MC/14/0375

Date Received: 4 February, 2014

Location: Allotment Site Goldsworth Drive Strood Rochester Kent ME2 3NR

Proposal: Variation of condition 13 (list of drawings) on planning permission MC/2001/1432 to allow for a minor material amendment

Applicant: Mr R Ram

Agent: Ward Strood North

Recommendation of Officers to the Planning Committee, to be considered and determined by the Planning Committee at a meeting to be held on 18 June 2014.

Recommendation - Refusal

1 The proposal, by virtue of:

   i) Its projection beyond the depth of the development approved under planning reference MC/01/1432 (as amended on 21 March 2005); and

   ii) the fact that the 'rear extension', the two remaining dormer windows and the long sloping roof add substantially to the bulk, scale and mass of the dwelling, which is reinforced by the elevated location of the development site and the fact that the dwelling appears considerably larger than other dwellings nearby

   the development is considered to result in a highly dominant form of development which is detrimental to the character and appearance of the local surroundings and the adjoining streetscene in general, especially when viewed from Chequers Court. The development is therefore considered to be contrary to Policy BNE1 of the Medway Local Plan 2003.

2 In the absence of any details of the proposed retaining wall, the proposal, as submitted, fails to secure the long term protection of the existing hedgerow along the southern boundary to the site, and as such fails to protect the appearance of the locality and the visual amenities of the occupiers of neighbouring properties. The proposal would, therefore, be contrary to Policy BNE1 of the Medway Local Plan 2003 in this regard.
Proposal

This application seeks to vary condition 13 (list of drawings) on planning permission MC2001/1432 to allow for a minor material amendment. An overlay drawing has been submitted with the approved plan superimposed on the proposed plan. The changes proposed are as follows:

- The width of the building has been reduced by up to 1.5m of the southern side;
- The chimney on the southern side of the house has been removed;
- The door on the side will be removed and blocked up;
- The garage on the northern side of the house has been moved forward by approx. 1.5m;
- The glass roof over the rear breakfast area has been replaced by a sloping tiled roof with two dormers.
- The front porch is fully enclosed.

It is also submitted that the existing fence has deteriorated due to overgrowing hedges and the soil bank is susceptible to collapse. The applicant has stated that it is proposed to construct a retaining wall. However, no details have been submitted with the application.

Relevant Planning History

MC/13/2054 Application for non-material amendment to planning permission MC/2001/1432 (Construction of four 4-bedroomed detached houses with garages) to add a condition listing the original approved drawing numbers
Decision Approval With Conditions
Decided 21/01/2014

MC/11/2234 Construction of one detached 4-bedroomed house with attached single garage and car parking space (revised application to previously approved planning application MC/2001/1432)
Decision Refusal
Decided 01/06/2012
Appeal Dismissed
Decided 18/02/2013

MC/01/1432 Construction of four 4-bedroomed detached houses with garages
Decision Approval with Conditions
Decided 16/01/2004

Representations

The application has been advertised on site and by individual neighbour notification to the owners and occupiers of neighbouring properties.

10 letters have been received from 8 households raising the following objections:
• The hedges and trees on the southern boundary must be retained as it protects a natural environment for wildlife and outlook, and it protects Chequers Court from a totally overbearing and in appropriate housing development. Its loss will result in a poor outlook to a solid brick wall and the loss of even more privacy, including overlooking directly into bedrooms. If agreed it could lead to the loss of the rest of the hedges and trees that are on the site;
• Poor quality of design not in keeping with the original properties or the street scene and overlooks other properties. The dormer windows are more intrusive than the windows on the original plans, excessively large and close to existing housing;
• The proposal affects nearby houses, including loss of light, closeness, privacy, and noise and disturbance. The impact is enhanced due to the site being on higher ground than the adjacent houses;
• The applicant previously failed to comply with planning decisions and is attempting to achieve consent for works previously refused. Why would he comply now? The building should revert to the original plan;
• Doubt that the application is a minor material amendment;
• The development is contrary to the South East Plan 2009 and the Medway Local Plan 2003 particularly in regard to its design and environmental effects on adjacent properties;
• A full scale site meeting should be held to enable local residents to express their concerns to the Members of the Council;
• It is not possible to tell the changes to the existing plan PL10 and the new plan PL60 and drawing P90. There is no scale on PL10. PL10 only had a conservatory added to the rear right hand side and first and second floors are as originally approved drawing no PL60;
• The overall width does not reduce as is shown, by the fact that there is no room at the side of the house;
• The door is of no use due to the proximity of the hedge and there is no need for him to utilize this access as there are other doors; and
• Conservatory roof is glass and would need different materials if allowed to build another two floors.

