

<b>2.5 REFERENCE NO - 15/505662/FULL</b>		
<b>APPLICATION PROPOSAL</b> Erection of two storey side extension with light lantern, roof extension, creation of basement, insertion of lift, erection of porch, insertion of Hydrotherapy Pool and changes to fenestration and doors.		
<b>ADDRESS</b> Kennelling House Kennelling Road Stalisfield Kent ME13 0JQ		
<b>RECOMMENDATION - Approve</b>		
<b>REASON FOR REFERRAL TO COMMITTEE</b> Objection from Parish Council		
<b>WARD</b> East Downs Ward	<b>PARISH/TOWN COUNCIL</b> Stalisfield	<b>APPLICANT</b> Mr David Breaker <b>AGENT</b> Cyma Architects Ltd.
<b>DECISION DUE DATE</b> 10/09/15	<b>PUBLICITY EXPIRY DATE</b> 07/08/15	
<b>FOR RELEVANT PLANNING HISTORY SEE BELOW</b>		

**1.0 DESCRIPTION OF SITE AND PREVIOUS HISTORY**

- 1.01 Kennelling House lies to the east of the remote village of Stalisfield Green in an extremely isolated and prominent hill top position to the south of Kennelling Road, to the east of Parsonage Farm. It is within the countryside and the Kent Downs Area of Outstanding Natural Beauty. There is extensive planning history for this site.
- 1.02 Outline planning permission was originally granted in 1996 (SW/95/1007) to replace a former timber “Colt” style bungalow on the current application site, which was completely destroyed by fire following a direct lightning strike. This bungalow measured 8.6m wide by 6.25m deep.
- 1.03 The current applicant bought the site on the strength of this outline permission. He then sought approval for a very large two-storey house in the Wealden Hall House style, measuring 20m wide by 8m deep. The Council refused approval of reserved matters for such a large house compared to the previous bungalow, and this decision was appealed. The appeal was dismissed (T/APP/V2255/A/99/1022117/P5) in September 1999 with the Inspector noting that the site lies towards the crest of a small ridge in open landscape, with footpaths to the north and south-west. He found that on this small plot the proposed house would represent a considerable presence and would not be seen in the context of other buildings. The Inspector concluded that the house would be prominent, occupying an isolated and elevated position in the landscape, highly visible from public viewpoints, being unsympathetic to its surroundings, too large, and an unduly prominent feature in the landscape.
- 1.04 Following dismissal of the appeal the Council renewed the outline permission in 1999 (SW/98/1094) and approved the final design of the house in February 2000 (SW/99/1192). This created a substantially smaller but still 4 bedroom 2

bathroom property; the main frontage to the lane being 13.5m in width and with the main range 5.8m in depth, plus a two-storey rear wing measuring 4.5m by 5m housing the kitchen and one bedroom. This is largely the house that stands on the site today.

- 1.05 Approval was granted for a very small two storey rear extension in 2001 within the L shape to the rear of the property (this has been built) and a further larger two storey rear wing to create disabled accommodation, creating a U shaped house, was approved in 2008. This remains un-built but the permission was renewed in 2011 (SW/11/0658).
- 1.06 In addition applications SW/07/0304 and SW/07/0815 were refused for the construction of a garage/workshop/store being too large. However SW/07/1152 approved an oak framed 3 bay garage, which has been built.
- 1.07 Application SW/09/0787 then proposed a 7.3m deep x 4.1m wide two-storey extension of the roadside end of the detached garage to create dedicated live in accommodation for a care assistant. This was refused and the subsequent appeal dismissed (APP/V2255/D/10/2120106) in March 2010. This Inspector noted that the property is isolated and near to the top of a hill. She concluded that the extension would be prominent in the open landscape and fail to protect the natural beauty of the area.
- 1.08 Application SW/11/1346 was then submitted for a single storey building described as “annex accommodation” comprising two bedrooms, one with ensuite, an additional bathroom and an open plan living and kitchen area for a live in career. This was refused permission as it was considered that the scale and self contained nature of the proposed accommodation amounted to the creation of a separate residential property capable of independent occupation from the main dwelling.
- 1.09 Application (SW/13/1565) was refused permission as it was considered that the extension by virtue of its size, scale and massing and along with the significant increase in floorspace would result in an immodest extension to this very isolated and prominent dwelling located in the designated countryside and Kent Downs Area of Outstanding Natural Beauty. Furthermore the Council considered that justification for the size of the proposed extensions, which was based on the applicant’s personal circumstances, was insufficient to overcome the harm to the character of this protected area.
- 1.10 Of most significance now is that in 2014 application 14/502711 was submitted. This was an identical scheme to that submitted the year before, but importantly it was supported by extensive evidence of the applicant’s personal circumstances and backed up by professional advice. This made a strong case for the scale of enlargement proposed based on the applicant’s son’s extremely unusual and severe personal requirements. The Parish Council did not object to that application and although such personal requirements would not have been seen as justification for a new house here, I (in consultation with the Ward Member) concluded that the policy restraint on rural extensions

