

REPORT SUMMARY

REFERENCE NO - 17/505898/FULL		
APPLICATION PROPOSAL Change of use of common land to rear of property to residential garden land.		
ADDRESS 1 Yew Tree Close Lordswood Chatham Kent ME5 8XN		
RECOMMENDATION – GRANT Subject to conditions		
SUMMARY OF REASONS FOR RECOMMENDATION: The proposed development is considered to comply with the policies of the Maidstone Borough Local Plan 2017 and the National Planning Policy Framework and there are no overriding material considerations to indicate a refusal of planning permission.		
REASON FOR REFERRAL TO COMMITTEE: The recommendation is contrary to the views expressed by Boxley Parish Council and the local councillor.		
WARD Boxley	PARISH/TOWN COUNCIL Boxley	APPLICANT Mr Robert Wilkinson AGENT N/A
DECISION DUE DATE 15/01/18	PUBLICITY EXPIRY DATE 15/12/17	OFFICER SITE VISIT DATE 27/11/17 and 08/02/18
RELEVANT PLANNING HISTORY (inc appeals and relevant history on adjoining sites):		

73/0496/MK2 – Outline application for 167 houses. Development to be in 5 phases - Approved

73/0479/MK2 – Outline application for the development of land – Approved

80/1176 - Substitution of house types, plots 376-377, 380-386, 386a-391 to 402, 420-440, as amended by the letter dated 20/8/80 and accompanying external finishes schedule (Submission of reserved matters for the previously approved outline application)

78/1795 – Details of development as amended by letter dated 12/10/79 and accompanying no's 675/77 and 675/77A and further amended by letter dated 28/06/79 and accompanying drawing number 765/87B – Application Permitted - (Submission of reserved matters for the previously approved outline application)

MAIN REPORT

1.0 DESCRIPTION OF SITE

- 1.01 The application site is located within the urban settlement boundary of Walderslade within the Parish of Boxley. The site is a rectangular piece of amenity land measuring 13.6m x 4.8 (65m²) currently owned by the Council located to the rear of 1 Yew Tree Close (the applicant), to the rear of Nos 1 and 3 Dogwood Close and to the rear side of No. 5 Dogwood Close.
- 1.02 The site currently contains grass and some low quality vegetation. Whilst neighbours refer to trees on the site, it is confirmed after a site visit that there are no trees on the application site. Maidstone Parks and Leisure have confirmed that as part of general land management one large and two small trees were previously removed, however these were adjacent to the site and removed as they were leaning considerably towards adjacent properties. To the east of the site is a collection of established trees

which are adjacent to the pedestrian footpath for Gleamingwood Drive. Further east between the footpath and the cycle path is a grass verge.

2.0 PROPOSAL

- 2.01 The application proposes a change of use to allow the application site to be enclosed and used as domestic garden land by No. 1 Yew Tree Close. The application form states that the boundary treatment would be a 1.8m close boarded fence with concrete posts. The covering letter in support of the application outlines that the applicant has agreed a sale with Maidstone Borough Council Property Department.

3.0 POLICY AND OTHER CONSIDERATIONS

The National Planning Policy Framework (NPPF)
National Planning Practice Guidance (NPPG)
Development Plan: DM1

4.0 LOCAL REPRESENTATIONS

- 4.01 4 representations against on the following grounds (summarised):

- The land provides privacy for the gardens which are adjacent to the application site;
- The site is amenity land and has 4 mature chestnut trees growing on the site which support wildlife;
- Concern that the proposal could result in the loss of the mature trees which act as a buffer and provide privacy from Gleamingwood Drive;
- Loss of privacy from the proposed garden land;
- Development will set a precedent for the loss of other amenity areas; and
- Trees already appear to have been cut down.

5.0 CONSULTATIONS

- 5.01 **Landscape Officer:** *“following my site visit today the area of land shown for change of use (outlined in red on the supplied OS plan) has no trees growing on it. Therefore, there are no arboricultural grounds to refuse the application. Should you be mindful to recommend approval, I would suggest a condition seeking construction details of the boundary treatment/fencing as there are a number trees adjoining the site that could be affected.”*

- 5.02 **Boxley Parish Council:** *“The parish council wishes to see the application refused on the grounds that this would be a loss of public amenity land which would have an adverse impact on the streetscene and character of the area.*

If the Planning Officer is minded to recommend that the application is permitted then the parish council asks that the application is reported to the Planning Committee.

To ensure the remaining trees are protected Boxley Parish Council requests a condition, should the application be approved, that any erection of a fence or wall shall not commence until full details of tree protection measures have been submitted and approved by MBC.”

- 5.03 **Councillor Wendy Hinder:** Object. *“I wish to object most strongly to this application on the following grounds:*

1 This land is not waste land it is amenity land owned by MBC. This land is one of several that were put in by the developer when the estate was built to break up the hard solid edge of brick houses and garden fences. Most of these estates were built on I have been told ancient woodland some that can still be seen on the opposite side of Gleaming wood Drive. These parcels of land were put in for a purpose and they should be left as such.

2 This application would change the street scene and have a detrimental impact on the area.

3 This strip of land runs along the back of two houses and would have a visual harm for them.

4 I have grave concerns that there has been three trees cut down and the land already cleared . By whom?

5 on the opposite of Gleaming Wood drive outline planning permission has been given for 89 houses which makes protecting this piece land as part of the street scene even more important.”

