

PLANNING COMMITTEE – 1 FEBRUARY 2018**DEFERRED ITEM**

Report of the Head of Planning

DEFERRED ITEMS

Reports shown in previous Minutes as being deferred from that Meeting

Def Item 1 REFERENCE NO - 17/505562/FULL			
APPLICATION PROPOSAL Demolition of existing shed and construction of annex to dwelling house as amended by drawing no's. NR1760.01A, NR1760.05A, NR1760.06A and NR1760.07A received 16 November 2017			
ADDRESS Gladstone House 60 Newton Road Faversham Kent ME13 8DZ			
RECOMMENDATION – Grant subject to conditions			
SUMMARY OF REASONS FOR RECOMMENDATION Proposed development would preserve or enhance the character of the conservation area, and would not give rise to unacceptable harm to residential amenity.			
REASON FOR REFERRAL TO COMMITTEE Deferred following Planning Committee Meeting of 4 January 2018 (Originally reported to Planning Committee Meeting of 7 December 2017 as recommendation was contrary to Town Council view)			
WARD Abbey		PARISH/TOWN COUNCIL Faversham Town	APPLICANT Mrs Mary Mackay AGENT Wyndham Jordan Architects
DECISION DUE DATE 29/12/17		PUBLICITY EXPIRY DATE 08/12/17	
RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):			
App No	Proposal	Decision	Date
16/507024/FULL	Demolition of existing shed and construction of new two storey 2 bedroom dwelling house.	Refused	18.11.16

1.0 INTRODUCTION

- 1.01 Members will recall that this application was reported to Planning Committee on 7th December 2017. After some discussion in which Members raised a number of concerns about the proposal, it was agreed to arrange a site meeting. Following the site meeting on 19th December 2017 the application was reported back to the planning committee on 4th January 2018. The original committee report and the relevant minutes of the most recent meeting are appended (Appendix A).
- 1.02 A verbal update was presented to Members at the January meeting which reported that two additional letters of objection had been received raising concerns about the proposal creating a domino effect, worsening parking issues and the potential harm to the residential amenities of the adjoining neighbouring property. It was also reported

that the County's Archaeological Officer advised that no precautionary measures are necessary.

- 1.03 After voting not to approve the application, and further debate regarding possible reasons for refusal, Members resolved that the application be deferred to allow officers to address all of the following issues in liaison with the Ward Members:

- Overbearing affect on neighbouring properties resulting from the bulk and height of the building
- Loss of openness in conservation area
- Use of the annexe as a dwelling
- Loss of parking
- Building should be used as a garage
- Would set a precedent for future development

2.0 THIS REPORT

- 2.01 This report addresses the above issues and considers the implications of appeal decisions at 2 Ruins Barn Road, Tunstall (Appendix B) and 19 South Road, Faversham (Appendix C). This report has been circulated to Ward members in draft and they have both responded. Councillor Bryan Mulhern had no comments to make on the report. Councillor Anita Walker opposes the application although she has noted that the existing outbuilding has never been used as a garage, but as a garden shed; although she considers that a garage might help with local parking problems and increase the value of the property.

3.0 DISCUSSION

- 3.01 I will address each of the Members concerns listed above in this section and will then go on to consider possible reasons for refusing this application.

Overbearing

- 3.02 The existing flat roofed shed is 2.1 metres high. The proposed new building will be 2.4 metres to the eaves and 4.4 metres to the ridge. The previously refused application (16/507024/FULL) proposed a two storey house with a ridge height of 6.5m in exactly the same location. The case officer for that application stated *"The height of the proposed building results in an imposing feature/intervention into the public mews space to the north-west and the domestic garden space to the south-east"*. It is clear to me that the scale of the two storey building previously refused would have been excessive but in this case, a reduction in the scale of the proposed building, and the revised proposals address this concern, reducing the height of the building by 2.1 metres to provide an annexe as opposed to a dwelling.
- 3.03 The annex now proposed will be single storey building measuring 6.7m x 4.5m with a shallow pitched roof to a maximum height of 4.4m located at the far end of the plot. The properties along this terrace all have traditional long narrow gardens. Given the separation distance of approximately 15 metres between the annexe and the rear elevation of neighbouring properties, I do not consider that the building will be close to neighbouring rear windows of houses in Newton Road, nor is it particularly close to the private amenity space immediately to the rear of these neighbouring properties. Whilst the new building is of a slightly larger footprint than the existing garage, I do not consider that it will result in an imposing or domineering feature in the domestic garden space. I draw Members attention to the appeal decision at Appendix B to this

report relating to 2 Ruins Barn Road (application 14/503907/FULL) where an appeal was allowed for a large double garage to the rear of the property. In that case the pitched roof garage building with storage space above measured 8.0m long by 5.3m wide with an overall height of 4.0m. The Inspector acknowledged that the development did not give rise to additional harm to the neighbouring occupiers. In paragraph 13 the Inspector noted that there is no right to a view in law and, in paragraph 14, in relation to neighbours' outlook and the question of the building being overbearing, he said;

"Its combined height, size and proximity are not of a level to give rise to an oppressive form of development for neighbouring residents whether from windows or gardens."

At paragraph 15, he continued;

"Moreover, the separation distance between the garage and neighbouring houses suffices to avoid any material adverse effect on sunlight to rooms. For the same reason and with other intervening structures and planting, the level of any increased shading of gardens would not be significant."