Development Plan

The Development Plan for the area comprises the Medway Local Plan 2003 (the Local Plan). The policies referred to within this document and used in the processing of this application have been assessed against the National Planning Policy Framework, 2012 and are considered to conform.

Planning Appraisal

Background

A planning application for the construction of 4 x four bedroom detached houses with garages (MC/01/1432) was considered by the Area Development Control Committee (West) at its meeting on 13 December 2001. The Committee resolved to grant planning permission subject to the applicant entering into a Section 106 agreement
to secure payments of £12,000 towards the provision of educational facilities; and £4,000 towards the provision of play facilities at Broomhill Park and Goddington Road/Cliffe Road, Strood. The Section 106 agreement was signed on 8 January 2004 and the planning permission subsequently granted on 15 January 2004.

The planning permission was subject to several conditions, including conditions requiring the submission of details of boundary treatment (Condition 2), materials (Condition 3), hedgerow retention (Condition 6) and landscaping (Condition 7). The materials and hedgerow retention details were approved on 27 September 2006, and boundary treatment and landscaping details were approved on 17 October 2006.

It was brought to the Council's attention that the development was not being carried out in accordance with the approved plans in so far as the house on Plot 4 was larger than as approved. This was subsequently investigated, resulting in the submission of the revised application (MC/11/2234). That application was considered by the Committee and was refused on 31 May 2012, following a Members Site Meeting, on the grounds that:

"The development, by reason of its scale and mass amounts to overdevelopment of the site and it has an overbearing impact on neighbouring and nearby properties. As such, the development conflicts with Policies BNE1 and BNE2 of the Medway Local Plan 2003."

Following the refusal of planning permission an enforcement notice was served on 10 August 2012 requiring:

"(i) The demolition of the unauthorised house on site within three month unless the house is altered in accordance with the approved plans; and
(ii) Following compliance with step (i) above remove and dispose of any resultant rubble."

The period for compliance with the terms of the enforcement notice was three months.

Appeals were lodged against both the refusal of planning permission and the enforcement notice. An Informal Hearing was held on 5 February 2013. In his decision letter dated 18 March 2013, the Planning Inspector dismissed the appeal against the refusal of planning permission and upheld the enforcement notice. He varied the enforcement notice to read:

(i) Demolish the dwelling OR alter the dwelling to comply with the terms (including conditions and limitations) of planning permission MC/01/1432 granted on 15 January 2004 as amended on 21 March 2005"

The applicant failed to carry out the necessary works within the three month time period following the appeal decision and the matter was referred to the magistrates' court. Subsequently the applicant has undertaken some work in an attempt to comply with the notice, in so far as he has demolished part of the rear of the dwelling. However, the works done to date still don't comply with the requirements of the enforcement notice, falling substantially short of what is required.
The appeal decision

In his decision letter, relating to the appeal against the refusal of planning permission MC/11/2234, the Planning Inspector considered "...the main issues to be the effect of the development on the character and appearance of the surrounding area and the effect on the living conditions of the occupiers of the neighbouring dwellings in Chequers Court, with particular regard to outlook and privacy." He noted that "...despite being partially screened by a hedge the appeal dwelling is clearly visible along and from Chequers Court. It is located on higher ground and the roof ridge is considerably higher than those of the properties in Chequers Court."

