

APPLICATION: MA/12/0127 Date: 26 January 2012 Received: 27 January 2012
APPLICANT: Remake Ltd
LOCATION: 17, LAMBOURNE ROAD, BEARSTED, MAIDSTONE, KENT, ME15 8LZ
PARISH: Bearsted
PROPOSAL: Erection of end of terrace dwelling as shown on the site location plan, supported by a design and access statement received 27th January 2012 and an un-numbered drawing received 24th October 2012.
AGENDA DATE: 1st November 2012
CASE OFFICER: Catherine Slade

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

- it is contrary to views expressed by Bearsted Parish Council.

1. POLICIES

Maidstone Borough-Wide Local Plan 2000: ENV6, T13
South East Plan 2009: SP3, CC1, CC4, CC6, H2, H4, H5, T4, BE1
Government Policy: National Planning Policy Framework 2012

2. HISTORY

MA/78/1826 Repositioning of fence to allow pedestrian access to garage -
APPROVED

3. CONSULTATIONS

3.1 **Beasted Parish Council** raise objection to the proposal for the following reasons:

3.1.1 "The shoehorning of an additional dwelling at the end of an existing terrace will erode the limited amount of un-built spaces within the surrounding area and be at variance with the fundamental design principles of this estate;

3.1.2 The proposed dwellinghouse will have grossly inadequate garden and amenity space; and

- 3.1.3 The additional parking generated by the proposal will significantly aggravate the severe parking problem in Lambourne Road which, at present, creates serious difficulties for service and emergency vehicles needing to access the site."
- 3.2 **The Kent County Council Highway Services Engineer** raises no objection to the proposal subject to a condition requiring parking and garaging areas to be provided and retained for that purpose.
- 3.3 **Southern Water** raise no objection to the proposal and make the following detailed comments:
- 3.3.1 *"Southern Water requires a formal application for a connection to the foul sewer to be made by the applicant or developer.*
- 3.3.2 *We request that should this application receive planning approval, the following informative is attached to the consent:*
- 3.3.3 *"A formal application for connection to the public sewerage system is required in order to service this development, please contact Atkins Ltd, Anglo St James House, 39A Southgate Street, Winchester, SO23 9EH (Tel 01962 858688), or www.southernwater.co.uk".*
- 3.3.4 *Our initial investigations indicate that there are no public surface water sewers in the area to serve this development. Alternative means of draining surface water from this development are required. This should not involve disposal to a public foul sewer.*
- 3.3.5 *The Council's Building Control officers/technical staff or Environment Agency should be asked to comment on the adequacy of soakaways to dispose of surface water from the proposed development.*
- 3.3.6 *Southern Water's current sewerage records do not show any public sewers to be crossing the above site. However, due to changes in legislation that came in to force on 1st October 2011 regarding the future ownership of sewers it is possible that a sewer now deemed to be public could be crossing the above property. Therefore, should any sewer be found during construction works, an investigation of the sewer will be required to ascertain its condition, the number of properties served, and potential means of access before any further works commence on site."*

4. REPRESENTATIONS

4.1 16 representations were received, of which 6 were submissions of a pro forma objection letter. All representations raised objection to the proposal. The matters of concern are set out below:

- Issues of highway safety including an increase in vehicular traffic and on street parking, and resultant access issues.
- Harm to residential amenity by way of loss of privacy (overlooking), loss of light (overshadowing), and general disturbance.
- The design of the proposed dwelling, and its relationship to the existing pattern of development.
- The proposal would result in “garden grabbing” and loss of a green space.
- The scale of private amenity space to be provided for the proposed dwelling.
- Problems with sewerage.
- Loss of a view.
- The proposal site and adjacent property are in the ownership of a developer who rents the latter out, with the result that the stock of “affordable” housing for sale to local people is diminished.

5. CONSIDERATIONS

5.1 Site Description

5.1.1 The proposal site comprises a two storey end of terrace dwellinghouse and associated side and rear garden and detached garage. The site is located in Madginford within the defined built up boundary of Maidstone. Notwithstanding this, it is also within the parish of Bearsted.

