

PLANNING COMMITTEE – 29 MARCH 2018

PART 3

Report of the Head of Planning

PART 3

Applications for which **REFUSAL** is recommended

3.1 REFERENCE NO - 18/501027/FULL			
APPLICATION PROPOSAL To extend existing block paved driveway to front of property to accommodate one additional vehicle (retrospective)			
ADDRESS 10 Kingfisher Close, Iwade, Sittingbourne, Kent, ME9 8LY.			
RECOMMENDATION Refuse subject to any further representations (closing date 4 April 2018)			
SUMMARY OF REASONS FOR REFUSAL The proposed hardstanding removes an area of soft landscaping that contributes positively to the green and open character and appearance of the street scene.			
REASON FOR REFERRAL TO COMMITTEE Called in by Ward Member.			
WARD Bobbing, Iwade And Lower Halstow	PARISH/TOWN COUNCIL Iwade	APPLICANT Mr Keith Adams AGENT	
DECISION DUE DATE 30/04/18	PUBLICITY EXPIRY DATE 04/04/18		
RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):			
App No	Proposal	Decision	Date
16/500553/OPDEV	Enforcement notice served against unauthorized driveway extension.	Notice served	13.02.18
Planning committee agreed last year to the service of an enforcement notice requiring removal of the unauthorised hardstanding, and replanting of the soft landscaping that had been removed, for the reason that the development as carried out was harmful to the <i>“verdant, soft landscaped character and appearance of the street scene.”</i>			
SW/11/0376	Extend driveway across the front of the property.	Refused	20.02.11
Application was refused on the grounds that the proposed driveway / hardstanding would be harmful to the character and appearance of the street scene. The subsequent appeal was dismissed, with the Inspector fully supporting the Council’s reasoning.			

MAIN REPORT

1.0 DESCRIPTION OF SITE

1.01 The application site is a detached bungalow situated within the built up area of Iwade. It is situated on a corner plot and features an area of space to the front of the property,

adjacent to the road, which was formerly an area of soft landscaping but has recently been converted to a driveway.

- 1.02 As noted above: in 2011 application reference SW/11/0376 was refused planning permission to remove the soft landscaping to the front of the property and to extend the driveway by means of laying hardstanding. The application was refused for the following reason:

“The proposal would, by virtue of its prominent siting to the front of the property and the removal of the attractive area of landscaping, result in a visually harmful parking area that would cause demonstrable harm to the character and appearance of the streetscene contrary to policies E1 and E19 of the Swale Borough Local Plan 2008, and paragraph 7.0 of the Council’s adopted Supplementary Planning Guidance entitled ‘Designing an Extension: A Guide for Householders’.

- 1.03 The subsequent appeal (PINS ref. APP/V2255/D/11/2155717) was dismissed (see Appendix A), with the Inspector fully supporting the Council and commenting at para. 4 of the decision:

“The existing soft landscaped area provides variety, interest and greenery and presents an attractive setting for the house and wider area. I consider that replacing it with an expanse of paving would create a more urbanised feel and undermine the original design and landscape concept of the Close. Even though a narrow border and two small bay-shaped flower beds would be retained, the paved area would appear starker and harsher than the existing arrangement, and would undermine the area’s pleasant character. This effect would be exacerbated by the front garden’s prominent position on the curve of the road.”

- 1.04 However, following the dismissal of this appeal, the applicant nevertheless went ahead and carried out the works anyway. The Council’s records show that the work was undertaken some time during 2016. Therefore in 2017 a report was submitted to planning committee seeking authority to issue an appropriate enforcement notice; Members agreed to such a notice, which was issued on 16 January 2018 and took effect on 13 February 2018. A copy of the Council’s Enforcement Notice is attached at Appendix B.

2.0 PROPOSAL

- 2.01 This application seeks to retain the unauthorised driveway / block paving, but with a revised layout that includes a planting strip across the front of the site, adjacent to the pavement edge. Access is via the existing dropped kerb.

3.0 PLANNING CONSTRAINTS

- 3.01 The site lies within an area of potential archaeological importance, but it is noted that all necessary archaeological investigative / ground works were carried out when the estate was originally constructed.

4.0 POLICY AND OTHER CONSIDERATIONS

- 4.01 The National Planning Policy Framework (NPPF) and National Planning Practice Guidance (NPPG) support residential development subject to it being of a high

standard of design and not giving rise to any serious amenity impacts, including visual amenity impacts.

4.02 Policies CP4 (good design) and DM14 (general development criteria) of the adopted Swale Borough Local Plan 2017 are relevant.

4.03 Policy CP4 states that all development proposals should be “*of a high quality design that is appropriate to its surroundings,*” “*enrich the qualities of the existing environment,*” and “*retain and enhance features which contribute to local character and distinctiveness.*” Policy DM14 requires (amongst others) that developments “*reflect the positive characteristics and features of the site and locality*” and “*be of a scale, design, appearance and detail that is sympathetic and appropriate to the location.*”

5.0 LOCAL REPRESENTATIONS

5.01 The consultation period had not expired at time of writing (closing date 4 April 2018). I will update Members at the meeting.

