

4.3 - 23/03622/MMA

Date expired 29 February 2024

Proposal:

Amendment to 23/02605/MMA related to 22/01084/HOUSE for Rear extension and removal of front porch. Replacement of existing outbuilding with a new outbuilding.

Location:

3 Abbotswood Bungalows, London Road, West Kingsdown
Kent TN15 6AR

Ward(s):

Fawkham & West Kingsdown

Item for decision

The application was called to Committee by Councillor Bulford due to concerns regarding the impact on the neighbouring amenities of the adjoining property.

RECOMMENDATION: That planning permission be GRANTED subject to the following conditions:

1) The amendments hereby permitted shall be completed before the expiration of three months from the date of this permission.

To ensure that the development on site would be in accordance with both local and national policies as the in-situ development is unauthorised.

2) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used on the existing building.

To ensure that the appearance of the development is in harmony with the existing character of the area as supported by Policy EN1 of the Sevenoaks Allocations and Development Management Plan.

3) The development hereby permitted shall be carried out in accordance with the following approved plans and details: M01 Rev D; M02 Rev D, M03 Rev D

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

National Planning Policy Framework

In dealing with this application we have implemented the requirements in the National Planning Policy Framework to work with the applicant/agent in a positive, proactive and creative way by offering a pre-application advice service; as appropriate updating applicants/agents of any issues that may arise in the processing of their application and where possible and if applicable suggesting solutions to secure a successful outcome. We have considered the application in light of our statutory policies in our development plan as set out in the officer's report.

Description of site

- 1 The application site comprises of an end of terrace bungalow located directly on London Road. The site has a modest sized rear garden which wraps around the rear garden of the directly adjacent property, no.2 Abbotswood Bungalows. The dwelling itself is of modest scale and is single storey.

Description of proposal

- 2 This application seeks a minor material amendment to planning permission 22/01084/HOUSE which was granted in June 2022 for a rear extension, removal of front porch and a replacement outbuilding.
- 3 The amendment proposed to the approved scheme relates solely to the change the design of the roof of the rear extension and amendments for the provision of guttering for the extension.
- 4 This is a part retrospective application, as the proposal seeks to reduce the extent of the extension on the boundary line with the neighbouring property.
- 5 The replacement outbuilding would not be changed or altered in any way as a result of these proposals. As such will not be considered to be a material consideration in this instance. The principle of acceptability of the replacement outbuilding was established under the previously granted planning application 22/01084/HOUSE.

Relevant planning history

- 6 20/03409/LDCEX - Confirmation that the existing outbuilding garden store/shed is lawful for the use ancillary to the main house - REFUSE - 22/01/2021
- 7 21/00543/LDCEX - Existing outbuilding in rear garden as shed / store in connection with 3 Abbotswood Bungalows - GRANT - 27/04/2021
- 8 22/00015/HOUSE - The erection of 5m rear extension and removal of front porch. Replacement of existing outbuilding with a new smaller outbuilding - REFUSE - 07/03/2022
- 9 22/01084/HOUSE - Rear extension and removal of front porch. Replacement of existing outbuilding with a new outbuilding - GRANT - 01/06/2022
- 10 23/02605/MMA- Amendment to 22/01084/HOUSE - REFUSE - 01/11/2023
- 11 A previous application 22/01084/HOUSE was granted in June 2022 and was for the erection of a rear extension, removal of the front porch and the replacement of the existing rear outbuilding. The development was not constructed in accordance with the approved plans and a first minor material amendment (23/02605/MMA) was submitted which sought to have permission granted for the development as built.
- 12 This minor material amendment application 23/02605/MMA was refused for the below reason: "by virtue of their height increase, the proposals would result in an overbearing and unneighbourly form of development that would have a detrimental impact on residential amenity and living conditions of the neighbouring property. The resulting increase in visual intrusion would be contrary to Policy EN2 of the Allocations and Development Management Plan and the National Planning Policy Framework."

