

MC/23/1570

Date received: 14 July 2023
Location: Land adj. 3 Swingate Avenue, Cliffe, Hoo, ME3 7QZ
Proposal: Part retrospective – Construction of a detached, three-bedroomed dwelling incorporating a dormer to rear, single-storey extension to rear and single-storey extension to front.
Applicant: Lee Sturch
Agent: Gary Edwards
Edwards Planning Consultancy
Beckenham
London
BR3 4JU
Ward: Strood Rural
Case Officer: Hughie Johnston
Contact no: 01634 33 2301

Recommendation of Officers to the Planning Committee, to be considered and determined by the Planning Committee at a meeting to be held on Wednesday 30 August 2023.

Recommendation – Approval with Conditions

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

Received 14 July 2023:

CB3202.01 Rev A Existing and Proposed Elevations

CB3202.02 Rev A Existing and Proposed Floorplans

Received 21 July 2023:

Site Location Plan

Block Plan

Received 15 August 2023:

SK.3202.03. Proposed Side Elevation

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

- 2 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order amending, revoking and re-enacting that Order with or without modification), no development shall be carried out within Schedule 2, Part 1, Classes A, AA, B or E of that Order unless planning permission has been granted on an application relating thereto.

Reason: To enable the Local Planning Authority to control such development in the interests of visual and neighbouring amenity in accordance with Policies BNE1 and BNE2 of the Medway Local Plan 2003.

- 3 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order amending, revoking and re-enacting that Order with or without modification) all dwellinghouses herein approved shall remain in use as a dwellinghouse falling within Class C3 of the Town and Country Planning (Use Classes) Order 1987 (as amended) (or any order amending, revoking and re-enacting that Order with or without modification) and no change of use shall be carried out unless planning permission has been granted on an application relating thereto.

Reason: To enable the Local Planning Authority to control such development in the interests of amenity, in accordance with Policy BNE2 of the Medway Local Plan 2003.

- 4 The dwellinghouse herein approved shall not be occupied until the area illustrated on the block plan drawing, received 21 July 2023, as vehicle parking space for the new dwelling has been provided, surfaced and drained. Thereafter this parking area shall be kept available for such use and no permanent development, whether or not permitted by the Town and Country Planning (General Permitted Development) Order 2015 (or any order amending, revoking or re-enacting that Order) shall be carried out on the land so shown or in such a position as to preclude vehicular access to this reserved parking space.

Reason: Development without provision of adequate accommodation for the parking of vehicles is likely to lead to hazardous on-street parking, in accordance with Policies T1 and T13 of the Medway Local Plan 2003.

- 5 The dwellinghouse herein approved shall not be occupied until details for the provision of an electric vehicle charging point have been submitted to and approved in writing by the Local Planning Authority. Details shall include the location, charging type (power output and charging speed), associated infrastructure and timetable for installation. The development shall be implemented in accordance with the approved details and thereafter be maintained.

Reason: In the interests of sustainability, in accordance with paragraph 112e of the NPPF 2021.

- 6 The construction of the development hereby approved, including measures to control, amongst other matters, hours of working, parking of operative vehicles, deliveries to the site, noise, dust and lighting arising from the demolition and construction phase of the development herein approved, shall be carried out in accordance with the Construction Method Statement received 07 March 2022.

Reason: Required prior to occupation of the dwellinghouse in order to minimise the impact of the construction period on the amenities of local residents, in accordance with Policy BNE2 of the Medway Local Plan 2003.

- 7 The side-facing windows serving the first-floor shower room, second-floor landing and second-floor ensuite bathroom shall be fitted with obscured glass

and, apart from any top-hung light that has a sill height of not less than 1.7 metres above the internal finished floor level of the room it serves, shall be non-opening. This work shall be completed before the dwelling is first occupied and shall be retained thereafter.

Reason: To ensure the development does not prejudice conditions of amenity by reason of unneighbourly overlooking of the adjoining property, in accordance with Policy BNE2 of the Medway Local Plan 2003.

- 8 The development shall be constructed utilising the external materials approved under application MC/23/0354.

Reason: To ensure that the appearance of the development is satisfactory and without prejudice to conditions of visual amenity in the locality, in accordance with Policy BNE1 of the Medway Local Plan 2003.