He further stated that "The rear elevation of the approved dwelling would have aligned approximately with the side elevation of 28 Chequers Court. The dwelling as built has a rear extension some 3.6m deep across the full width of the property with the approved roof slope continuing downwards over the extension. Substantial dormer windows have been inserted into the roof slope.

The extension and dormer windows add substantially to the bulk, scale and mass of the dwelling, a matter that is re-inforced by the elevated location, to the extent that it appears considerably larger than other dwellings nearby and is highly dominant to the detriment of the character and appearance of the local surroundings. Whilst the screening provided by the hedge could be enhanced, the dwelling would still be highly visible and the harm caused by the extension would remain."

On this basis, the Inspector concluded that the appeal proposal conflicted with Policy BNE1 of the Local Plan.

With regard to privacy, the Inspector concluded that "the dormer windows do not provide any opportunity for overlooking the front windows of no 28 and that the windows and gardens of other properties in Chequers Court are too distant for there to be any significant overlooking and the appeal proposals would not result in any overlooking by virtue of loss of privacy."

However, the Inspector also concluded that "...the dormer windows in the roof have the effect of making the apparent elevation two stories high." The Inspector considered that whilst there would be no loss of direct sunlight, the height, extent and proximity of the enlarged side extension would result in some loss of daylight to the front windows. In addition he considered that "...the scale, bulk, height and proximity of the side elevation is overbearing when viewed from immediately in front of no 28 to the considerable detriment of the living conditions of the occupiers of that property, with particular regard to outlook."

On this basis, the Inspector concluded that the appeal proposals conflicted with Policy BNE2 of the Local Plan.

The current application

The principle of residential development on this site was accepted with the grant of planning permission in 2004. In consideration of the current application, the issue is
the extent to which the current scheme addresses the concerns identified by the Planning Inspector in his appeal decision letter and whether the revised scheme would adversely impact on the character and appearance of the locality or the amenities of any adjoining occupiers, especially Number 28 Chequers Court.

To fully assess the impact of the current proposal it is necessary to compare: the development as approved; the development as built and refused; and the development as now proposed. The key elements of the development are: i) The alterations proposed to the southern flank wall; ii) The distance of the development from the southern boundary; iii) The rear extension; iv) The retaining wall; and v) Other changes that have occurred. Consideration of these separate elements is set out below:

(i) The southern flank wall: the approved drawings showed this wall to be 11m long. The development as built and refused had a southern flank wall of some 14.6m in length. 3.6m of this flank wall was formed by the 'rear extension' referred to by the Planning Inspector and part of this has now been partly demolished, although the southern flank wall still exceeds the originally approved length of this wall by some 0.9 metre bringing the current length of the wall to 11.9 metres. The current proposal shows this flank wall as 11.9m in length. Due to the partial demolition of the rear extension the wall, which was 10m in front of 28 Chequers Court is now set some 5 metres further into the garden of the application site and is some 15m from the front of 28 Chequers Court. Whilst this is an improvement on the previous situation, the flank wall has still not been reduced to the full length shown on the originally approved plans and required under the terms of the enforcement notice, and when combined with the concerns related to the rear addition, as set out below, is still considered to be unacceptable.

(ii) Distance from the southern boundary: the house, as built is approx. 1m from the boundary fence. According to the submitted drawing, the house as proposed would be inset from the common boundary by a further 1.25m (approx) bringing the indicated gap between the boundary and the development to 2.25m. Furthermore, the chimney on the southern flank wall as originally proposed was never built and has now been removed from the current proposal. The hedge along this boundary is not shown on the submitted drawing. It is clear from the position of the dwelling as currently constructed and the submitted plans that the drawings are inaccurate in regard to the proposed distance from the common boundary. The front elevation of the proposed dwelling retains its overall width of 11.7m (approx), which is the same width of the front elevation of the development as currently built. It is unlikely that the applicant is intending to demolish the dwelling as built to inset it from the common boundary by a further 1.25 metres. (Total distance from the common boundary to the development is 2.25m). The applicant has been asked to address this, but has failed to do so.

