

3.3 REFERENCE NO - 19/506127/FULL		
APPLICATION PROPOSAL Demolition of the existing bungalow and 2no. outbuildings, and erection of a replacement four bedroom family home with attached garage.		
ADDRESS Starborne Oak Lane Upchurch Sittingbourne Kent ME9 7BB		
RECOMMENDATION Refuse		
SUMMARY OF REASONS FOR REFUSAL The proposed replacement dwelling is contrary to policy and due to its scale and massing would cause significant harm to the countryside location.		
REASON FOR REFERRAL TO COMMITTEE Called in by Cllr Horton and Parish Council support.		
WARD Hartlip, Newington And Upchurch	PARISH/TOWN COUNCIL Upchurch	APPLICANT Mr & Mrs Bodycomb AGENT The Complete Oak Home
DECISION DUE DATE 05/02/20		PUBLICITY EXPIRY DATE 21/01/20

Planning History

19/500999/FULL

Demolition of existing bungalow and outbuildings, and erection of a new four bedroom detached dwelling, including new boundary wall, entrance gates and driveway.

Refused Decision Date: 10.07.2019

1. DESCRIPTION OF SITE

- 1.1 The application site consists of the remains of a fire damaged bungalow and associated outbuildings that lies outside the built up area of Upchurch. The site is very overgrown. Whilst site is fenced off, it is possible to see that the walls remain in place, but the roof has been almost totally destroyed with a few burnt beams remaining. I understand that the fire took place in 2015.
- 1.2 The site fronts Oak Lane with no formal means of enclosure, with an overgrown hedgerow and other scrub between the existing structure and the highway. There is an existing vehicular access to the north of the dwelling. The golf club lies opposite, and Upchurch lies to the north.

2. PROPOSAL

- 2.1 This application seeks planning permission for the demolition of the existing bungalow and its replacement with a two storey dwelling with attached double garage.
- 2.2 The proposed dwelling would measure 13.2m deep (max) 21.8m wide (max, including garage) and would be 3.7m to eaves, 8.4m to ridge.

2.3 The dwelling would be set back approximately 24m from highway frontage, with a parking area of approximately 18m x 16m to front. The rear garden would be in excess of 60m x approximately 36m.

2.4 Total floorspace (measured externally):

- Original dwelling (taken from OS extract) – 91.6m²
- Proposed dwelling – 269.96m² (195% increase over original)
- Proposed dwelling and attached garage – 313m² (242% increase over original)

3. SUMMARY INFORMATION

3.1 The applicant is aware that proposal would be contrary to Swale Borough Council Local Plan policy and has sought to argue a fallback position regarding what could be built as permitted development is a material consideration here. A rough scheme has been included in the Design and Access Statement demonstrating what could be achieved without planning permission.

4. PLANNING CONSTRAINTS

None.

5. POLICY AND CONSIDERATIONS

5.1 Bearing Fruits 2031: The Swale Borough Local Plan 2017:

CP4 – Development should (inter alia):

- Provide a high standard of landscaping including native species and plants that respect the landscape character
- Provide hard landscaping, surface and boundary treatments that are locally distinct and that respond positively to the character of the locality
- Be appropriate to the context in respect of materials, scale, height and massing;

DM11 – The Borough Council will permit the rebuilding of an existing dwelling in the rural area only if the proposed new dwelling is of a similar scale and proportion, an appropriate scale, mass and appearance in relation to the original dwelling and location, or where it constitutes the most effective use of land;

DM14 – Development proposals will (inter alia):

- Accord with SPGs
- Reflect the positive characteristics and features of the site and locality;
- Conserve and enhance the natural environment;
- Be both well sited and of a scale, design, appearance and detail that is sympathetic and appropriate to the location;
- Cause no significant harm to amenity and other sensitive uses or areas;
- Provide for an integrated landscape strategy that will achieve a high standard landscaping scheme.

DM19 – Development proposals will include measures to address climate change in accordance with national planning policy and guidance;

DM28 – Applications will be accompanied by appropriate surveys undertaken to clarify constraints or requirements that may apply to development, especially where it is known or likely that development sites are used by species and/or contain habitats that are subject to UK or European Law.

