

MC/18/0817

Date Received: 13 March 2018

Location: Restoration House 17-19 Crow Lane Rochester ME1 1RF

Proposal: Retrospective application for repair and reconstruction of a listed boundary wall including 5 brick buttresses to support the wall and consent for the repair and reconstruction of the remaining section of a Tudor wall.

Applicant Mr Tucker

Agent Mr Hall 55 The Old High Street  
Folkestone  
CT20 1RN

Ward: Rochester West Ward

Case Officer: Mary Smith

Contact Number: 01634 331700

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**Recommendation of Officers to the Planning Committee, to be considered and determined by the Planning Committee at a meeting to be held on 6th June 2018.**

**Recommendation - Approval with Conditions**

- 1 The development hereby permitted shall be carried out in accordance with the following approved plan:

Drawing AL(0)22 Revision C received 20 April 2018.

Reason: For the avoidance of doubt and in the interests of proper planning.

- 2 No further development shall take place until the applicant, or their agents or successors in title, has secured the implementation of a programme of archaeological work (including the recording of structures before their alteration or removal) in accordance with a written specification and timetable which has first been submitted to and approved by the Local Planning Authority.

Reason: This is required before any further work to ensure that features of archaeological interest are properly examined and recorded and with regard to Policy BNE21 of the Medway Local Plan 2003.

- 3 Prior to the commencement of the works hereby approved which have not yet been undertaken samples of materials including the proposed mortar and pointing finish shall be submitted to and approved in writing by the Local Planning Authority. The works shall be undertaken in accordance with these approved details.

Reason: This is required before any further work in the interests of the character and appearance of this historic setting and with regard to Policies BNE14 and BNE17 of the Medway Local Plan 2003.

**For the reasons for this recommendation for approval please see Planning Appraisal Section and Conclusions at the end of this report.**

### **Proposal**

Applications for both planning permission and listed building consent have been submitted for retrospective consent for the repair and reconstruction of a listed boundary wall including 5 brick buttresses to support the wall and for consent for the repair and reconstruction of the remaining section of a Tudor wall. This application is for planning permission.

The wall is located by the western boundary of the site, adjacent to the carport and shed of the neighbouring property Vines Croft at 23 Crow Lane. Prior to the current works there was a section of the historic wall at the northern end of this part of the boundary, with the remainder of this boundary marked with a close boarded fence. The applicants contend that during the (on-going) works for the restoration of the gardens it was found that the original brick boundary wall had survived below ground level along a much greater length of this western section, however it was distorted and leaning in towards the garden area, this being in very close proximity to the carport in the neighbouring property, Vines Croft. At the far southern end of this there is a small section of wall the applicants advise has a similar form to the Tudor wall on the southern boundary to the gardens. There is a small section of modern brickwork above this as well as some wooden fencing.

The current applications are for retention of the wall built on the main section of this part of the western boundary and for the proposed works to the small remaining section to the south of this. The red brick wall already built (in 2014) is approximately 15.2m in length and 4.25m high and consists of 5 'panels' with brick buttresses on the site/east side. The buttresses contain steel columns, surrounded by brickwork. The applicants advise that this section of wall needed to be rebuilt because of its very poor condition, the need to support the neighbours carport behind and to continue to retain the earth behind the wall, approximately half of its height being a retaining structure.

The proposed works to the southern section consist of the rebuilding of the small Tudor wall section, its extension to the south and its raising in height, and also the further heightening of this section of wall to the height of the adjacent, already built wall. It is also proposed to add one further buttress. These works would include the removal of the fence and a yellow brick dwarf wall.