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

Proposal

Following the grant on appeal of a dwelling house (MC/22/0612) construction commenced. The applicant mistakenly did not appreciate that although the appeal decision did not remove permitted development rights, that the dwelling would not benefit from those rights until completed and occupied. As a result the development under construction is for the dwelling allowed on appeal plus additional extensions. This includes the following:

- A dormer window in the rear roof slope.
- A single rooflight to the front roof slope.
- An extension to the front of the property.
- An extension to the rear of the property.
- 2 additional windows on the eastern elevation of the main dwelling – one at ground floor and one at second floor level.

The additions to the property at ground floor level would extend from the rear by circa 3m, increasing the ground floor living accommodation across the full width of the property and from the front by circa 1m to increase the size of the kitchen and square off the front of the house. The roof space within the property would be converted into habitable space, facilitated by the proposed dormer and rooflights, and would increase the number of bedrooms from 2 to 3. Furthermore, to overcome a drawing inconsistency the overall width of the proposed dwelling is circa 0.8m narrower than the previous approval.

Relevant Planning History

| | |
|------------|---|
| MC/23/0354 | Details pursuant to condition 3 (materials) and condition 6 (bird bricks) on appeal decision APP/A2280/W/18/3214287 for construction of a detached 2-bedroom dwelling. (MC/19/1941) |
|------------|---|

Decision: Discharged 28 March 2023

MC/22/0612

Details pursuant to condition 5 (CEMP) on planning application MC/19/1941 for the Construction of a detached 2 bedroomed dwelling.
Decision: Discharged 27 April 2022

MC/19/1941

Construction of a detached 2 bedroomed dwelling.
Decision: Refused 23 September 2019
Appeal allowed 04 December 2019

Representations

The application has been advertised on site by site notice and by individual neighbour notification to the owners and occupiers of neighbouring properties. Cliffe & Cliffe Woods Parish Council was also consulted, as well as the Council's Environmental Protection department.

Ten letters of objection from **eight** addresses, raising concern over the following:

- Overall proposed design
- Additional demands of a 3-bedroom dwelling compared to 2
- Overlooking/loss of privacy as a result of the proposed dormer
- Loss of daylight/sunlight
- Relationship with surrounding properties

Cllr Turpin has emailed to confirm that she has received letters of representation from residents in opposition to the proposed development.

The **Parish Council** raised objection on the basis that the proposed development fails to provide off-road parking that is in line with parking standards of the Cliffe & Cliffe Woods Neighbourhood Plan.

Development Plan

The Development Plan for the area comprises the Medway Local Plan 2003 (the Local Plan) and the Cliffe and Cliffe Woods Neighbourhood Plan. The policies referred to within these documents and used in the processing of this application have been assessed against the National Planning Policy Framework (NPPF) 2021 and are generally considered to conform. Where non-conformity exists, this is addressed in the Planning Appraisal section below.

Planning Appraisal

Background

Application reference MC/19/1941 for a 2 bed detached property on the same site was reported to Planning Committee and recommended for approval. However, following consideration Following the previous officer's recommendation of approval, the 2-bedroom dwelling was overturned at Planning Committee and planning permission

refused on the basis of the perceived harm the proposal would have on the character and appearance of the area. That decision was the subject of an appeal, and the appeal was allowed on 4 December 2019. The Inspector imposed conditions which were discharged, but he did not remove permitted development rights. As stated above, the applicant received poor advice (not from the planning service) that he could extend the property at the same time as building what had been approved. Following investigation by the planning enforcement team this error was pointed out and the result is the application in front of Committee now.

Since the appeal decision the Cliffe and Cliffe Woods Neighbourhood Plan has been produced and is an adopted document forming part of the Development Plan for the area. As such it carries considerable weight in the assessment of planning applications in the parish area.

Principle

Planning permission has previously been granted for a dwelling on the site and construction work has commenced. The principle of development is therefore already established for a dwelling in this location and is considered acceptable. Consideration will be given only to the material differences between the previous permission and this proposal.

Policy H2 of the Cliffe & Cliffe Woods Neighbourhood Plan (the Neighbourhood Plan) relates to housing infill and states that proposals for new housing development on previously developed land within the existing village boundary will be supported in the form of small-scale infill development. The Policy explains that such sites are important to ensure the effective use of the land and to help meet the local need for housing. The site, previously forming part of the garden amenity land of no. 3 Swingate Avenue, is considered to provide a small-scale infill development for housing. On this basis, the development is considered to comply with Policy H2 of the Neighbourhood Plan.