5.02 The application has been called in by Councillor Stokes.

6.0 CONSULTATIONS

6.01 The consultation period had not expired at time of writing (closing date 4 April 2018). I will update Members at the meeting.

7.0 BACKGROUND PAPERS AND PLANS

7.01 The historic applications noted above are particularly relevant to this application. The current application is accompanied by a site location plan and block plan.

8.0 APPRAISAL

8.01 It is important to note the comment contained within the delegated report for SW/11/0376, which states:

The principle of development is acceptable within the built up area boundary.

There would be minimal impact on residential amenity.

The use of materials to match the existing driveway is positive and is acceptable in itself.

The proposed parking space would be located to the front of the property in an extremely conspicuous location within the estate. Very little of the attractive landscaping to the front of the property would be retained. The proposal would therefore remove attractive and prominent landscaping in the estate. In my opinion, it would create a visually harmful area of hardstanding to the front of the property. This would be visually harmful and would be detrimental to the character and appearance of the streetscene.

The property currently has ample parking space including a garage and a parking space to the front, so the proposal would create unnecessary parking provision that is harmful for the reasons noted above. The estate currently benefits from ample attractive landscaped area to the front of properties, if the

proposal was replicated elsewhere it would lead to the loss of the attractive landscaped frontages to this estate which would be extremely harmful.

There would be minimal harm to highway safety and convenience in my opinion."

8.02 I agree with the case officer's assessment and conclusions, and do not see a need to reiterate the arguments here.

8.03 What is of particular relevance to this current application, in my opinion, is that the previous application was refused and the subsequent appeal dismissed. This, to my mind, clearly illustrates that hardstanding in this location is unacceptable. Furthermore the Council has issued an enforcement notice requiring removal of this area of hardstanding and replacement with soft landscaping; that notice remains extant. Given the planning history of the site, it seems that the applicants must be aware that planning permission was required for the works that they have carried out. This being the case, this amounts to intentional unauthorised development. This weighs against the approval of the scheme.

8.04 I note that the application retains a landscaped strip around the fringe of the site, in an attempt at softening its impact from the present situation, however the layout is no different to that against which the enforcement notice was served. I also refer back to the Inspector's decision on the planning appeal, who stated :

"Even though a narrow border and two small bay-shaped flower beds would be retained, the paved area would appear starker and harsher than the existing arrangement, and would undermine the area's pleasant character."

8.05 I am therefore in no doubt that the parking area is harmful to the character and appearance of the street scene and local visual amenity, and that planning permission should once again be refused in line with this Council's previous decisions.

9.0 CONCLUSION

9.01 The proposed driveway / hardstanding is unacceptable in terms of its visual impact and harm to the green and open character of the area. The Council has previously refused permission for the development; the subsequent appeal was dismissed; and an enforcement notice has been issued earlier this year requiring its removal. The proposal is therefore considered unacceptable and I recommend that planning permission should be refused.

10.0 RECOMMENDATION – REFUSE subject to any further representations (closing date 4 April 2018) for the following reason:

- (1) The hard standing by virtue of its prominent siting to the front of the property and the removal of the attractive area of soft landscaping, results in a visually harmful area of hard landscaping that causes demonstrable harm to the verdant, soft landscaped character and appearance of the street scene contrary to policies CP4 and DM14 of Bearing fruits 2031: The Swale Borough Local Plan 2017, and paragraph 7.0 of the Council's adopted supplementary planning guidance entitled 'Designing and Extension: A Guide for Householders.

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 considered to be fundamentally contrary to the provisions of the Development Plan and the NPPF, and these were not considered to be any solutions to resolve this conflict. The application was considered by the Planning Committee where the applicant/agent had the opportunity to speak to the Committee and promote the application.

NB For full details of all papers submitted with this application please refer to the relevant Public Access pages on the council's website.
The conditions set out in the report may be subject to such reasonable change as is necessary to ensure accuracy and enforceability.

APPENDIX A



UNRECORDED
X



The Planning Inspectorate

Appeal Decision

Site visit made on 22 August 2011

by **M C J Nunn BA BPL LLB LLM BCL MRTPI**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 26 August 2011

Appeal Ref: APP/V2255/D/11/2155717

10 Kingfisher Close, Iwade, Sittingbourne, Kent, ME9 8LY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr Keith G Adams against the decision of Swale Borough Council.
- The application Ref: SW/11/0376, dated 28 March 2011, was refused by notice dated 20 May 2011.
- The development proposed is to 'extend driveway across the front of the property'.