## Relevant Planning History

This site has a long and detailed planning history. The most relevant history relating to this application is set out below:

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|------------|---|
| MC/18/0818 | Listed Building Consent application for retrospective consent for repair and reconstruction of a listed boundary wall including 5 brick buttresses to support the wall and consent for the repair and reconstruction of the remaining section of a Tudor wall<br>Undetermined (also on this agenda)   |
| MC/14/1107 | Details pursuant to conditions 3, 4, 5 and 6 of planning permission MC/10/2917<br>Undetermined  |
| MC/14/0956 | Details pursuant to condition 2 of planning permission MC/10/2915<br>Approved 9 May 2014  |
| MC/13/3305 | Listed building application for part retrospective construction of new garden wall, raised terraces, gated opening, steps and erection of new timber frame and brick garage, brick gazebo, repair of grade II listed Tudor Wall and a new fountain<br>Approved 11 September 2014  |
| MC/13/3301 | Part retrospective construction of new garden wall, raised terraces, gated opening, steps and erection of new timber frame and brick garage, brick gazebo, repair of grade II listed Tudor Wall and a new fountain<br>Approved 11 September 2014  |
| MC/10/2917 | Listed Building Consent for construction of new garden walls, raised terraces, gated openings and steps to be built on original excavated footings and to match existing adjacent walls<br>Approved 11 May 2011   |
| MC/10/2915 | Change of use of land to garden area incorporating construction of new garden walls, raised terraces, gated openings and steps to be built on original excavated footings and to match existing adjacent walls.<br>Approved 11 May 2011   |
| MC/03/2452 | Part demolition of warehouse buildings; the conversion of "tower building" into one Class B1 office unit with 5 flats above; the conversion of one warehouse building into three 1-bedroomed mews cottages; the construction of 10 terraced houses; two blocks comprising 12 flats; one block comprising a Class B1 office unit at ground floor with 6 flats above; the formation of a new access via The Terrace and the provision of parking<br>Approved 15 December 2006 |

## Representations

The application has been advertised on site and in the press and by individual neighbour notification to the owners and occupiers of neighbouring properties. Historic England and KCC Archaeology have also been consulted.

**Historic England** has provided detailed comments including setting out the historical context of the site and its setting. It is stated that in respect of the current site surviving evidence of the early form of the wall, including its height, is less clear cut but some fragmentary evidence of a diaper brick patterned wall survives at its southern end along with low level brickwork (probably dating) to the 16th or early 17th century towards its northern end. Upstanding remains here also survive from the 18th and 19th centuries.

Reconstructed sections of the wall reflect the height of the later upstanding sections at its northern end and use architectural details which derive from 17th century designs. The wall is buttressed to retain earth on its western side but this is unlikely to be a historic detail and the central section steps forward of the line of the diaper work at its southern end. New brickwork above the walling with a flint and brick diaper pattern (at the southern end) is also proposed. Here the proposed detailing is more informed by knowledge of the likely historic form and appearance and is less based on archaeological evidence for how this wall was finished and its historic height.

They consider that the detailing and height of the rebuilt sections include informed conjecture and may not therefore accurately restore what might once have been here, but this said the design and detailing is based on scholarly study of precedents for 16th and 17th century garden architecture. They do not think this approach in itself causes harm to either the upstanding sections of the grade II listed wall along the southern boundary, which is not directly affected by this proposal, or to the significance of the grade I house. On the contrary they think the work has a role in revealing the significance of the grade I Restoration House (including its associated garden) insofar as it helps, with the southern section, to illustrate the extent and character of the formal garden once associated with this important town house. In a broader context understanding this and the complexity of its terracing conveys something of the grandeur and status of the house and so is capable of revealing this aspect of the building's significance. In doing so they think that the scheme achieves enhancements as envisaged by Paragraph 131 of the NPPF.

In rebuilding lost sections of garden walls it is unavoidable that some of the surviving archaeological evidence for the garden might have been removed or covered up. They are satisfied however that loss of archaeological information has been minimised wherever possible by recording; that as much historic fabric as possible is being retained; and that the heritage benefits of recovering the historic character of the garden as a whole clearly outweighs harm to archaeological values. They note that for the southern section some archaeological evidence might be affected depending on how this work is carried out and suggest that archaeological recording is necessary for the as yet un-built southern section if approval is given.