- 5.04 **MBC Parks and Leisure Team:** *“Behind 1 Yew Tree Close MBC had one large and two small trees removed due to that they were leaning considerably towards the property’s. We also had the crowns lifted on the rest of the trees to five metres. We are willing to sell this piece of land as the trees will remain on MBC land and there will still be a wide green verge between the property’s and Gleaming Wood Drive.”*

6.0 APPRAISAL

- 6.01 The main issues with the consideration of this application are:

- Harm to the character of the area;
- Harm to residential amenity; and
- Loss of trees.

Visual Impact

- 6.02 The land in question is a relatively small area of land that covers an area of approximately 65m². The boundary treatment around this land to the north, west and south currently consists of facing brickwork for the boundaries of the adjacent residential rear gardens. To the east the site is bounded by mature trees which provide some screening of the rear boundaries of No. 1 and 3 Dogwood Close.
- 6.03 A number of consultees have objected to the loss of the amenity land due to it providing open green space and it creating a green buffer to Gleamingwood Drive that would be lost should permission be granted. I do not consider this to be a particularly open piece of land; as it is enclosed on 3 sides by neighbouring domestic gardens.
- 6.04 The proposal would bring the garden boundary in line with the existing rear boundary of No.5 Dogwood Close and would be set 1.2m behind the existing side boundary for No.1 Yew Tree Close and is considered to be an infill to garden land. In my opinion, this small landscaped area plays a minor role in the ‘greening’ of the built frontage, the trees would remain as would the landscape area they are located upon and it is not considered its ‘loss’ to garden land would be significant or cause any significant visual harm.
- 6.05 I also note that within the wider area there is evidence of brickwork and fencing built up to the footpath along Gleamingwood Drive and the boundary for this proposal would be set back from the footpath by approximately 4.2m.

- 6.06 In terms of boundary treatments, the applicant is proposing a 1.8m close boarded fence with concrete pillars. Bearing in mind that the existing boundary treatment is of facing brickwork which faces onto Gleamingwood Drive, it is not considered that the proposed boundary treatment would have any more of a detrimental impact upon the appearance of the area than these existing boundary treatments.

Residential Amenity

- 6.07 The site is currently surrounded on three sides by residential gardens and the wider surrounding area of Yew Tree Close and Dogwood Close is suburban in nature. Due to the sites location within the settlement boundary, the use of the land for garden land is not considered to have a significant impact on the residential amenity of the adjacent neighbours above what currently exists. Permitted development rights would also be removed by condition ensuring that no development under class E (outbuildings) is allowed within the site without the permission of the Council. By removing the public access to the land, the proposal would also increase security to the rear gardens of No.1 and No.3 Dogwood Close.
- 6.08 A number of respondents have also commented that the loss of the trees would result in loss of privacy from Gleamingwood Drive. However, as set out in the Landscape Officer's and the Parks and Leisure Team's comments, the existing trees are not located within the application site and would remain.

Other Matters

- 6.09 In terms of the loss of the trees, which I note that objections have been received on. The MBC Landscape Officer has been consulted and commented that the site area has no trees growing on it and that there are no arboricultural grounds to refuse the application, subject to a condition that seeks to ensure any boundary treatment does not damage these adjacent trees. In addition, the Council's Parks Team has been consulted and confirmed that unrelated to the current application one large and two small trees were previously removed from the land immediately adjacent to the site by them due to the trees leaning.
- 6.10 I do not consider there to be significant ecology issues here given that this is a small managed area of land.
- 6.11 Concern has been raised in regards to the precedent the proposal would create should planning permission be granted. However, each planning application must be considered on its own planning merits.

7.0 CONCLUSION

- 7.01 It is not considered that the change applied for would result in significant harm to the character of the area and it is recommended that planning permission is granted, subject to a number of conditions. These conditions would require details of landscaping, measures to protect the trees adjacent to the site. A further condition would remove the permitted development rights for outbuildings to ensure that any future development on this land would be within the control of the Council.

8.0 RECOMMENDATION – GRANT Subject to the following conditions:

CONDITIONS

- (1) The development hereby permitted shall be begun before the expiration of three years from the date of this permission;

Reason: In accordance with the provisions of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

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

Block Plan – Received on 20/11/2017; and
Site Local Plan – Received on 20/11/2017.

Reason: To ensure the quality of the development is maintained and to prevent harm to the residential amenity of neighbouring occupiers.

- (3) No development falling within Schedule 2, Part 1, Class E of The Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order, with or without modification) shall take place on the site without the prior written consent of the local planning authority;

Reason: To safeguard the character, appearance and functioning of the surrounding area.

- (4) The development hereby approved shall not commence until details of all fencing, walling and other boundary treatments have been submitted to and approved in writing by the local planning authority and the development shall be carried out in accordance with the approved details before the first occupation of the land and maintained thereafter;

Reason: In the interests of landscape, visual impact and amenity of the area and to ensure a satisfactory appearance to the development.

- (5) The development hereby approved shall not commence until details of tree protection in accordance with the current edition of BS 5837 have been submitted to and approved in writing by the local planning authority. All trees to be retained must be protected by barriers and/or ground protection. No equipment, plant, machinery or materials shall be brought onto the site prior to the erection of approved barriers and/or ground protection except to carry out pre commencement operations approved in writing by the local planning authority. Nothing shall be stored or placed, nor fires lit, within any of the protected areas. No alterations shall be made to the siting of barriers and/or ground protection, nor ground levels changed, nor excavations made within these areas without the written consent of the local planning authority. These measures shall be maintained until all equipment, machinery and surplus materials have been removed from the site.

Reason: In the interests of landscape, visual impact and amenity of the area and to ensure a satisfactory appearance to the development

Case Officer: Adam Reynolds

NB For full details of all papers submitted with this application please refer to the relevant Public Access pages on the council's website.