable and would not result in the loss of original features of interest or harm to the architectural or historic interest of the property. The Environmental Health Officer has stated that, in light of the Conservation Officer’s acceptance of the proposed works to allow sound insulation, and the drawings submitted which show how the mitigation can be implemented, that the objection to the proposal on noise grounds is withdrawn.
- 5.5.4 Although a first floor rear extension is proposed, the scale, design, and position of the building in relation to the neighbouring properties is such that it is not considered that the structure would result in any additional harm to the amenity of neighbouring occupiers with regard to loss of light, privacy or outlook.

## **5.6 Other Matters**

- 5.6.1 The property is a Grade II listed building, and the Conservation Officer has raised no objection to the principle of the change of use or detail of the proposed works to the building. These are considered in detail in the report relating to MA/11/0702.
- 5.6.2 The layout of the proposed units and the level of accommodation proposed is considered to be capable of providing an adequate standard of living.

5.6.3 Although no on site car parking is proposed, in light of the transport alternatives available and the constraints of the site, it is not considered that the failure to provide off street parking is unacceptable in the circumstances of this case.

## **6. CONCLUSION**

6.1.1 The principle of the change of use of the upper floors of the building to residential use is considered to be acceptable in this location. The Maidstone Borough Council Conservation Officer has confirmed that the proposal would not result in any significant harm to the character or appearance of either the listed building or the conservation area. The proposal would not result in the loss of a retail unit at ground floor level.

6.1.2 With regard to residential amenity, the Maidstone Borough Council Environmental Health Officer has confirmed that the measures proposed (subject to being undertaken to an acceptable standard) are adequate to secure the residential amenity of the future occupiers of the units, and the Conservation Officer has confirmed that the proposed mitigation is acceptable in terms of the impact on the fabric of the listed building.

6.1.3 Furthermore, for the reasons set out above, the amended scheme is considered to satisfactorily overcome the reasons for the refusal of the previously applications.

6.1.4 It is therefore concluded that planning permission be granted subject to conditions.

## **7. RECOMMENDATION**

PLANNING PERMISSION BE GRANTED, 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. 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 development hereby permitted have been submitted to and approved in writing by the Local Planning Authority and the development shall be constructed using the approved materials;

Reason: To ensure a satisfactory appearance to the development and that the

historic appearance, character and significance of the heritage assets are maintained in accordance with policies CC1, CC6 and BE6 of the South East Plan 2009 and central government planning policy and guidance in PPS1 Delivering Sustainable Development and PPS5 Planning for the Historic Environment.

3. Drawing numbers 2015/01, 2015/02 and 2015/03 and Noise Assessment by Peter Moore dated 9th February 2007 received 16th May 2011; drawing numbers 2015/15 and 2015/16 received 26th October 2011; and drawing numbers 2015/13A and 2015/15A and Design and Access Statement and Heritage Statement dated October 2011 received 2nd November 2011;

Reason: To ensure a satisfactory appearance to the development and that the historic appearance, character and significance of the heritage assets are maintained and to ensure that the residential amenity of the future occupiers of the residential units is maintained in respect of noise in accordance with policies CC1, CC6, BE1 and BE6 of the South East Plan 2009 and central government planning policy and guidance in PPS1 Delivering Sustainable Development, PPS5 Planning for the Historic Environment and PPG24 Planning and Noise.

### **Informatives set out below**

Please note that the internal works should be undertaken strictly in accordance with the details shown on drawing numbers 2013/13A and 2015/15A received 2nd November 2011, as set out in the Peter Moore report dated 9th February 2007 in order to ensure adequate acoustic protection of future residential occupiers and the retention of ceiling roses and any other features of interest.

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