In assessing heritage benefits the Council should take account of how work (both existing and proposed) better reveals aspects of significance, insofar as it illustrates

the extent and character of the formal landscape by reversing past harmful changes and thus helps explain the function and status of Restoration House. Rebuilding the western wall also helps make sense of the southern section and so might also be regarded as a heritage benefit.

It is confirmed that they have no concerns on heritage grounds provided that the remaining work at the southern end is carried out to the same high quality and with oversight by an archaeologist to record information, considering that the applications meet the requirements of the NPPF, in particular paragraphs 129, 131, 132 and 134.

**KCC Archaeology** note that there are further works proposed including the removal of wall and exposing and rebuilding of a 'Tudor wall section'. Such works are likely to benefit from further archaeological work, recording and analysis and a condition to secure a programme of archaeological work is recommended if permission is granted. Such archaeological work should include recording of structures before their alteration or removal. It is confirmed that these comments relate only to the archaeological aspect to the application and not to the merits of the proposed restoration works or the setting of the designated heritage assets, it being recommended that the Council's Conservation Officer and Historic England lead on these aspects.

**One letter of objection** has been received, in summary raising the following concerns:

- Applications should not be retrospective;
- The works consist of two separate elements, the reconstruction of a brick wall with 5 piers and the reconstruction of a section of Tudor wall, and are not a continuation of the rebuilt Tudor wall;
- The wall is presented as an authentic reconstruction which it is not, this also contradicts previous Historic England advice that speculated works should not be presented as such;
- There is no evidence that a brick wall continued to the southwest at the same height as the back wall of a utility building or that there was ever a southeast gazebo;
- The north section of the wall was the rear wall of a utility building and not a boundary wall, it would not have been so high as to obstruct views as part of the original pleasure garden that included upper and lower parts, questioning historical accuracy, and has been raised to screen neighbouring property;
- In revealing the work the applicant moved with reckless speed and without thought to the breach of the neighbours right of support;
- The neighbouring carport walls and columns (built in 2000) bear downwards and have not caused sideways thrust against the boundary wall, the collapse of the wall was caused by removal of support not the carport;
- The steel supports and buttresses are larger than necessary and out of keeping;
- The bricks used do not match the utility building wall, are not sympathetic restoration and are in some cases badly chosen (eg paint covered);

- The new wall is too high and restricts light entering into the neighbouring carport, it detracts from amenity and is also too large and overbearing to suit a pleasure garden;
- No approved archaeological investigation was undertaken and previous KCC Archaeologist advice raised concerns regarding poor reporting and approach in this respect;
- There are errors on the application form, submitted plan and documents including as the works included demolition.

## **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*

The current application site forms part of a larger site which benefited from planning permission in 2006 for predominantly residential development with some Class B1 development (reference MC/03/2452). During the purported implementation of this planning permission an historic wall (running at approximately ninety degrees to the southeast of the current wall site) was partially demolished by the then owner/developer. The demolition of this wall was unauthorised in planning terms. After the demolition works the remainder of the wall was grade II listed by the Secretary of State.

In 2010 planning and listed building applications were submitted to seek approval for the reinstatement of the wall (MC/10/2915 and MC/10/2917). These applications also sought approval for the change of use of land to garden area incorporating construction of new garden walls, raised terraces, gated openings and steps to be built on original excavated footing and to match existing adjacent walls. This would enable the site to be incorporated within the garden area of Restoration House, a grade I listed building. Historically the land formed part of the grounds of Restoration House and the works were to enable the historic gardens to be reinstated, both applications being approved in 2011.

During the implementation of these works the Council became aware that parts of the development were not being carried out in accordance with the approved drawings. The development also included new features that did not form part of the originally submitted applications. Planning and listed building applications MC/13/3301 and MC/13/3305 were subsequently submitted to regularise this as well as to incorporate new features and structures within the site including a garage/parking area, a gazebo and a fountain. These applications were subsequently approved in 2014.

## *Principle*

There is no overriding objection in principle to the works however their acceptability very much rests on matters of detail, to be assessed below.