Policies

- 13 National Planning Policy Framework (NPPF)
- 14 Core Strategy (CS)
 - SP1 Design of New Development and Conservation

15 Allocations and Development Management Plan (ADMP)

- EN1 Design Principles
- EN2 Amenity Protection
- GB1 Residential Extensions in the Green Belt
- T2 Vehicle Parking

Constraints

16 The following constraints apply:

- Metropolitan Green Belt

Consultations

17 Parish Council

18 “Parish council objects to this application, it is a retrospective application, it seeks to correct the incorrect build of the approved plan 22/01084/HOUSE. It has a detrimental impact on the neighbouring property of 2 Abbotswood in terms of loss of light due to the increased height of the party wall. The parapet doesn't appear to be on the original plans. This has not been built to the approved plans, incorrect height of the wall and the roof has affected the neighbouring property. This application does not satisfactory address these issues. This is not acceptable to build incorrectly.”

Representations

19 3 letters of objection have been received relating to the following issues:

- Loss of light
- Visual Intrusion
- Out of keeping with the character of the area
- Plans do not match built form on site and are incorrect in terms of measurements
- Impact on Green Belt
- Extension not built in accordance with approved plans

20 One letter received supporting the application.

Chief Planning Officer's appraisal

21 The application has been called to committee for the following planning reasons: impact on the neighbouring properties due to the development not being constructed in accordance with approved plans.

22 An application for a 'minor material amendment' to a planning permission (as referred to in the Government's Planning Practice Guidance) is made under Section 73 of the Town and Country Planning Act 1990 (as amended) (the 'TCPA') and is a way of varying a condition that lists the approved drawings, in order to make amendments to the approved development. Under such a variation of condition for a minor material amendment, the proposed amendments may not alter the description of the development approved.

- 23 Assessment of this MMA application will solely relate to the differences between the approved scheme and the amendments now sought, ie, alterations to the roof design and the guttering.
- 24 The main planning consideration are:
- Design and impact on the character of the area (Policy EN1)
 - Impact on neighbouring amenities (Policy EN2)
 - Impact on the Green Belt (Policy GB1)

Design and impact on the character of the area

- 25 The relevant policies relating to design and the character of the area are EN1 of the ADMP, SP1 of the Core Strategy and The Residential Extensions SPD is also applicable.
- 26 The rear extension is visible in the street as a result of its projection beyond the side wall of the existing dwelling. However, the extension is single storey with a low eaves height. Furthermore, it is set back a considerable distance from the front elevation of the dwelling and the highway. Therefore, the extension does not appear unduly dominant or visually intrusive in the street scene.
- 27 The proposed amendments to the approved scheme would result in the height of the roof of the rear extension being increased by 0.64m, as it raises from from 3.59 metres to 4.23 metres at its highest point (top of the rooflight). This increase, whilst adding some additional bulk to the site, would remain subservient to the existing roof form of the bungalow and would appear proportionate. The additional impact on the character of the dwelling would thus be considered to be limited.
- 28 The proposal amendments would not result in any significant additional harm to the character of the area beyond what was granted under planning permission 22/01084/HOUSE and would thus be considered to comply with Policy EN1 of the Allocations and Development Management Plan.

Impact on Neighbouring Amenities

- 29 Policy EN2 of the ADMP and our Residential Extensions SPD are relevant in the consideration of this application. Policy EN2 states that “would safeguard the amenities of existing and future occupants of nearby properties by ensuring that development does not result in, and is not located in areas where occupiers of the development would be subject to, excessive noise, vibration, odour, air pollution, activity or vehicle movements, overlooking or visual intrusion and where the built form would not result in an unacceptable loss of privacy, or light enjoyed by the occupiers of nearby properties.”
- 30 The proposed amendment does not include any side windows. The existing north-west facing side window which overlooks the area of private amenity of no.2 would be removed as noted on drawing number M01 Rev-D. The proposed amendment would not result in any increased harm to privacy of the neighbouring dwellings.
- 31 The previously refused minor material amendment as built, sought to increase the height of the boundary wall to 3.41 metres due to the addition of a parapet wall to the North West side elevation. The current application would result in the height of the boundary wall as currently built out being reduced down to 2.91 metres, which is the height which was approved under the previously granted planning permission.