Design

Paragraphs 126 and 130 of the NPPF 2021 outline the importance of good design in developments to improve local areas and Policy BNE1 of the Local Plan states that development should be satisfactory in terms of scale and mass and should respect the visual amenity of the surrounding area. Policy H6 of the Neighbourhood Plan states that new housing should respect the rural character of its context, and that particular attention should be given to building heights.

In terms of its scale and massing, the proposed scheme would not appear too dissimilar in its appearance to the previous approval when viewed from within the streetscene. However, key differences include single-storey additions to the ground floor (front and rear) and a dormer and rooflight serving the second floor.

In the appeal decision notice the Inspector did not consider it necessary to restrict the householder in terms of their permitted development rights, meaning that on completion of the approved scheme a dormer to the rear, a single-storey rear extension and rooflights to the front/rear may be constructed without the benefit of planning permission as he did not consider that the application of such permitted

developments would cause undue harm to the overall character and appearance of the dwelling or wider streetscene. Additionally, there is precedent in the immediate area for rear box dormers, specifically no. 1 Swingate Avenue which is visible from the application site. The proposed dormer would also be inset from both gable ends by circa 0.7m to maintain subservience.

The single-storey addition to the front at ground-floor level is not considered to alter the interpretation of the scheme and would essentially square off the front of the property. It is not considered that this causes any harm to the character and appearance of the immediate area.

The ground-floor addition to the rear would not be visible from within the streetscene and, extending only 3m in depth and to a height of approximately 3m would not harm the appearance of the approved property. The applicant accepts that as part of the extension is slightly higher than 3m that it would not have benefited from permitted development. However, with a marginal reduction in height the fall back is that the extension could have been constructed without planning permission if they had waited until after the dwelling had been completed.

As the application now proposed includes the dormer and extensions it is appropriate to impose a condition removing permitted development rights so that no further extensions can be undertaken without consent.

External materials have been discharged under conditions application MC/23/0354. To fully comply with the condition, the development shall continue to be constructed in accordance with the approved details.

The proposed design is considered to comply with Policy BNE1 of the Local Plan, Policy H6 of the Neighbourhood Plan and paragraphs 126 and 130 of the NPPF 2021.

Amenity

Paragraph 130f of the NPPF 2021 establishes that a key feature of well-designed places should include a high standard of amenity for existing and future users.

In this instance the main amenity considerations would be overlooking and loss of privacy as a result of additional living accommodation at second-floor level. Although the addition of a rear dormer has potential to intensify overlooking to the private gardens of adjacent neighbours at second-floor level, this is considered to remain within the levels expected of a residential area and a degree of mutual overlooking is already present. In this case, no. 1 Swingate Avenue also provides precedent for the installation of a rear dormer at second-floor level.

Although not proposed to serve habitable space, a condition is recommended to ensure that the windows serving the side elevations at both first and second-floor level are installed with obscured glazing for the purpose of amenity protection for current and future occupiers of neighbouring properties and to prevent unneighbourly overlooking.

Given the proposed amendments to the internal space of the dwelling, it is necessary to consider whether the amended scheme provides adequate habitable space for future occupiers, in accordance with the *Technical housing standards – Nationally described space standards March 2015*. The following table shows the minimum gross internal m² expected against the proposed dwelling.

| | Number of bedrooms | Number of bed spaces | 3-storey dwellings |
|----------|--------------------|----------------------|--------------------|
| Standard | 3b | 5p | 99 + 2.5 storage |
| Proposed | 3b | 5p | 105 |

The application also proposes sufficient private garden amenity space for the dwelling. The living conditions for future occupiers of the dwelling are therefore considered acceptable. However, the removal of Permitted Development rights (Classes A, AA, B and E) is further considered to be justified to ensure that sufficient garden space is retained for current and future occupiers' needs and that the amenity of neighbouring occupiers is protected.

A construction and environmental management plan has been approved as part of the previous condition discharge and as a result a condition is recommended requiring construction to be undertaken in accordance with those approved details.

Given the increase in habitable space when compared to the previously approved scheme, there is potential for the property to be converted to a small HMO in future, which may result in a harmful impact to the amenity of neighbouring residents. It is therefore recommended that permitted development rights are removed with regard to the change of use between use classes C3 and C4.

Overall, the amenity impact to prospective occupiers and neighbours is not considered to be unacceptable in planning terms and no objection is raised with regard to Policy BNE2 of the Local Plan and paragraph 130f of the NPPF 2021.