At paragraph 16, he concluded that;

"Thus, I find no adverse effect on the living conditions of neighbouring occupiers in terms of outlook or impact on sunlight for demonstrable harm to arise in conflict with LP Policy E1."

To my mind these conclusions are applicable to the similar relationship between the proposed annex and properties in Newton Road, and this would make any refusal of planning permission on this ground very difficult to defend on appeal.

- 3.04 I am, however, mindful that at the rear of the property lies an off-shoot of Solomon's Lane and the dwellings converted from the church hall of the Preston Street church. One converted dwelling in particular, known as Wesley House, forms the rearmost part of that conversion and fronts onto the off-shoot of Solomon's Lane; facing towards the rear gardens of Newton Road, where it features a number of windows. This dwelling sits across the limited width of Solomon's Lane and substantially closer to the end of the application site than houses in Newton Road do. However, the proposed annex is not opposite the windows in Wesley House as this faces the rear garden of 62 Newton Road. The proposed annex will sit diagonally across Solomon's Lane and to the north of Wesley House; not directly in front of its windows. Whilst the annex may cast a shadow in the direction of Wesley House at dawn at certain times of year, I do not believe that its height or bulk will result in continuous or permanent harm to the amenity of that property sufficient to justify refusal of planning permission.

3.05 Loss of openness in conservation area

Solomon's Lane is a narrow well used pedestrian route running between buildings and high walls leading to the town centre. The surrounding properties are residential with some having been converted from public buildings to residential use. The sizes and openness of the long gardens at this end of Newton Road make an important contribution to the spacious character of the area, and I draw Members attention to Appendix C to this report which is an appeal decision at 19 South Road (application 15/509814/FULL) when an appeal was dismissed for a two storey dwelling in the long rear garden of that property which adjoin a similar lane, Cross Lane, and which was also located within the conservation area. The Inspector in that case concluded that the proposed development would be harmful to the character and appearance of the

surrounding area. In dismissing that appeal, the Inspector commented in paragraph 4 that;

“The proposal would create a substantial building with first storey and pitched roof visible over the Cross Lane boundary high wall. Although Cross Lane is narrow with high walls either side, this would not restrict views of the proposed dwelling as a result of its height and closeness to the pathway.”

3.06 The Inspector then went on in paragraph 5 to conclude that;

“...a dwelling of this height is not in context with the immediate environment” and that “...the resulting dwelling would not, to my mind, be perceived akin to an ancillary building in the way that the outbuilding to the rear of Nos 29 and 31 South Road appear with a relatively small part of its pitched roof visible over the boundary walls. The proposed development would be out of keeping with the landscaped gardens that form the character and appearance of this part of Cross Lane.”

3.07 It is evident from this decision that it may be reasonable to oppose the erection of a two storey dwelling in an open garden location in this conservation area as an intrusive form of development. This is precisely what has previously been refused on the current application site. However, I consider the current case to be significantly different. The development now being considered here is for a single storey outbuilding which is considered to be appropriate to its location in respect of scale, height, and design. In this case the garden in question does not lie immediately adjacent to the busiest part of Solomon’s Lane and the visual impact will simply be that of a single storey building which one might expect to find in a rear garden, with only a small part of its roof visible; much as the Inspector found appropriate at 29 and 31 South Road

3.08 Accordingly, taking note of this appeal decision, I do not find a comparison sufficient to justify refusal of planning permission, but rather an acknowledgement that such single storey structures are to be expected in such situations.

Use of an annexe as a dwelling

3.09 A building containing a bedroom, shower room and lounge, accessible from the rear garden to the host building will constitute annex accommodation. It will be significantly smaller in footprint than the main house and not capable of independent occupation by virtue of lack of facilities for example, a kitchen. I consider that the use of this building for an annexe is acceptable and recommend imposing condition (3) below which restricts the use of the building to purposes ancillary and or/incidental to the use of the dwelling. As such, I do not see how this can raise new issues of impact on the amenities of neighbours or the area as a whole. Nor do I do find grounds to refuse planning permission on grounds that the building may at some future date be used as a separate dwelling. That would require its own planning permission and could be subject to enforcement action if it started without such permission.

3.10 Loss of parking

The existing building is currently used as a shed for storage. Whilst the timber double doors indicate that it may have previously been used as a garage Councillor Walker is clear that this has not been the case. Members will note from the site meeting that the area immediately to the rear of this building is narrow and would be particularly tight when manoeuvring a vehicle. As a result, the proposal would not displace parking to

Newton Road as the property does not currently have any off-road parking spaces. I do not see any potential reason to refuse planning permission here.

Building should be used as a garage

- 3.11 There are no conditions restricting the use of the building as a garage. Members will note from the site meeting that the current building is small and could potentially provide parking for one car. Vehicular access is from a narrow access path. As such, I do not consider that the building is particularly suitable as a garage and consider it a difficult site to access by car. To my mind this matter does not constitute a reason to refuse planning permission.

Would set a precedent for future development

- 3.12 The approval of this development will not set a precedent for further development to the rear of Newton Road. All applications are determined on their individual merits and such matters should not be used to refuse planning permission.