was outweighed by the personal circumstances involved. Accordingly the application was approved but with a condition meaning that only the applicant could carry out the development.

- 1.11 The approved scheme is for the same works now proposed except that a basement area is also now proposed.

## **2.0 PROPOSAL**

- 2.01 This application in many parts is identical again to that previously approved, the extension will extend by two stories 7m in depth across the full width of the rear of the property (13.6m) and will incorporate an area previously approved for a smaller two storey rear extension. In addition a new porch measuring 2.6m in depth by 3m in width is proposed for the side (east elevation) and this will be of two storey form.
- 2.02 The completed property will provide on the ground floor, a porch, a family sitting room, a dining/living room, a laundry and a family kitchen, a reception hall, winter garden, hydrotherapy pool, physiotherapy area, plant and change area, two w.c's and a live in care assistant's living room and kitchen and a lift.
- 2.03 Two staircases provide access to the first floor. Here void areas are shown above the winter garden and family dining room and living room. In addition a family bedroom 1 with en suite, bedroom 2, a home office and family bathroom are proposed. One live in care assistant's bedroom with en suite and a second care assistant's bedroom/family bedroom 3 are also shown. In addition the applicant's son has rooms allocated for a bedroom, en suite, kitchen, sitting room and study
- 2.04 The additional element in this application, to the above, is a proposed basement which will be provided partially under the existing property but on the whole under the previously approved extension to the rear and will amount to approximately 105sqm of additional storage space in three linked rooms. A modest basement courtyard is also proposed. This basement will provide storage facilities for wheelchairs, hoists, therapy equipment and to avoid this equipment becoming obstacles or clutter on the ground and first floor to ease access for the applicant's son in his wheelchair. It will also house a plant room for the boiler, underfloor heating and ground source heat plant.
- 2.05 The original house had a total floor area of approx. 210sqm and with the first approved two storey extension this increased to 234sqm. The second extension would have increased the total area to 292 sqm, however this was not built. The proposed new building would have completed total floor area of 498sqm.

## **3.0 PLANNING CONSTRAINTS**

Countryside  
Kent Downs Area of Outstanding Natural Beauty



#### **4.0 POLICY AND OTHER CONSIDERATIONS**

- 4.01 The NPPF was released on 27<sup>th</sup> March 2012 with immediate effect, however, para 214 states *“that for 12 months from this publication date, decision-makers may continue to give full weight to relevant policies adopted since 2004 even if there is a limited degree of conflict with this Framework.”*
- 4.02 The 12 month period noted above has now expired. As such, it was necessary for a review of the consistency between the policies contained within the Swale Borough Local Plan 2008 and the NPPF. This has been carried out in the form of a report agreed by the Local Development Framework Panel on 12 December 2012. All policies cited below are considered to accord with the NPPF for the purposes of determining this application and as such, these policies can still be afforded significant weight in the decision-making process.
- 4.03 NPPF para 115 requires that *“Great weight should be given to conserving landscape and scenic beauty in National Parks, the Broads and Areas of Outstanding Natural Beauty, which have the highest status of protection in relation to landscape and scenic beauty...”*
- 4.04 Policies E6 (Countryside), E9 (Protection of the AONB), E19 (High Quality Design), E24 (Alterations and Extensions) and RC4 (Extensions to dwellings in Rural Areas) of the Swale Borough Local Plan 2008
- 4.05 Supplementary Planning Guidance 5 (1993) *‘Designing an Extension- A Guide for Householders’* (which was adopted by the Council following public consultation, is a material planning consideration in determining applications, and which is referred to in paragraph 3.71 of the adopted Swale Borough Local Plan 2008).