5.2 The National Planning Policy Framework (NPPF):

- Conserving and enhancing the natural environment;

5.3 Supplementary Planning Guidance: Designing an Extension – A Guide for Householders (adopted 1993 after public and statutory consultation). Relevant insofar as it places emphasis on impact of over large extensions to dwellings in the countryside. Generally considers 60% increase to be maximum acceptable.

6. LOCAL REPRESENTATIONS

6.1 No objections were received.

6.2 Four comments from neighbouring residents in support of the application were received. These are summarised below:

- Current site is an eyesore.
- Will provide a family home which is in proportion to the site.
- The new development will greatly improve the entrance to the village
- Will be in keeping with the area.
- Puts derelict land to good use.
- Will prevent the site suffering vandalism and trespassing.

6.3 Cllr Alan Horton requested that the application be put to committee should Officers be minded to recommend refusal, stating:

“I wish to call this application in to Planning Committee. I understand there is conflict with the Local Plan and the National Planning Policy Framework as this application lies outside the village boundary and the proposed development represents a considerable increase in the footprint. However I believe the need for compliance with the Local Plan and NPPF is outweighed by the considerable support within the village for this application, and it is for resolution of conflicts of this sort that Planning Committees made up of representatives of the local community are in place.

This application whilst larger than the original bungalow is still quite small in relation to the plot size, it is sympathetic to the landscape and will enhance the primary approach into the village. The plot whilst outside the village footprint lies very close to the village boundary. I am aware of considerable local support for the application in the wider village community together with that already provided within this application, each of which are from immediate (or among the very closest) neighbours to the plot.”

6.4 Upchurch Parish Council support the application. No reasons for support were given.

7. CONSULTATIONS

7.1 Natural England – advise that the proposal would result in net increase in dwellings and therefore SAMMS payment required. It does not as it would amount to a replacement dwelling. No SAMMS payment therefore is required.

7.2 KCC Highways – outside the criteria for Highways to comment.

- 7.3 Environmental Health Manager - no objection subject to standard air quality conditions.
- 7.4 KCC Ecology - no objection subject to conditions.

8. BACKGROUND PAPERS AND PLANS

- 8.1 Application papers and drawings for 19/506127/FULL and 19/50099/FULL.

9. APPRAISAL

Principle of Development

- 9.1 The replacement of a dwelling in a rural location is acceptable in principle. The key issues are impact on visual amenity, including impact on character and appearance of countryside, impact on highway safety and convenience, and assessing the argument of the applicant in respect of fallback position, together with potential impact on biodiversity.

Visual Impact

- 9.2 The proposal would replace an unobtrusive, small single storey dwelling with a comparatively substantial and imposing two storey dwelling. The impact on the character and appearance of the countryside would be pronounced. The existing bungalow, even prior to the fire damage, was small in scale, unobtrusive and had a limited impact on the very rural appearance of the streetscene or the wider character of the countryside.
- 9.3 It should be noted that this scheme has been submitted following a previous refusal (19/50099/FULL) for a similar replacement dwelling. This current scheme has reduced the scale and massing of the previous refused dwelling however I consider that even with this reduced massing that the dwelling would still be prominent in views from Oak Lane and the scale, bulk and massing would be inappropriate for the rural setting.
- 9.4 The proposed dwelling would represent, at the least, a 195% increase in floorspace over the original dwelling at the site, well outside what would normally be considered acceptable. If one includes the attached garage (which could be converted to living accommodation at a later stage) this increase in floorspace rises to 242%. This type of development is wholly contrary to policy. It would be prominent in views from Oak Lane, and in scale, bulk and massing, wholly inappropriate for this otherwise largely undeveloped area. In my view, the harm caused to visual amenity as the result of the scale and imposing character of this dwelling is such that it amounts to a reason for refusal. An acceptable replacement dwelling would be reduced much more in scale and as a guide we would expect to see no more than 60% over the original floorspace.
- 9.5 Policy DM11 seeks to control the scale of replacement dwellings in order to prevent significant harm to the character and appearance of the countryside, and to prevent the loss of smaller homes in the countryside. This proposal would run contrary to that policy and is unacceptable.
- 9.6 Notably this application provides no details of the means of enclosure to be implemented at the site. There is no reference to the height of the front gate or indeed any subsequent fencing to be constructed within this application. The indicative artist impression

drawings however do visibly show that there would be some form of fencing and gates to the front of the property. Members should note that on the previously refused application 19/500999/FULL one of the reasons for refusal of that application related to the harm caused by a means of enclosure that fails to respond positively to the rural character of the streetscene.