Highways

The proposed increase from a 2 to 3 bedroom property is likely to increase the number of comings and goings in that the dwelling would be suitable for a larger family.

Medway Council's interim parking standards would require 2 off road spaces to serve a dwelling of this size. However, Policy INFRA4 of the Neighbourhood Plan states that 3 off-road parking spaces should be provided for dwellings with 3+ bedrooms.

The policies in the neighbourhood plan should be given significant weight and ordinarily the Local Planning Authority would be looking for compliance with the Policy INFRA4. However, the following needs to be considered:

- The Inspector did not remove permitted development rights and if the dwelling had been completed the dormer, increasing the number of bedrooms to 3 could have been undertaken without planning permission. This fall back must be given considerable weight and there is clear case law with respect to the fall back position.
- There is no possibility to achieve more than 2 parking spaces on site.

- Although the application proposes only 2 spaces, unrestricted on-street parking is available for residents and there is clear on street availability.

In this instance and in these circumstances, no objection is therefore raised with regard to Policies T1 and T13 of the Local Plan, Policy INFRA4 of the Neighbourhood Plan and paragraph 111 of the NPPF 2021. A condition is recommended to ensure that the proposed off-street parking space is provided and retained for existing and future occupants.

Paragraph 112 of the NPPF 2021 highlights that “...*applications for development should: e) be designed to enable charging of plug-in and other ultra-low emission vehicles in safe, accessible and convenient locations.*” This represents a national policy change since approval of the previous scheme in 2019. In light of the climate change emergency and in the interest of sustainability, it is recommended that a condition is added to ensure that, prior to occupation of the dwelling, a proposal for the installation of an electric vehicle charging point is submitted to and agreed in writing by the Local Planning Authority.

Climate Change and Energy Efficiency

In this instance given the scale of development completed thus far and that any proposed materials have been agreed by the discharge of condition, it was not deemed necessary to request any additional information with regard to a climate change statement and energy efficiency, with exception to the installation of an electric vehicle charging point.

S106 Matters / Bird Mitigation

As the application site is within 6km of the North Kent Marshes SPA/Ramsar Sites, the proposed development is likely to have a significant effect, either alone or in combination, on the coastal North Kent Special Protection Areas (SPAs)/Ramsar sites from recreational disturbance on the over-wintering bird interest. A decision from the Court of Justice of the European Union detailed that mitigation measures cannot be taken into account when carrying out a screening assessment to decide whether a full ‘appropriate assessment’ is needed under the Habitats Directive. There was therefore a need under the Conservation of Habitats and Species Regulations 2017 for an appropriate assessment to be carried out as part of this application.

As a result of the Appropriate Assessment Natural England has advised that an appropriate tariff should be collected to fund strategic measures across the Thames, Medway and Swale Estuaries by way of mitigation for the adverse effects of the development. This tariff should be collected for new dwellings, either as new builds or conversions (which includes HMOs and student accommodation).

These strategic SAMMS mitigation measures are being delivered through Bird Wise North Kent, which is the brand name of the North Kent Strategic Access management and Monitoring Scheme (SAMMS) Board, and the mitigation measures have been informed by the Category A measures identified in the Thames, Medway & Swale Estuaries Strategic Access Management and Monitoring Strategy (SAMMS) produced by Footprint Ecology in July 2014. Further information regarding the work being

undertaken is available at The Bird Wise website which can be found at <https://northkent.birdwise.org.uk/about/>.

A SAMMS mitigation contribution has already been paid as part of the previous application MC/19/1941 and therefore no objection is raised with regard to Policies S6 and BNE35 of the Local Plan and paragraphs 180 and 181 of the NPPF 2021.

Conclusions and Reasons for Approval

The proposed development would not detract from the overall character and appearance of the approved dwelling and wider streetscene. There would be no unacceptable impacts in terms of residential amenity and highways safety. The proposal would therefore be in accordance with Policies BNE1, BNE2 and T13 of the Medway Local Plan 2003, Policies H2, H6 and INFRA4 of the Cliffe & Cliffe Woods Neighbourhood Plan and paragraphs 111, 126, 130 and 130f of the NPPF 2021. Accordingly, the application is recommended for approval.

This application would ordinarily be determined under delegated powers but is being referred for a committee decision due to the number of representations received expressing views contrary to the officer's recommendation and at the request of ward Councillors.

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 online here: <http://publicaccess1.medway.gov.uk/online-applications/>.