#### **5.0 LOCAL REPRESENTATIONS**

- 5.01 None received

#### **6.0 CONSULTATIONS**

- 6.01 Stalisfield Parish Council commented that “after a lot of discussion the PC felt that they could not support this planning application. Although the Council understands that the applicant’s son has very complex needs, we feel that the history of applications suggests that these needs cannot be met within the existing property notwithstanding any alterations/enlargements to what is already an enormously extended property. Particularly the scale and decorative element of the basement means this is a further extension to the house which we feel cannot be justified. Based upon the above we object to the planning application.”

## 7.0 BACKGROUND PAPERS AND PLANS

Plans and written material submitted with application

## 8.0 APPRAISAL

- 8.01 This application is identical to the application previously approved 14/502711 in most elements but with an additional basement now proposed. The application remains to be assessed as a balance between the special personal needs of the applicant's son and environmental protection in this protected sensitive rural area with its clear background of policy restraint and protection of natural beauty.
- 8.02 Members should note that the fall back position here is that the above ground extensions to the property area generally have been approved under application 14/502711. This approved the rear two storey extension 7m in depth across the full width of the rear of the property (13.6m) and incorporating the area previously approved for a smaller two storey rear extension. It also approved a new porch measuring 2.6m in depth by 3m in width proposed for the side (east elevation). This permission can still be implemented and it is therefore simply the impact of the addition of the basement to the scheme that needs to be considered now.
- 8.03 Despite the history of the site the Council has made clear its willingness to set aside its strict restraint policies to some extent in view of the special needs of the applicant's son. The applicant's submission clarifies that the original house, as built, had a footprint of 100sqm with a total gross floor area of 210sqm. The proposed extension to the property would result in the building having a final footprint of 259sqm and 494sqm of total floor area with an additional 105sqm with the proposed basement.
- 8.04 This is considerably more than what could be described as a "modest" extension when having taken into account any previous additions undertaken and it would not be of an appropriate scale, mass and appearance to a dwelling house as described within Policy E6 and RC4 of the Swale Borough Local Plan 2008.
- 8.05 In addition, by extending the house to such a degree the impact on the scale and appearance of the house would be dramatic and not a proposal the Borough Council would normally accept on a rural dwelling, particularly given the property's isolated and prominent location within the Kent Downs AONB which is afforded the highest protection in terms of conserving landscape and scenic beauty.
- 8.06 However, the provision of such a large extension was justified by the applicant in that the existing house "is not adapted to the applicant's son's needs". His medical condition means he has very limited movement, he is a wheelchair user and requires 24 hour care. This is supported by professional evidence of the limitations of the current property and the benefits of the proposed alterations. The detailed information and support from the relevant GP and an

Occupational Therapist was also submitted with the previously approved application and remains relevant now as they agreed that the proposed extensions did provide for the identified needs and was therefore a justified expansion of the property.

- 8.09 This submission argues that the applicant and its family require far more storage and utility space than is normally required by a typical family; for wheelchairs, hoists, transfer tables, therapy equipment and hygiene equipment. The basement would ensure that equipment would not become an obstacle or be clutter on the ground and first floor and will ease access and circulation for the applicants son.
- 8.10 The proposed additional basement is to be under the rear of the property and will be unseen from outside of the site. The basement courtyard which will provide outside access and light to the basement would be identifiable only due to the metal railings which will surround it.
- 8.11 I consider that it remains the case that a balance is to be made between the applicant's case of wanting the extension to meet the needs of his son and the architectural quality of the proposal weighed against the harm to policy, visual amenity and to the landscape of the AONB.
- 8.12 I am mindful of the previously approved scheme and consider that the circumstances remain the same and as such is acceptable again here, to be considered is the impact, if at all, of the additional basement area.
- 8.13 Current local planning policy includes saved policies E6, E9, E19, E24 and RC4 of the Swale Borough Local Plan 2008 which between them restrict development in the countryside, protect the AONB, encourage appropriate design and control extensions to rural dwellings to ones of only modest proportions so as to protect the character of the countryside.
- 8.14 The proposal clearly creates an immodest dwelling for a small site located in the countryside and as such would not be in line with policy guidance, specifically policies E6 and RC4 both of which restrict immodest development in the rural areas. The immodesty is very apparent in relation to the increased bulk and size of the proposal and along with a significant increase in floor space the proposal would result in an immodest extension to the dwelling.
- 8.15 I further appreciate that the house is not a rural dwelling of genuine historic significance, and that creating a unified new design rather than adding extensions to the original in an ad hoc manner can create a far better end result, this proposal will however create a property which would have a dramatic impact on the landscape and character of the area.
- 8.16 I therefore return to the terms of the NPPF which is clear in the "great weight" it places on the protection of the AONB and the highest status of protection in relation to landscape and scenic beauty. However, I do not consider the

addition of a basement to the already permitted proposal adversely affects this in addition to the impact considered previously and accepted.