Residential Amenity

- 9.7 The site is significantly removed from other dwellings and therefore there will be no impact on residential amenity.

Highways

- 9.8 I note that the proposed gate would be set back from the highway by 5m and the visibility splays improved from the previous application 19/500999/FULL which appears to satisfy highways safety concerns. There is sufficient hardstanding parking to the front of the dwelling to accommodate the parking of cars for a four bedroom dwelling.

Ecology

- 9.9 In this submission the applicant has provided a Preliminary Ecological Appraisal and a Reptile Survey Report and Mitigation Strategy. KCC Ecology has been consulted on the application and raises no objection subject to the inclusion of conditions.

Fallback Position

- 9.10 The fallback position suggested by the applicant requires careful consideration. The drawing provided within the Design and Access Statement shows two side extensions, either side of the existing bungalow, both half the width of the original dwelling. A large rear extension, and reference is also made to a roof extension. In order to benefit from domestic permitted development rights, the host property has to be able to function as a dwelling, meeting the day to day needs of any occupiers. Whilst I have not inspected the building internally, I would question whether this is the case here, for the following reasons:

- a) The building has no roof;
- b) The building has no windows;
- c) There is vegetation growing inside the building;

- 9.11 As such, I question whether the structure on site, as it stands today, is capable of functioning as a dwelling. In my view, given the above, it seems unlikely that a reasonable person could argue that it can, and as such, I do not consider that it benefits from PD rights. In coming to this conclusion, I have had regard to appeal decisions elsewhere, which consider very similar development to that which the applicant asserts here to be PD.

- 9.12 In addition to this, in order for a fallback position to be given weight, there has to be a genuine and realistic prospect of it coming forward. No evidence of this has been provided, and the details submitted by the applicant appear to be a theoretical paper exercise showing development that could take place, rather than demonstrating a genuine intention of the applicant to carry it out.

9.13 I consider that the rebuilding of the dwelling even on a like for like basis would require planning permission as in its current state it is not considered to benefit from any permitted development rights and any permitted development works for extending the dwelling would need to be carried out on the dwelling after it was fully constructed in order for the dwelling to benefit from permitted development rights. Provided all the criteria for Class A are met then it is possible that the extensions could be lawful, however this would need to be assessed under subsequent lawful development certificates. I do not consider that the suggested fallback position should have any significant sway on the acceptability of the proposed new dwelling as I consider that even if all of the proposed permitted development works come to fruition, the single storey elements would be substantially less intrusive to the countryside than the proposed two storey bulky dwelling.

9.14 As such, I do not consider that the possibility of permitted development being carried out, nor the argument in respect of outbuildings amount to justification for approving this development, given the harm I identify above.

10. CONCLUSION

10.1 The replacement dwelling now proposed does not overcome the previous reason for refusal relating to scale and massing and overwhelms the site of a previously modest bungalow. The proposal is contrary to policy and the fallback position of using permitted development to extend the dwelling, while potentially achievable, should be given limited weight and would involve the completion of the dwelling before any such permitted extensions could take place.

11. RECOMMENDATION

REFUSE for the following reasons:

REASONS

- 1) The proposal would introduce a more prominent and intrusive form of development into an area of countryside which retains an undeveloped sense of tranquillity and isolation and would be significantly harmful to the character and appearance of it as a result. The proposed dwelling would not amount to a modest replacement for the existing and would, by virtue of its bulk, scale, height and massing, cause significant harm to the visual amenities of the area, the character and appearance of the streetscene and the character and appearance of the countryside, in a manner contrary to Policies CP4, DM11 and DM14 of the Swale Borough Local Plan 2017.

The Council's approach to the application

In accordance with paragraph 38 of the National Planning Policy Framework (NPPF), February 2019 the Council takes a positive and proactive approach to development proposals focused on solutions. We work with applicants/agents in a positive and creative way by offering a pre-application advice service, where possible, suggesting solutions to secure a successful outcome and as appropriate, updating applicants / agents of any issues that may arise in the processing of their application.

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.