4.0 CONCLUSION

- 4.01 At the 4th January meeting, Members discussed various potential reasons for refusing the application. It was suggested by some Members that the proposal would result in demonstrable harm to the residential amenity of neighbours in terms of it being overbearing and causing loss of light. I do not consider loss of light to be relevant in this case therefore of the issues discussed above, possible other reasons could be its overbearing impact and loss of openness in a conservation area, but I have reported on these matters above.
- 4.02 Members should be clear that without adequate justification for refusing this development, an appeal would be likely to be allowed. I recognise that some Members may still be minded to refuse this application, and I suggest this should focus on the impact on the character and appearance of the Conservation Area, such as the following :

“The proposed development by virtue of its scale, design and location would result in a building which would have an enclosing effect that would be harmful to the outlook and enjoyment of neighbouring properties, and the open nature of the site which lends itself to the character of the Faversham conservation area. The proposed development would therefore cause harm to amenity and fail to preserve or enhance the character or appearance of the Faversham conservation area at the location in question contrary to policies DM14, DM16 and DM33 of the Bearing Fruits 2031: The Swale Borough Local Plan 2017.”

- 4.03 However, I believe there that this reason may be difficult to defend on appeal and that there is a strong case to approve this application. I am therefore again recommending that planning permission should be granted subject to the following conditions.

5.0 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 permission is granted.

Reason: In pursuance of Section 91 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

- (2) The development hereby approved, including the specification of materials to be used in the construction of the annexe, shall be carried out in accordance with the following approved drawings:

NR1760.01A, NR1760.05A, NR1760.06A and NR1760.07A received 16 November 2017

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

- (3) The building hereby permitted shall not be used at any time other than for purposes ancillary and/or incidental to the use of the property known as "Gladstone House, 60 Newton Road" as a single dwellinghouse.

Reason: As its use as a separate unit of accommodation would be contrary to the provisions of the development plan for the area.

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 applicant/agent was advised of minor changes required to the application and these were agreed.

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.



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2.5 REFERENCE NO - 17/505562/FULL			
APPLICATION PROPOSAL			
Demolition of existing shed and construction of annex to dwelling house as amended by drawing no's. NR1760.01A, NR1760.05A, NR1760.06A, and NR1760.07A received 16 November 2017			
ADDRESS Gladstone House 60 Newton Road Faversham Kent ME13 8DZ			
RECOMMENDATION – Approve SUBJECT TO: outstanding representations (closing date 8 December 2017)			
SUMMARY OF REASONS FOR RECOMMENDATION/REASONS FOR REFUSAL			
Proposed development would preserve or enhance the character of the conservation area, and would not give rise to unacceptable harm to residential amenity.			
REASON FOR REFERRAL TO COMMITTEE			
Town Council objection			
WARD Abbey	PARISH/TOWN COUNCIL Faversham Town	APPLICANT Mrs Mary Mackay AGENT Wyndham Jordan Architects	
DECISION DUE DATE 29/12/17	PUBLICITY EXPIRY DATE 08/12/17		
RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):			
App No	Proposal	Decision	Date
16/507024/FULL	Demolition of existing shed and construction of new two storey 2 bedroom dwelling house.	Refused	18.11.16

1.0 DESCRIPTION OF SITE

- 1.01 The application site is within the domestic garden of 60 Newton Road, Faversham which is a single dwellinghouse offering bed and breakfast accommodation for tourists. Currently located on the application area is a shed. The site lies within the designated Faversham conservation area and within the built up area of Faversham.
- 1.02 The proposed annexe would be located to the rear of 60 Newton Road where this face the rear of Preston Street church, at which point the former church hall has been converted in to small dwellings and flats. Newton Road at this end features predominately large residential properties with narrow long gardens, some with parking in the rear of those gardens.

2.0 PROPOSAL

- 2.01 This application as first submitted sought to demolish the existing shed and construct a new building with a rather steep pitched roof, to be used as an annexe to the dwelling. The proposal has since been modified to reduce the roof pitch/height and to remove the rooflights originally proposed within the front facing roofslope.

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- 2.02 The existing shed has a corrugated cement flat roof and rendered front panel with timber double doors. The rear west elevation and north side elevation of the building are constructed using concrete blocks at low level with a glazed timber frame above. The boundary garden wall comprising of yellow stock bricks flanks the south side.
- 2.03 It is proposed to replace the shed with a larger building to be used as an annexe to the main house. It would have one bedroom with a shower room and a lounge. The annexe will be accessible from the rear garden to 60 Newton Road and also via a side gate. The principal entrance will be the side door providing access into the lounge. The annexe will provide additional accommodation for family members.
- 2.04 The new building is of a traditional style incorporating features that are present on other properties located within the conservation area. These include arched window heads and projecting plinth base courses.
- 2.05 Materials proposed are:
- Yellow stock brickwork with pale yellow brick arches
 - Slate roof
 - Timber fascias and soffits
 - Timber double glazed windows and doors
 - Gutters and downpipes to be cast iron
- 2.06 The proposed annexe as first submitted would have had a 45° pitched roof and two rooflights within the east facing roofslope. Amended drawings have been received after discussions with the agent regarding concerns about the steepness of the pitched roof on the character of the area and potential overlooking from the rooflights on neighbouring properties. The amended drawings have addressed my concerns over these issues. The roof pitch has been lowered to 35° and the rooflights have been removed.