- 8.17 It remains the case that the circumstances in this case are extremely unusual, and that the Borough Council is entitled to give weight to these circumstances. Here, I believe that the previous decision where in the balance of considerations it was judged that the personal circumstances are so unusual here and the evidence so compelling that despite the fact that permission would not normally be granted, the application was approved with a special condition limiting its implementation by the applicant only – in recognition of his family's circumstances, was correct. I am of the view that the addition of a rear basement under the already approved property with minimal impact on the development creates no additional harm.
- 8.18 I note the comments from the Parish Council. However, with the basement to the rear and unseen from outside the site, and considering the fall back position, I do not consider to refuse the application would be reasonable and I am surprised that they now feel that the proposal is too large having previously raised no objection to the proposals without the basement.

## **9.0 CONCLUSION**

- 9.01 The previous extensions granted at the property have shown the Borough Council's sympathetic attitude to the personal circumstances, and the applicant has shown very special personal circumstances sufficient to set the proposal apart from the norm. The previously approved extension was clearly designed to provide additional facilities for the applicant's son and that the case was sufficiently made that this very large extension to the property and the resultant alterations are a reasonable response to or indeed that all are necessary for the applicant's son's welfare. It remains clear that the design has been conceived to meet those needs and that without such circumstances the proposal would not otherwise be permitted. As such I consider it remains the case that there is sufficient justification to overcome the significant adverse consequences on the character and appearance on this sensitive area from the development proposed.

I therefore recommend that planning permission is granted subject to the same conditions as before, including the personal implementation condition.

## **10.0 RECOMMENDATION – GRANT Subject to the following conditions**

### **CONDITIONS**

1. The development to which this permission relates must be begun not later than the expiration of three years beginning with the date on which the permission is granted.

Reasons: In pursuance of Section 91 of the Town and Country Planning Act 1990.



2. This permission shall be implemented only by or on behalf of the applicant Mr David Breaker during his occupation of the property.

Reasons: In recognition of the personal circumstances of the applicant's family which underlies the Council's decision to grant permission for a development that would not normally be seen as acceptable in this location.

3. The development hereby permitted shall not be carried out otherwise than in complete accordance with the drawings submitted with the application.

Reasons: In the interests of preserving and enhancing the special character and appearance of the property and the Kent Downs Area of Outstanding Natural Beauty.

4. The materials to be used in the construction of the external surfaces of the extension hereby permitted shall match those on the existing building in terms of type, colour and texture.

Reasons: In the interests of preserving and enhancing the special character and appearance of the property and the Kent Downs Area of Outstanding Natural Beauty.

5. The accommodation hereby permitted shall be used only as a single dwellinghouse and the references to "Live in Care Assistant Living Room and Kitchen", "Live in Care Assistant Annex Bedroom 1" or "Live in Care Assistant Bedroom 2" shall not be taken to authorise use of any part of the accommodation as an independent unit of living accommodation.

Reasons: In the interests of protecting the countryside from additional residential development and preserving and enhancing the special character and appearance of the property and the Kent Downs Area of Outstanding Natural Beauty.

6. Upon completion, no further development including enlargement of the property, whether permitted by Classes A, B, C or D of Part 1 of Schedule 2 to the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order) or not, shall be carried out without the prior permission in writing of the Local Planning Authority.

Reasons: In the interests of the amenities of the area and in recognition that the degree of extension permitted far exceeds what would normally be permitted in this location.

### **The Council's approach to this application:**

In accordance with paragraphs 186 and 187 of the National Planning Policy Framework (NPPF), the Council takes a positive and proactive approach to development proposals focused on solutions. We work with applicants/agents in a positive and proactive manner by:

Offering pre-application advice.

Where possible, suggesting solutions to secure a successful outcome.

As appropriate, updating applicants/agents of any issues that may arise in the processing of their application.

In this instance the application was carefully considered and found to be acceptable only on the grounds of the personal circumstances involved, and that it would otherwise be found to be fundamentally contrary to the provisions of the Development Plan and the NPPF.