(iii) The rear extension: the approved drawing showed a single storey rear 'extension' with a sloping glass roof over the rear breakfast area, projecting 2.98m. However, the house as built and refused had a sloping tiled roof and three dormers. The current application shows a sloping tiled roof with two dormers, the third dormer having been removed when the southern side of the rear extension was reduced in length (see (i) above). Following the partial removal of this rear element, the fact
remains that despite being partially screened by a hedge, the application site is still clearly visible along and from Chequers Court. It is located on higher ground and the roof ridge is considerably higher than those of the properties in Chequers Court. The rear extension as proposed, with roof slope continuing downwards over the extension, will still retain two of the three substantial dormer windows inserted into the roof slope. The extension and dormer windows still add substantially to the bulk, scale and mass of the dwelling, a matter that is re-inforced by the elevated location, to the extent that it still appears considerably larger than other dwellings nearby and remains highly dominant to the detriment of the character and appearance of the local surroundings. Whilst the screening provided by the hedge could be enhanced, the dwelling would still be highly visible and the harm caused by the extension would remain. This being the case the rear extension, together with the bulk, scale and mass of the two remaining dormers, the long sloping roof, is considered to be unacceptable.

iv) Retaining wall: The Supporting Planning Statement refers to a timber retaining wall to retain the soil bank. However, no details of this retaining wall have been submitted and in the absence of any such details, the Local Planning Authority is concerned with regard to the impact of this aspect of the development on the existing hedgerow located to the southern boundary, which was secured by a condition imposed on MC/01/1432 to be retained as part of that permission. It is not considered possible to condition these details as without details as to how the retaining wall is to be provided, it is unclear as to whether the long term protection of the existing hedgerow, along the southern boundary to the site, can be provided so as to ensure it is retained. The loss of this hedge would have a significant impact on the amenities of the occupiers of the properties located to the south of the site substantially increasing the prominence of the development and it impact on the surrounding area and the streetscene in general. This being the case, this aspect of the development is considered to be unacceptable and contrary to Policy BNE1 of the Medway Local Plan 2003 in this regard.

v) Other changes: there are various other changes to the proposal which in themselves raised no concerns, namely the exclusion of the chimney stack from the flank wall and the moving forward of the garage on the north side of the building. The blocking up of the garage door and the changes to the front wall raise no concerns. The eaves of the building as currently proposed appear to be at the same level as approved, but the ridge appears to be approx. 0.3m higher. However, due to the position of the garage in the rear garden of 5 Goldsworth Drive, this would not be noticeable from the front of 28 Chequers Court or the surrounding area in general and would not have a significant impact.

Having regard to the above considerations, the proposal, is considered to have an unacceptable and overbearing impact on neighbouring and nearby properties and the development is considered to conflict with Policies BNE1 and BNE2 of the Local Plan.

Local Finance Considerations

There are no Local Finance Consideration raised by this planning application.
Conclusions and Reasons for Refusal

The proposal, as submitted still has an unacceptable and overbearing impact on neighbouring and nearby properties and fails to fully address the concerns raised above and as such the proposal is considered to conflict with Policies BNE1 and BNE2 of the Local Plan and is recommended for refusal.

Background Papers

The relevant background papers relating to the individual applications comprise: the applications and all supporting documentation submitted therewith; and items identified in any Relevant History and Representations section within the report.

Any information referred to is available for inspection in the Planning Offices of Medway Council at Gun Wharf, Dock Road, Chatham ME4 4TR and here http://planning.medway.gov.uk/dconline/AcolNetCGI.gov