3.0 SUMMARY INFORMATION

	Existing	Proposed	Change (+/-)
Car parking spaces (inc. disabled)	0	0	
Approximate Eaves Height (m)	2.1m	2.4m	+0.3m
Approximate Depth (m)	4.1m	4.48m	+0.38
Approximate Width (m)	4.5m	6.7m	+2.2
Net Floor Area	18.45	30	+11.55

4.0 PLANNING CONSTRAINTS

Potential Archaeological Importance

Conservation Area Faversham

5.0 POLICY AND OTHER CONSIDERATIONS

Bearing Fruits 2031: The Swale Borough Local Plan 2017: Policies CP8, DM7, DM14, DM16, and DM33

Supplementary Planning Documents: Supplementary Planning Guidance entitled "Designing an Extension – A Guide for Householders".

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6.0 LOCAL REPRESENTATIONS

6.01 Three letters of objection have been received from local residents. A summary of their comments is as follows:

- Parking provision problems in the local area
- Inappropriate development in the conservation area
- Precedent for unsuitable development would be set
- Loss of open aspects of the rear garden area
- Proposed high roofline (5.1m) will dominate the garden areas
- Covenants restricts the development of the back garden unless it is necessary for outhouses
- The proposal would overshadow and overlook neighbouring properties
- The development is not an annexe, it is a free-standing accommodation block at the end of the garden

6.02 Three local residents have responded to the amended drawings stating that their objections remain unchanged. A summary of their comments is as follows:

- the reduction in roof height remains over twice the height of the current party wall
- the amendments do not address objections raised by the Town Council and neighbours
- the existing shed is in fact a garage, therefore its removal will increase parking pressure
- the reduced height in comparison with that of the previous application does not make it any more acceptable
- this application is clearly intended to raise the profitability of the B&B at the expense of neighbours

6.03 The deadline for comments is 8 December 2017. This report is subject to the receipt of additional comments which will be reported at the meeting.

7.0 CONSULTATIONS

7.01 Faversham Town Council object for the following reasons:

- This is back land development
- Not appropriate in the Conservation Area
- No parking provision
- Loss of openness
- Loss of established rear gardens
- Would set a precedent

8.0 BACKGROUND PAPERS AND PLANS

8.01 Application papers and drawings referring to application reference 17/505562/FULL

9.0 APPRAISAL

9.01 The main issues to be considered in this application are the impact of the proposed annexe on the character and appearance of the building, the impact on the character and appearance of the conservation area and the impact on the residential amenity of neighbouring properties.

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Visual Impact/Impact on Conservation Area

- 9.02 I consider the key issues in this case are whether it meets the aims and objectives of policy DM33 of Bearing Fruits 2031: SBLP 2017 in preventing development that fails to preserve or enhance the special character and appearance of the conservation area. It is also the statutory duty of the Council to be consider whether the special character and appearance of the conservation area is preserved or enhanced. In November 2016, a new two storey dwelling was refused at this property (16/507024/FULL) on the grounds that it would represent harmful development and thus fail to preserve or enhance the character or appearance of the Faversham conservation area.
- 9.03 This application has sought to address this issue. The proposed building is modest in scale and height providing single storey ancillary annexe accommodation. I consider the proposed development now has considerable merit and will enhance the character of the street scene and the visual amenities of the area. As a designated conservation area, it is clearly a heritage asset. Since there is a statutory duty on the Council to ensure that changes to heritage assets are not harmful it has been essential that the proposal is not of any significant harm. I consider that the building as now proposed will be of a significant improvement over the character and appearance of the existing building and is sensitively designed as to retain the spacious character of the rear of Newton Road at this location.
- 9.04 The proposed siting of the new building is on the same position as the existing shed, in the south west corner of the rear garden to 60 Newton Road. I note local concern over inappropriate development in the conservation area but, whilst the proposal is taller than the existing shed, it is acceptable in my opinion and a distinct improvement in the appearance of the site. The ridge height is now lower and as such will not result in it being a dominant feature of the area. In my opinion, the proposed building would fit in with its surroundings and would not be harmful to the attractive spacious character of the area.

Use as an annexe

- 9.05 The proposed building contains a simply a bedroom, shower room and lounge, accessible from the rear garden to the host building and would constitute an annexe dependant or ancillary to the main house. I consider that the amount of accommodation being proposed is at such a level that it will be dependent on the main dwelling and as such cannot be used as a separate dwelling in its own right. The proposed building is essentially a bedroom with an en-suite.
- 9.06 I note local concerns with regard to the use of the building as a separate dwelling. I consider that the use of this for an annexe is acceptable and recommend imposing condition (3) below which restricts the use of the building to purposes ancillary and or/incidental to the use of the dwelling.
- 9.07 Although granting permission for this application could encourage others to do the same, I do not consider this to be a reason for refusal. Each application should be considered on its own merits.

Residential Amenity

- 9.08 There is no identifiable harm regarding the impact of the proposal upon the amenity of the residents of the adjacent dwellings, no. 58 and 62. There would be a separation distance of approximately 15m between the annexe and the rear elevation of neighbouring properties. Given this intervening distance and that the building will be

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single storey with a low pitched roof, I consider that the proposal would not give rise to any serious overshadowing or loss of light to adjoining properties. Neither do I consider there to be any overlooking issues. The proposed rooflights have been removed from the drawings, therefore harmful overlooking into the rear garden of neighbouring properties will not be an issue.