5.1.2 The existing dwelling is one of a terrace of four of a uniform scale and overall appearance. The site is located at the apex of a residential cul de sac, and the terrace is accessed via a footpath which extends from the public highway and runs along the front boundaries of the dwellings; the proposal site being the only property in the terrace which directly adjoins the Lambourne Road.

5.1.3 The terrace is part of a large mid twentieth century residential estate of no particular architectural or historic interest. The immediate surroundings are characterised by dense residential development with few trees, and small, marginal grassed areas.

5.1.4 The site has no specific environmental or economic designations in the Maidstone Borough- Wide Local Plan 2000.

5.2 Proposal

5.2.1 The proposed development is the erection of a two storey end of terrace dwellinghouse. The dwelling would have a width of 4.5m, in comparison to the existing dwellings, which have widths of 5m. The ridge and eaves heights would be the same as that of the original terrace, and the front and rear elevations flush with those of the original terrace. The design incorporates a porch to the front elevation which would be similar in overall appearance to those of the existing properties, being a simple flat roofed structure, however whilst it would have a similar projection this would be greater in width by 1m.

5.2.2 The proposed development would provide a two bedroom dwelling with private amenity space to the rear in the form of a patio and grassed area. Off road parking for number 17 and the proposed dwelling comprising 3 spaces would be provided to the rear (north) of the garden area.

5.3 Principle of Development

5.3.1 The planning policy context comprises the Development Plan (the saved policies of the Maidstone Borough-Wide Local Plan 2000, together with any other formally adopted planning policy documents, and the policies of the South East Plan 2009), and national planning policy and guidance as set out in the National Planning Policy Framework 2012 (NPPF). As stated above, the site is located in a sustainable location in close proximity to local facilities and services including shops, schools and health facilities within the defined settlement boundary of Maidstone, and has no specific economic designations in the Local Plan. As such the location of the site is considered to be favourable in terms of the general principle of the siting of new development, as set out in South East Plan 2009 policy SP3 and the National Planning Policy Framework.

5.3.2 Notwithstanding the above, the site currently forms the part of the side garden of number 17, and as such represents a garden development. There are no specific Development Plan policies which relate to such development, however, the NPPF explicitly excludes garden land from the definition of previously developed land. Although the NPPF advises Local Planning Authorities to consider the case for policies which would prevent incidences of inappropriate

development of garden land “where development would cause harm to the local area”, the document does not explicitly prohibit such development (paragraph 53), and as Members will be aware there are no Development Plan policies relating to proposals for development on garden land.

- 5.3.3 The position of the Council is that the effect of the removal of garden land from the scope of previously developed land is to remove a presumption in favour of development of garden land. However, whilst the previous policy position did not allow for the development of all garden sites, it is not now the case that all development in gardens should be refused. It follows that each application must be judged on its own merits. However, it does mean that proposals for such development should be subjected to rigorous assessment.
- 5.3.4 In the circumstances of this case, it is my view that a balance should be struck between the suitability of the site in respect of being located in a sustainable location with reasonable public transport links in close proximity to the amenities and services that a residential occupier might reasonably expect; and the impact of the proposal on the character and appearance of the area which would result from the loss of the garden land.
- 5.3.5 The proposal site comprises private garden land enclosed by a close boarded fence at the apex of a residential cul de sac, and has a limited role in establishing the openness or otherwise of the immediate area. As such I do not consider that the proposed development would be detrimental to the character and appearance of the area.
- 5.3.6 In the light of these factors, it is considered that the principle of the development is acceptable in policy terms, subject to all other material considerations, including the amenity of the occupiers of neighbouring residential properties.

5.4 Visual Impact

- 5.4.1 As is clear from the site location plan, the pattern of development in the locality is such that the grain of the area is distinguished by terraces of small residential properties with diminutive front and rear gardens. In the immediate vicinity of the proposal site these are manifested as a long terrace arranged along a north-south axis to the west of the hammerhead of the cul de sac, with three smaller terraces arranged along east-west axes to the east of the hammerhead. These smaller terraces are staggered in terms of their proximity to the hammerhead, with the central terrace being set back by 5m and 15m in relation to the north and south terraces respectively. The proposal site is located at the western end of this central terrace adjacent to the hammerhead. The introduction of the proposed dwelling would reduce this set back to 1m and 11m respectively,

however a set back would be retained, and in the circumstances of this case, it is considered that the proposed development would be in keeping with the existing pattern of development and this would be overly detrimental to the character and appearance of the area.