### *Impact on Conservation Area, Setting of Listed Buildings/Structures and Archaeology*

The site is located within the Rochester City Conservation Area and there are a number of listed buildings and structures in the immediate vicinity including the (Tudor) wall to the southeast which is grade II listed and Restoration House grade I, Vines House grade II\* and Vines Croft grade II to the northwest which front onto Crow Lane. In these circumstances it is necessary to pay special attention to the desirability of preserving or enhancing the character or appearance of conservation areas as well as to have special regard to the desirability of preserving the listed buildings and their settings, including any features of special historic and architectural interest. This is also an area of archaeological interest. Policies BNE14, BNE17, BNE18 and BNE21 of the Local Plan provide advice on development in Conservation Areas, the alteration and setting of listed buildings and archaeological sites and Section 12 of the NPPF advises on conserving and enhancing the historic environment.

In the current case it is far from ideal that part of the application is retrospective however the Local Planning Authority (LPA) is still required to reach a decision on the application. It is also recognised that there are differing views regarding the circumstances that have led to this situation, as well as in respect of the details of the submissions and the interpretation of the historic evidence which is available. Further to this is noted that the buttresses to the current wall are unlikely to have been an original feature (and that they may be structurally excessive for the retaining function needed), however a decision on their acceptability within their historic setting must be made.

Expert advice has been obtained from both Historic England and KCC Archaeology, the Councils' specialist consultee for archaeological matters. This has been set out in some detail in the representations section above. In summary Historic England advise that although surviving evidence is limited and that the details of the rebuilt sections include informed conjecture and may not be an accurate restoration, they are not only satisfied that this does not harm the adjacent listed wall or Restoration House but that the development results in some positive enhancement in revealing the significance of Restoration House by illustrating the extent and character of its former formal garden. They also advise that the heritage benefits of recovering the historic character of the garden as a whole clearly outweighs harm to archaeological values.

KCC Archaeology are aware of the situation on site and have not raised any objection. They confirm that further archaeological work should be undertaken in connection with the proposed works which have not yet been undertaken and a condition to require this is recommended.

Overall it is considered that the works which have already been undertaken, whilst not necessarily entirely historically accurate, are complementary and sympathetic to the site and its surroundings, as would be the proposed works. In these circumstances and with regard to the above specialist advice, the development is therefore

considered acceptable with regard to Policies BNE14, BNE17, BNE18 and BNE21 of the Local Plan and the advice in Section 12 of the NPPF.

### *Amenity*

The position of the wall lies on the boundary with the adjacent property Vines Croft to the west. Immediately within Vines Croft there is, from south to north, part of a vehicular access, a carport and a workshop. There is a significant difference in ground levels between Vines Croft and the gardens to the east of the wall, such that the wall, which is in part a retaining wall, is approximately 4.25m high from the gardens and 2.15m high from the Vines Croft side.

Although the wall encloses Vines Croft from the site, other than some circular view points through, it is not considered that this results in an unacceptable loss of amenity. The wall runs alongside a driveway, carport and workshop rather than open garden or close to the dwelling itself. A form of boundary enclosure in such circumstances is not unusual and does not result in an unacceptable loss of light or overbearing impact. There are no objections with regard to Policy BNE2 of the Local Plan or point 4 of paragraph 17 of the NPPF.

### *Local Finance Considerations*

There are no relevant local finance considerations.

## **Conclusions and Reasons for Approval**

In summary it is considered that the development results in some enhancement of rather than detract from the historic setting of the site and that there is no significant harm to amenity. Approval is therefore recommended including with regard to Policies BNE2, BNE14, BNE17, BNE18 and BNE21 of the Local Plan and the advice in paragraph 17 and Section 12 of the NPPF.

This application would normally fall to be considered under officers' delegated powers but has been reported to Planning Committee for determination due to the sensitivity of the site and its history. Members have previously undertaken a visit to the site and have therefore seen the vast majority of the wall as constructed.

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## **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://publicaccess1.medway.gov.uk/online-applications/>