Highways

- 9.09 The property does not have any off-road parking spaces. Whilst it is arguable that the existing shed could potentially house a car, it is small and not restricted to garage use, so the proposal will not remove any dedicated parking provision. I do not consider that this issue can be a reason for refusal here. I am mindful that the site is in close proximity to the town centre and accessible to public transport.

Other Matters

- 9.10 I note local concern in regards to restrictive covenants; however this is a private issue between neighbours and is therefore a non-material planning consideration.

10.0 CONCLUSION

- 10.01 I therefore consider that the proposal is acceptable in terms of its impact upon the character and appearance of the immediate vicinity and the property, and the conservation area, fulfilling the aim of preserving the character of the area and thus the heritage asset. I therefore recommend, subject to conditions, that permission be granted.

11.0 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 permission is granted.

Reason: In pursuance of Section 91 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

- (2) The development hereby approved, including the specification of materials to be used in the construction of the annexe, shall be carried out in accordance with the following approved drawings:

NR1760.01A, NR1760.05A, NR1760.06A and NR1760.07A received 16 November 2017

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

- (3) The building hereby permitted shall not be used at any time other than for purposes ancillary and/or incidental to the use of the property known as "Gladstone House, 60 Newton Road" as a single dwellinghouse.

Reason: As its use as a separate unit of accommodation would be contrary to the provisions of the development plan for the area.

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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 applicant/agent was advised of minor changes required to the application and these were agreed.

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.

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The Minutes of the Meeting held on 19 December 2017 (Minute Nos. 418 – 419) were taken as read, approved and signed by the Chairman as a correct record.

17/505562/FULL – GLADSTONE HOUSE, 60 NEWTON ROAD, FAVERSHAM, ME13 8DZ

The Chairman moved the officer recommendation to approve the application and this was seconded by the Vice-Chairman.

The Area Planning Officer reported that the County Archaeological Officer had advised that no precautionary conditions were required for the application. Two further letters from neighbouring residents who objected to the application, had been received. One objector had stated that the application would have a domino-effect and this would worsen parking issues. The other objector had submitted

photographs which showed the views from their property and had stated that the openness of the urban view would be lost. Together with the view of the conservatory already there, and the height of the proposed annexe, this would result in overshadowing at both ends of their garden.

Following the site visit, Members raised points which included: the proposed annexe was too large for the garden, and for the location; happy that a condition would ensure the annexe remained as a separate dwelling to the main house; the nearby area consisted of a miss-match of buildings; did not consider this modest annexe would do any significant harm; could not see any relevant planning reasons why the application should be refused; and the use of the annexe would increase the pressure on parking.

A Ward Member spoke against the application. He raised concern with the use of the annexe and its height which he considered would result in a shadowing effect on nearby properties. The Ward Member considered the building should be used as a garage and that the application would set a precedent.

On being put to the vote the motion to approve the application was lost.

There was discussion on the valid reasons for refusing the application.

Councillor Bryan Mulhern moved the following motion: That the application be refused on the grounds of demonstrable harm to the amenity of adjacent properties, due to it being overbearing, the loss of parking, and the building should remain as a garage, and the height should not increase. This was seconded by Councillor Andy Booth.

Further discussion took place on the reasons for refusal.

Councillor Bryan Mulhern (Chairman) withdrew his proposal, and moved the following motion: That the application be deferred to allow further discussion between officers and the Ward Members. This was seconded by Councillor Andy Booth (Vice-Chairman).

On being put to the vote, the motion to defer the application was won.

Resolved: That application 17/505562/FULL be deferred to allow further discussion between officers and the Ward Members.

APPENDIX B



Appeal Decisions

Site visit made on 23 November 2015

by **K R Saward** Solicitor

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

Decision date: 4 January 2016

2 Ruins Barn Road, Tunstall, Sittingbourne, Kent ME10 4HS

Appeal A: APP/V2255/C/15/3031335

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Mrs Jennifer Zaluska against an enforcement notice issued by Swale Borough Council.
- The notice was issued on 15 April 2015.
- The breach of planning control as alleged in the notice is without planning permission a garage has been erected, the approximate position of which is highlighted on the plan, which in the opinion of the Council would require planning permission.
- The requirements of the notice are:-
 - (i) Remove the garage
 - (ii) Remove all materials and debris caused in complying with condition (i).
- The period for compliance with the requirements is 3 months.
- The appeal is proceeding on the grounds set out in section 174(2)(a) of the Town and Country Planning Act 1990 as amended. Since an appeal has been brought on ground (a) an application for planning permission is deemed to have been made under s177(5) of the Act.

Summary of Decision: The appeal is allowed subject to the enforcement notice being corrected in the terms set out below in the Formal Decision.

Appeal B: APP/V2255/W/15/3019443

- 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 Mrs Jennifer Zaluska against the decision of Swale Borough Council.
- The application Ref 14/503907/FULL, dated 9 September 2014, was refused by notice dated 16 March 2015.
- The development is to construct a timber framed and timber clad garage/storage area to the rear boundary of the property. Access via track to rear of Ruins Barn Road.

Summary of Decision: The appeal is allowed, and planning permission granted.

Preliminary Matters

1. The allegation in Appeal A refers to the approximate position of the garage being highlighted on the plan attached to the enforcement notice. An arrow on the plan points towards the dwelling whereas the garage is a separate building at the end of the garden. At my site visit, both parties agreed that the plan requires correction and this has been confirmed in writing. The location of the garage is correctly shown on the site plan accompanying the application in Appeal B. I am satisfied that the correction can be made without injustice to

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either party by substituting the enforcement notice plan with another to correspond with the location plan in Appeal B.