- 5.4.2 The proposal site is prominent in public views in the context of the streetscene of Lambourne Road, and whilst the erection of a new dwelling which would abut the public highway would normally be considered to be intrusive and overbearing, and potentially to result in a feeling of enclosure, in the circumstances of this case the location of the site to the edge of a hammerhead turning area and the relationship of the terrace to those to the north and south, both of which project beyond the site, it is considered that the impact of the proposal on the streetscene is acceptable.
- 5.4.3 Further mitigation is provided as a result of the location of the site at the end of the highway, which is a vehicular no through road, although pedestrian through access can be gained from an off shoot of Merton Road. Furthermore, the proposal site is only visible in close range views as a result of the screening effect of existing dwellings in the vicinity of the site. To my mind, the location of the site is such that whilst it is visible in the streetscene, public views are limited as a result of the limited through traffic that might be expected. Furthermore, the existing garden is currently enclosed by a close boarded fence, and the only vegetation visible in public views are two Christmas trees of limited public amenity value. It is therefore my view that the proposal would therefore not result in the erosion of the openness of the locality or cause harm to the local area.
- 5.4.4 The side elevation would bring built development closer to the hammerhead, however a window is proposed to the first floor of this side elevation, mimicking those to the flank elevation of numbers 18, the end of terrace property located to the north of the proposal site. This would serve to articulate this façade, and overall I consider that the visual impact of this element of the proposal in the streetscene is acceptable.
- 5.4.5 Whilst concern has been raised by neighbouring occupiers in respect of the design of the proposed dwelling, in particular the scale of the porch and the appearance of the fenestration to the front elevation, which do not match those of the existing dwellings, it is not considered that this is unacceptable. The dimensions of the elements of the design of the dwelling are clearly a function of the space available for the proposed development, the proposed building being narrower than the existing buildings by 0.5m, and are not out of proportion to the façade of the dwelling. The point made in respect of the failure of the design to accurately mimic that of the existing buildings is noted, however end properties in terraces are often of differing design and scale to those of mid

terrace properties, and this, together with the fact that the terrace would be subject to limited public views in its entirety is such that I do not consider that the design of the property would be detrimental to the streetscene.

5.4.6 For the reasons set out above, the proposal is considered to be acceptable in terms of both its general visual impact within the streetscape and detailed design, subject to a condition requiring the submission and approval of samples and details of external materials.

5.5 Residential Amenity

5.5.1 Concern has been raised in regard to the impact of the proposed development on residential amenity by way of loss of privacy (overlooking), loss of light (overshadowing) and general disturbance.

5.5.2 In terms of overlooking, the proposed dwelling would most immediately have an impact upon the occupiers of numbers 9 and 18 Lambourne Road, which would be located to the immediate north and south of the dwelling. These properties are located within 21m of the facing elevations, which is generally accepted as the "rule of thumb" when assessing such matters. However, it is the case that the separation distances between the proposal site and numbers 9 and 18 are not significantly less than those between other properties forming the three terraces, and as such it is not considered that a refusal on these grounds would be sustainable. This is supported by appeal decisions relating to refusals on such grounds, which have previously found that in densely built up areas some level of overlooking is "to be expected". Although a window is proposed to the first floor of the side elevation, the separation distance between this and the facing properties (73 and 75 Willington Street) exceeds 29m, and as such it is not considered that this would result in harm to the residential amenity of the occupiers of these properties.

5.5.3 The design of the proposed dwelling, and its siting relative to the surrounding properties, are such that it is not considered that the proposal would result in any significant additional loss of light to the occupiers of the neighbouring dwellings in relation to that resulting from the existing pattern of development. It is not considered that the proposal would result in any harm by way of outlook or sense of enclosure.

5.5.4 In respect of the scale of private amenity space available for the future occupiers of the proposed dwelling, whilst it is limited in scale, a secluded space with an area of 21.625m², comprising a patio and a grassed area, which in the context of the scale of the proposed accommodation provided and the proximity of Mote Park is considered to be adequate.