Decision

1. I dismiss the appeal.

Main issue

2. I consider the main issue in this case to be the effect of the proposal on the character and appearance of the area.

Reasons

3. The appeal site comprises a bungalow within a Close of modern housing development. There is an existing driveway and an area of lawn to the front of the property with small shrubs and flower beds.
4. The existing soft landscaped area provides variety, interest and greenery and presents an attractive setting for the house and wider area. I consider that replacing it with an expanse of paving would create a more urbanised feel and undermine the original design and landscape concept of the Close. Even though a narrow border and two small bay-shaped flower beds would be retained, the paved area would appear starker and harsher than the existing arrangement; and would undermine the area's pleasant character. This effect would be exacerbated by the front garden's prominent position on the curve of the road.
5. The appellant refers to other properties in the Close having been paved for car parking but I have little knowledge of the planning circumstances of these cases. From my own observations, most of the properties in the vicinity appeared to have retained some expanse of soft landscaping to their frontages. In any case, my decision is based on the merits of the case before me and on its site specific circumstances.

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SWALE BOROUGH COUNCIL
30 AUG 2011
PLANNING SERVICES

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Appeal Decision APP/V2255/D/11/2155717

6. Overall, I conclude that the development would harm the character and appearance of the area. It would conflict with Policies E1 and E19 of the Swale Borough Local Plan (2008) which both aim to protect and enhance the character of the built environment and achieve high quality design. It would not comply with paragraph 7 of the Council's document entitled 'Designing an Extension: A Guide for Householders'. This states, amongst other things, that a front garden given over to car parking is likely to be unacceptable as it creates a poor appearance in the street scene.
7. For the reasons given above, and taking all other relevant matters into account, I conclude that the appeal should be dismissed.

M C J Nunn

INSPECTOR

APPENDIX B

IMPORTANT - THIS COMMUNICATION AFFECTS YOUR PROPERTY

Town and Country Planning Act 1990
(as amended by the Planning and Compensation Act 1991).

Enforcement Notice**OPERATIONAL DEVELOPMENT****ISSUED BY: SWALE BOROUGH COUNCIL**

1. **THIS IS A FORMAL NOTICE** which is issued by the Council because it appears to them that there has been a breach of planning control, under Section 171A(1)(a) of the above Act, at the land described below. They consider that it is expedient to issue this notice, having regard to the provisions of the development plan and to other material planning considerations.
2. **THE LAND AND/OR BUILDINGS AFFECTED**

The land situated at 10 Kingfisher Close, Iwade ME19 8LY as shown edged red on the plan (hereinafter referred to as the "Land" or "site" as appropriate).
3. **THE BREACH OF PLANNING CONTROL ALLEGED**

Without planning permission the driveway on the Land has been extended by the laying of hardstanding shown in its approximate position hatched black on the attached plan. In the opinion of the Council this would require planning permission.
4. **REASONS FOR THIS NOTICE**
 - (i) It appears to the Council that the breach of planning control referred to above has occurred within the last 4 years.
 - (ii) The hard standing by virtue of its prominent siting to the front of the property and the removal of the attractive area of soft landscaping, results in a visually harmful area of hard landscaping that causes demonstrable harm to the verdant, soft landscaped character and appearance of the street scene contrary to policies CP4 and DM14 of Bearing fruits 2031: The Swale Borough Local Plan 2017, and paragraph 7.0 of the Council's adopted supplementary planning guidance entitled 'Designing and Extension: A Guide for Householders.
5. **WHAT YOU ARE REQUIRED TO DO**
 - (i) Remove the area of hard standing shown in its approximate location hatched black on the attached plan

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- (ii) Return the Land back to its original form before the hardstanding shown in its approximate location hatched black on the attached plan.
- (iii) Remove all materials and debris caused in complying with condition (i) and (ii) above from the Land.

6. TIME FOR COMPLIANCE

Within 3 (three) months from the date that this notice takes effect.

7. WHEN THIS NOTICE TAKES EFFECT

This notice takes effect on 13th February 2018 unless an appeal is made against it beforehand.

DATED: 16th January 2018

SIGNED: 

James Freeman
HEAD OF PLANNING SERVICES

On behalf of: Swale Borough Council
Swale House
East Street
Sittingbourne
Kent

YOUR RIGHT OF APPEAL

You can appeal against this notice, but any appeal must be received, or posted in time to be received, by the Secretary of State before 13th February. The enclosed information sheets set out your rights. **Read carefully.**

WHAT HAPPENS IF YOU DO NOT APPEAL

If you do not appeal against this enforcement notice, it will take effect on 13th February 2018 and you must then ensure that the required steps for complying with it, for which you may be held responsible, are taken within the period(s) specified in the notice. Failure to comply with an enforcement notice which has taken effect can result in prosecution and/or remedial action by the Council.

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FEE PAYABLE FOR THE DEEMED APPLICATION

If you make an appeal against this Notice under ground (a) 'that planning permission should be granted' the deemed application fee is £344 (being twice the amount of the usual fee payable in respect of an application for planning permission).

The fee must be payable by way of a cheque made to Swale Borough Council. The fee can be sent with your appeal form.

Please see the enclosed notes for guidance from the Planning Inspectorate.

INFORMATIVE.

Please note that in accordance with Article 33 of The Town and Country Planning (Development Management Procedure) (England) Order 2010 (as amended) this notice may affect the time period for you to appeal against a refusal of planning permission for the same or a substantially similar development on this site.