2. Equally, no injustice would arise from the consequential minor amendment required to paragraph 3 of the notice to make reference to the building being shown hatched rather than highlighted on the plan. I will therefore correct the enforcement notice in those two respects in order to clarify the terms of the deemed application under section 177(5) of the 1990 Act, as amended.
3. The garage was already built at the time of the application for planning permission in Appeal B and so the application was retrospective. The garage, as built, appears to correspond with the submitted plans.
4. The red line site for the location plan in Appeal B encompasses an area of hard-standing in front of the garage which does not appear in the enforcement notice plan. This does not affect the clarity or validity of the notice which does not require correction in this respect.

Appeal A on ground (a) and the deemed planning application; and Appeal B

5. Ground (a) is that, in respect of any breach of planning control which may be constituted by the matters stated in the notice, planning permission ought to be granted. This ground is concerned with the planning merits of the case, and it raises the same issues as the deemed application for planning permission. The linked section 78 appeal also raises the same issues, and I shall therefore deal with them together.

Main Issues

6. The main issues in both appeals are the effect of the garage on the character and appearance of the surrounding area and the living conditions of neighbouring occupiers with particular regard to outlook and sunlight.

Reasons

Character and appearance

7. No 2 Ruins Barn Road is one half of a pair of semi-detached houses in a long row of properties in the same form and architectural style. Each property in the row has a long rear garden. Most have a garage or outbuilding of some description at the end of their rear garden. The building subject to this appeal is a large double detached garage with a storage area within its roof space built at the end of the rear garden of No 2. In common with other garages in the row, vehicular access is obtained to it via an unmade track behind the Ruins Barn Road properties. The Council acknowledges that there is no dispute concerning the principle of development and refers to the garage as a "marginal" case.
8. The far side of the track is lined with dense hedgerow providing screening from the fields beyond. Whilst the garages are visible from neighbouring gardens, they cannot be seen from the public domain.
9. The garage has a pitched roof with gable ends. There is a large window in one gable end with a smaller window above. At a ridge height of approximately 4m, it is larger than most others in the row but not excessively so. Moreover, there is a wide variance in size, height, form and roof styles among the structures.

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The external finishes also vary considerably. Thus, there is no uniformity or fixed appearance with which the garage ought to accord.

10. Indeed, there is an example further along the row at No 28 where there is a notably larger garage building which has been approved by the Council. Not only does it have a higher ridge height than the appeal garage and is greater in scale, it features very large metal doors and painted render creating a very urban appearance and one that draws the eye from distance. In contrast, the appeal building has weatherboard cladding painted in a muted shade and a black corrugated roof. It is far more under-stated and befitting to its location surrounded by domestic gardens and close to open fields.
11. In addition, the appearance and finish is to my mind of superior quality than a good number of the other garages/outbuildings which are in varying states of repair. Given their condition and the wide assortment of outbuildings, the impression is somewhat haphazard. Against this backdrop, the garage is a positive addition. Although it fills a large part of the garden width, there is so much space behind the garage that it does not appear cramped in. I find no harm by reason of its size or design.
12. Consequently, there is no adverse effect on the character and appearance of the surrounding area contrary to Policies E19 and E1 of the Swale Borough Local Plan (LP) 2008 which, amongst other things, seek high quality design appropriate to the location. Nor does it conflict with the similar aims of Paragraphs 56 and 58 of the National Planning Policy Framework (the Framework).

Living conditions

13. Three large detached houses in Cromer Road share a rear boundary with No 1 Ruins Barn Road. They are sited perpendicular to the rear gardens of the Ruins Barn Road properties. High boundary fences separate the properties which, together with some foliage, will obstruct views of part of the garage for neighbours from downstairs rooms and rear gardens. However, there will be direct views of the garage roof behind the smaller garage at No 1 when viewed from first floor windows of No 4 Ruins Barn Road, in particular. There is no right to a view in law and so the fact the garage can be seen from neighbouring properties is not a material planning consideration. Instead, I have approached the question of outlook on the basis of any harm to the neighbouring occupiers' which is caused by an overbearing development rather than in the sense of a loss of view.
14. As a functional black coloured roof, it cannot be described as visually attractive. Nonetheless, the building is not close to neighbouring windows nor is it particularly close to the Cromer Road gardens. The rear garden for No 1 Ruins Barn Road provides separation. The roof also slopes away from the rear boundary of the Cromer Road properties which further reduces the likelihood of an enclosing effect occurring. It will still be possible to see around and above the garage albeit those views may have been more appealing before the roof was in place. Whilst neighbours may prefer the building to be flat roofed to reduce its visual impact, no material harm arises from the garage in its existing form. Its combined height, size and proximity are not of a level to give rise to an oppressive form of development for neighbouring residents whether from windows or gardens.

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15. Moreover, the separation distance between the garage and neighbouring houses suffices to avoid any material adverse effect on sunlight to rooms. For the same reason and with other intervening structures and planting, the level of any increased shading of gardens would not be significant.
16. Thus, I find no adverse effect on the living conditions of neighbouring occupiers in terms of outlook or impact on sunlight for demonstrable harm to residential amenity to arise in conflict with LP Policy E1. Likewise, there would be no conflict with the core planning principle in Paragraph 17 of the Framework which seeks to promote a good standard of living conditions for occupants of land and buildings.