5.5.5 For the reasons set out above, the proposal is considered to be acceptable in terms of impact upon the residential amenity of the occupiers of the neighbouring dwellings or those of the proposed dwelling.

5.6 Highways

5.6.1 Concern has been raised in regard to highway matters, in particular the issue of increased traffic, a reduction in the available on street car parking and the level of on site car parking proposed.

5.6.2 Lambourne Road is an un-classified no through road with no parking restrictions, and most properties in the immediate vicinity of the proposal site are provided with private garaging, either within the curtilage of the properties, or in purpose built blocks of nearby garages.

5.6.3 The proposal would result in the loss of a single on street car parking space. The current on site car parking provision for number 17 is 1; the on site parking provision for number 17 and the proposed dwelling is 3, or 1.5 places per unit (albeit that 2 are allocated to number 17 and 1 to the proposed dwelling on the submitted drawings). This is considered adequate to off set the loss of the on street parking space.

5.6.4 Whilst the concerns and frustrations of neighbouring occupiers are noted, as Members will be aware, Maidstone Borough Council has no adopted parking standards, and the provision of 1.5 on site car parking spaces for the two properties is in excess of that provided for the other properties. Furthermore, Kent County Council Highway Services have raised no objection to the proposal subject to a condition restricting the spaces to be retained for the parking of vehicles, which in this case is considered to be reasonable and necessary.

5.6.5 For the reasons set out above, the proposal is considered to be acceptable, subject to the condition set out above, in terms of matters of highway safety, including on and off site parking.

5.7 Landscaping

5.7.1 As set out above, the proposed development would result in the loss of two specimens, which are considered to be of limited value. An indicative landscaping scheme has been provided in support of the application, however in order to secure the optimum appearance to the development and landscape improvement which would benefit the wider streetscene it is considered necessary and appropriate to impose conditions requiring the submission and approval of a detailed landscape scheme and long term maintenance plan appropriate to the scale and setting of the site, and securing its implementation.

5.8 Other Matters

- 5.8.1 There are no heritage or biodiversity assets which would be affected by the proposed development and the site is not in a location recorded by the Environment Agency as being prone to flood.
- 5.8.2 Concerns have been raised with regard to the impact of the development on the local sewerage system. Southern Water have been consulted on the application and has not raised objection to the proposal. A condition has been requested, as set out above, however this is more appropriately dealt with by way of an informative.
- 5.8.3 The applicant has confirmed in writing that the proposed dwelling would achieve Level 3 of the Code for Sustainable Homes, which in the circumstances of this case is considered to be appropriate and in accordance with the expectations of the Council in respect of residential development of this scale. This can be secured by way condition.
- 5.8.4 I am aware of the recent appeal decision at land adjacent to 18 Merton Road (MA/11/1406) where an appeal against the refusal of an application to erect a detached dwelling at the end of a terrace of properties was dismissed, however to my mind this is not comparable to the current case, firstly because the proposal would have resulted in significant disruption of the building line; secondly as the erection of a detached dwelling would be out of keeping with the established pattern of development; and thirdly because the site is in a prominent location on a through road and therefore highly visible in public views to passing drivers and pedestrians.
- 5.8.5 These factors do not apply in the circumstances of the current case. There are, in any case, other examples in the wider locality of the erection of end of terrace properties similar to that currently under consideration at such sites as 2 Tydeman Road (MA/07/2495) and 41 Egremont Road (MA/07/1569).
- 5.8.6 As Members will be aware, loss of views are not a planning matter and cannot be taken into consideration in the determination of planning applications.
- 5.8.7 Whilst it may be considered regrettable that the proposal has been submitted on behalf of a property company, land ownership is not a planning matter, and the scale of the proposed development is such that there is no requirement that the property be retained as affordable housing for local residents.