Other Matters

17. The parish council has raised concerns regarding the potential use of the garage for commercial purposes. At the time of my site visit, the garage was filled with items of domestic storage on the concrete base. A moveable staircase was positioned in one corner leading to an upper floor level with restricted headroom where further items were being stored. From my observations, there was no evidence of an existing commercial use. A commercial use would amount to a material change of use of the building requiring planning permission. Therefore, it is not necessary to impose a planning condition restricting the use to purposes incidental to the dwellinghouse, as suggested by the Council.
18. Whilst the garage was constructed without the benefit of planning permission, this does not affect my consideration of the planning merits.

Formal Decisions**Appeal A**

19. It is directed that the enforcement notice be corrected: by the deletion of the word "highlighted" from paragraph 3 of the notice and the substitution thereof of the words "shown hatched black" and the substitution of the plan annexed to this decision for the plan attached to the enforcement notice. Subject to these corrections the appeal is allowed and the enforcement notice is quashed. Planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act, as amended, for the development already carried out, namely the erection of a garage on the land shown hatched black on the plan annexed to this decision.

Appeal B

20. The appeal is allowed and planning permission is granted to construct a timber framed and timber clad garage/storage area to the rear boundary of the property, access via track to rear of Ruins Barn Road, at 2 Ruins Barn Road, Tunstall, Sittingbourne, Kent ME10 4HS in accordance with the terms of the application, Ref 14/503907/FULL, dated 9 September 2014 and the plans submitted with it.

KR Saward

INSPECTOR

APPENDIX B



Plan

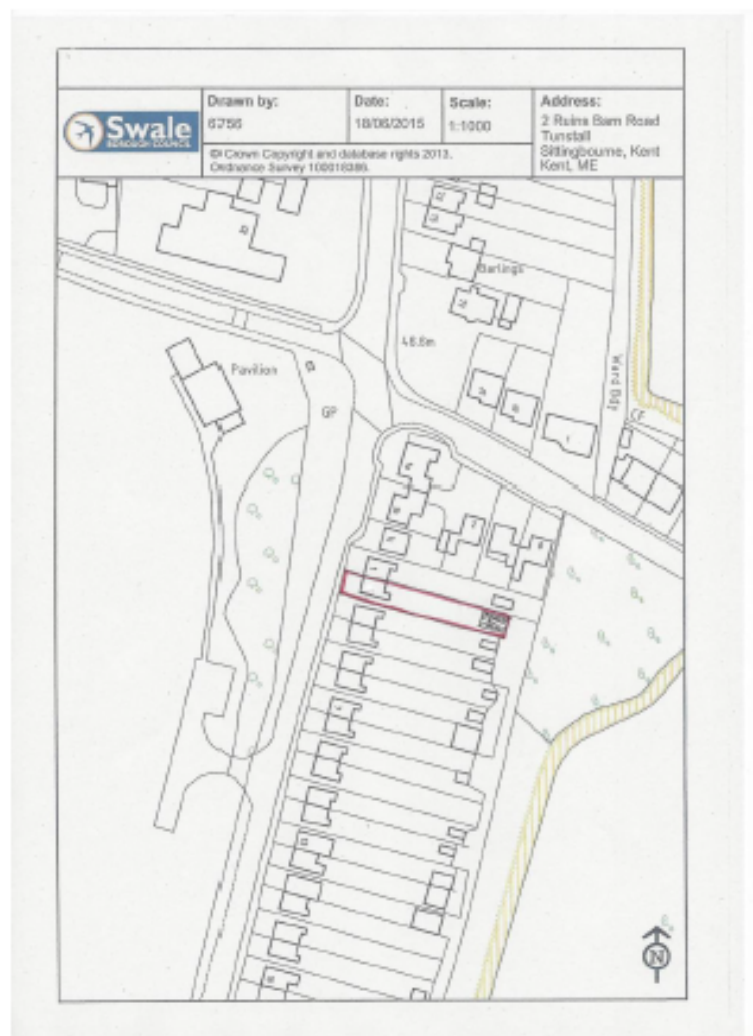
This is the plan referred to in my decision dated: 04.01.2016

by **K R Seward Solicitor**

Land at: 2 Ruins Barn Road, Tunstall, Sittingbourne, Kent ME10 4HS

Reference: APP/V2255/C/15/3031335

Scale: NOT TO SCALE



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Appeal Decision

Site visit made on 9 August 2016

by Nicola Davies BA DipTP MRTPI

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

Decision date: 05 September 2016

Appeal Ref: APP/V2255/W/16/3150520

19 South Road, Faversham, Kent ME13 7LR

- 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 Mrs L.C Guthrie against the decision of Swale Borough Council.
 - The application Ref 15/509814/FULL, dated 18 November 2015, was refused by notice dated 17 March 2016.
 - The development is proposed new dwelling to the rear of 19 South Road, Faversham, Kent ME13 7LR.
-

Decision

1. The appeal is dismissed.

Main Issue

2. The main issue raised in respect of the appeal is the effect of the development on the character and appearance of the surrounding area, and, whether the Faversham Conservation Area would be preserved or enhanced.

Reasons

3. The proposed development site would comprise that part of the rear garden of No 19 South Road positioned at an angle behind the rear gardens of dwellings fronting on to South Road. The appeal site abuts and relates more closely to Cross Lane, a narrow well-used pedestrian route linking South Road and Bank Street. Cross Lane is bounded on each side by high walls which are mainly of brick construction and incorporate pedestrian gate accesses. To the eastern end of Cross Lane are public car parks and the modern public buildings of Faversham Health Centre, Arden Theatre and Faversham Pools with the outdoor swimming pool with diving platform abutting the boundary of the appeal site. The rear gardens of surrounding dwellings border either side of the walkway over much of its route. With the exception of the single-storey outbuildings to the rear of Nos 29 and 31 South Road and 54 South Street there is a general absence of built development within the abutting gardens. The vegetated gardens with trees and plant growth oversailing the boundary walls along Cross Lane gives the area an open verdant feel to its character. This section leading to South Road is relatively tranquil, leafy and largely undeveloped in nature and contrasts with the busier more developed eastern end of the passageway. I observed that the appeal site relates to this part of the street scape.
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4. The proposal would create a substantial building with first storey and pitched roof visible over the Cross Lane boundary high wall. Although Cross Lane is narrow with high walls either side, this would not restrict views of the proposed dwelling as a result of its height and closeness to the pathway. Whilst the eaves height have been kept low and the trees on the swimming pool site would, to some extent, screen the site, the proposed dwelling would be prominently visible in views when travelling in both directions along Cross Street and would be particularly prevalent when viewed immediately adjacent to the site. It would also be visible from neighbouring properties and their gardens and users of the outdoor swimming pool.
5. Whilst I agree with both parties that the design of the proposed development is not intrinsically poor and indeed may reflect other developments in the wider area, a dwelling of this height is not in context with the immediate environment. I note the plot size may have increased and the footprint of the proposed dwelling has reduced from that of the earlier concept schemes. However, the resulting dwelling would not, to my mind, be perceived akin to an ancillary building in the way that the outbuilding to the rear of Nos 29 and 31 South Road appear with a relatively small part of its pitched roof visible over the boundary wall. The proposed development would be out of keeping with the landscaped gardens that form the character and appearance of this part of Cross Lane.
6. I observed that some pedestrian access gates have been boarded up and a small amount of graffiti is present along the pathway. In addition, a section of wall to the western end of the route is topped with a security installation. The appellant suggests that these features degrade the appearance of the area. However, these elements do not detract from the overall appearance of the pathway appreciated by those that use the route. In addition, it is suggested that a dwelling in this location would create a greater sense of security and safety to people using Cross Lane, particularly at night. Nonetheless, any such benefits would not outweigh the harm I have identified above.
7. The appellant refers me to planning permissions for dwellings granted within the surrounding area. I have insufficient information before me to be able to determine the planning circumstances of these developments and the similarities, if any, to the proposed development. The appeal before me relates to a different site and therefore can and should be considered in its own right.
8. Both parties appear to accept that the site has relatively low heritage significance. The appellant's Heritage Appraisal identifies a degree of change to garden boundaries and other land between South Road and the western section of Cross Lane over the past 150 years or so. However, the verdant and largely undeveloped nature of this area that gives distinctiveness to the character and appearance of the appeal site and the surrounding area outweighs the limited heritage significance of the site.
9. The appeal site falls within Faversham Conservation Area and as such the proposal would have an effect on the setting of this part of the Conservation Area. For the reasons given above, I conclude the proposed development neither preserves or enhances the Conservation Area. Given the size and scale of the proposal in the Conservation Area, I consider there would be less than substantial harm to the character and appearance of the Conservation Area. In accordance with paragraph 134 of the National Planning Policy

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Framework (the Framework), I must weigh the harm against the public benefit of the proposal. Although the development would bring forward a dwelling, the benefit to the public, in my view, would be limited, and insufficient to outweigh the harm identified. I conclude therefore that the proposal would fail to accord with national policy.

10. For the above reasons, the proposed development would be harmful to the character and appearance of the surrounding area. The proposal is contrary to Policies E1, E19 and H2 of the Swale Borough Local Plan that requires development to reflect the positive characteristics and features of the site and locality and requires development to be appropriate to its context in respect of scale, height and massing, amongst other matters. The proposal is also contrary to Policies DM14, DM33 and CP8 of the Bearing Fruits 2031: Swale Borough Local Plan that seek development to be sited and be of a scale, design, appearance and detail sympathetic and appropriate to the location, and, within a conservation area to preserve or enhance all features that contribute positively to the area's special character or appearance, including spaces, amongst other matters.

Other Matters

11. The appellant comments that there is a present shortfall in future housing provision for the area. The proposal would provide one additional home within the urban area in a sustainable location. Whilst the proposal would contribute a dwelling to the Borough's overall housing supply, this benefit would not outweigh the harm identified above.
12. I note the appellant's wish to remain resident in the area and to provide extended living accommodation for ageing family members. Whilst I sympathise with the personal circumstances of the appellant and the future accommodation needs of her family, I am mindful that the harm identified would be permanent and is not outweighed by the appellant's particular circumstances.
13. I have had regard to other matters raised, including those of loss of privacy and overlooking, noise disturbance, impact on trees and services, parking problems in area, and precedent raised by interested parties, however these matters do not outweigh my findings in respect of the effect of the proposed development on the character and appearance of the area.

Conclusions

14. For the reasons given above, I conclude that the appeal should be dismissed.

Nicola Davies

INSPECTOR