6. CONCLUSION

- 6.1 In the circumstances of this case the application for the erection of a two storey end of terrace dwellinghouse is considered to be acceptable in principle in this location, and it is not considered that the loss of garden land would be detrimental to the appearance of the streetscene or the character of the area.
- 6.2 For the reasons set out above and having regard to the policies of the Development Plan and any other material considerations, the proposed development is considered to be in accordance with the policies of the Maidstone Borough-Wide Local Plan 2000, the South East Plan 2010 and central government planning policy guidance and advice as set out in the National Planning Policy Framework 2012, and I therefore recommend the application for approval subject to the conditions set out above.

7. 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. The development shall not commence until, written details and samples of the materials to be used in the construction of the external surfaces, including all hard surfacing areas which shall be constructed of permeable materials, 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 safeguard the character and appearance of the area in accordance with policies CC1, CC6 and BE1 of the South East Plan 2012 and central government planning policy and guidance as set out in the National Planning Policy Framework 2012.

3. The development shall not commence until there has been submitted to and approved in writing by the Local Planning Authority a scheme of landscaping, using indigenous species and a programme for the approved scheme's long term management. The scheme shall be designed using the principles established in the Council's adopted Landscape Character Assessment and Landscape Guidelines;

Reason: To ensure a satisfactory setting and external appearance to the development, and safeguard the character and appearance of the area in accordance with policies ENV6 of the Maidstone Borough-Wide Local Plan 2000 and CC1, CC6 and BE1 of the South East Plan 2009 and central government planning policy and guidance as set out in the National Planning Policy Framework 2012.

4. 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 occupation of the buildings 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, and safeguard the character and appearance of the area in accordance with policies ENV6 of the Maidstone Borough-Wide Local Plan 2000 and CC1, CC6 and BE1 of the South East Plan 2009 and central government planning policy and guidance as set out in the National Planning Policy Framework 2012.

5. The approved details of the parking areas shall be completed before the commencement of the use of the development hereby permitted and shall thereafter be kept available for such use. No development, whether permitted by the Town and Country Planning (General Permitted Development) Order 1995 as amended by the Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2008 and the Town and Country Planning (General Permitted Development) (Amendment) (No.2) (England) Order 2008 (or any order revoking and re-enacting that Order, with or without modification) or not, shall be carried out on the areas indicated or in such a position as to preclude vehicular access to them;

Reason: Development without adequate parking provision is likely to lead to parking inconvenient to other road users and in the interests of road safety in accordance with policies T13 of the Maidstone Borough-Wide Local Plan 2000 and T4 of the South East Plan 2009, and central government planning policy and guidance as set out in the National Planning Policy Framework 2012.

6. The proposed dwelling shall achieve Level 3 of the Code for Sustainable Homes. The dwelling shall not be occupied until a final Code Certificate has been issued for it certifying that 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 and central government planning policy and guidance as set out in the National Planning Policy Framework 2012.

7. The development hereby permitted shall be carried out in accordance with the following approved plans:

un-numbered drawing supported by a design and access statement, all received 27th January 2012;

Reason: To ensure a satisfactory appearance to the development and safeguard the character and appearance of the area in accordance with policies CC1, CC6 and BE1 of the South East Plan 2012 and central government planning policy and guidance as set out in the National Planning Policy Framework 2012.

8. No development shall take place until details of surface water drainage have been submitted to and approved in writing by the Local Planning Authority and these works shall be completed in accordance with the approved details before the first occupation of the dwelling. The submitted details shall show drainage to a soakaway and not a public sewer;

Reason: To ensure an adequate surface water drainage scheme in accordance with the National Planning Policy Framework (2012).

Informatives set out below

The details submitted in regard to condition 2 above (materials) shall respect those of the adjoining properties.

Please note that a formal application for connection to the public sewerage system is required in order to service this development, please contact Atkins Ltd, Anglo St James House, 39A Southgate Street, Winchester, SO23 9EH (Tel 01962 858688), or www.southernwater.co.uk. Southern Water's current sewerage records do not show any public sewers to be crossing the above site. However, due to changes in legislation that came in to force on 1st October 2011 regarding the future ownership of sewers it is possible that a sewer now deemed to be public could be crossing the above property. Therefore, should any sewer be found during construction works, an investigation of the sewer will be required to ascertain its condition, the number of properties served, and potential means of access before any further works commence on site.

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.