- 32 It has been acknowledged that what has been built on site is not considered acceptable in terms of local policy EN2 of the Allocations and Development Management Plan. This application would amend what has been built and would need to be implemented on site as specified on the submitted plans, within a three month period as per condition 1.
- 33 The main consideration is whether the proposed have any greater impact on the neighbouring property than the granted planning permission. In light of the side boundary wall being reduced down to 2.91 (same height as approved) and the provision of guttering which would discharge rain water into the garden of No.3 Abbotswood Bungalows, there would be no greater impact on the neighbouring property.
- 34 The rear extension would fail the 45 degree test on its floor plan but would pass the test on its elevation in relation to the rear windows of the adjoining property, 2 Abbotswood Bungalows. In line with BRE guidance, the proposal would pass the test overall and would not result in a significant loss of light which would be considered harmful to the living conditions of current and future occupiers of this neighbouring property. It is also noted that the nearest window of 2 Abbotswood Bungalows does not serve a habitable room (toilet).
- 35 As mentioned previously, the roof of the rear extension would be raised as a result of the proposed amendments. It is noted that the roof is not directly located on the boundary and is set back from No.2 by. It is acknowledged that the proposed rear extension would be a large addition and that there would be oblique views of the extension from the rear windows of the immediate neighbouring properties, 2 Abbotswood Bungalows and Aitches, as well as their rear gardens. On the basis that these neighbouring properties would not directly overlook the extension as their rear windows face towards their own gardens, I do not consider that the development would be harmful to the living conditions of the occupiers of these properties. It is also important to note here that, as set out in the Residential Extensions SPD, the planning process cannot protect a view from a private property.
- 36 Overall, the impact of the proposed amendments would not be in excess of that which was approved under the previously granted planning permission. The height of the boundary wall would be reduced on site down to 2.91 metres (which was the approved height) and the raising of the roof would have a limited impact in terms of visual intrusion. The light test was conducted and was passed, noting that the window which would be modest impacted is an obscured toilet/bathroom window.
- 37 Due to the above considerations, it is considered that the proposals would comply with Policy EN2 of the Allocations and Development Management Plan.

Impact on the Green Belt

- 38 The proposals would not result in any increase in footprint of the extension as approved under application 22/01084/HOUSE. There would be a relatively minor increase in the height increase of the extension roof by 0.64m, which is still considerably lower the height of the main roof with the property. The extension would be contained to the rear of the dwelling and would sit amongst an existing row of residential buildings rather than being situated in an isolated location or the open countryside. As such, it is considered that the scale and size of the extension would not appear to encroach on the open nature of the countryside beyond nor result in unrestricted sprawl in the Green Belt. The overall sense of openness within the wider area and the surrounding countryside, would be preserved.

- 39 The total floor space would exceed the 50% uplift limit, however, it was previously accepted that a case of very special circumstances existed. This was on the basis, that the size of the extension could be justified by the removal of the existing large outbuilding and the erection of a new outbuilding of a smaller size, which would clearly outweigh the harm to the openness through inappropriate development. The below section summarises the case for very special circumstances for the granted planning permission 22/01084/HOUSE.
- 40 “The floor space of the existing dwelling is 89.94sqm and the floor space of the existing outbuilding is 64.8sqm. The total floor space on site pre-development was 154.74sqm. By comparison, the floor space of the dwelling, following the proposed extension would be 125.48sqm, and the floor space of the smaller outbuilding would be 28sqm. The total floor space on site as a result of the proposed development would be 153.48sqm. Therefore, there would be an overall reduction in floor space on site by 1.26 sqm. Potentially of greater significance than the slight reduction in built footprint on the site, is the proposed significant reduction in the scale of the outbuilding. The reduction in scale would not only reduce the prominence of the outbuilding but would also reduce the apparent spread of built development across the site. For these reasons, the proposals represent an opportunity to reduce the scale and spread of built development on the site, which would clearly outweigh the harm from the proposed addition to the principal dwelling.”
- 41 As the proposed amendments would not result in any additional footprint or floor space and the height increase of the extension roof would have limited visual or spatial impact on the openness of the Green Belt, the case for very special circumstances still exists and applies again.

Other issues

- 42 Inaccurate plans and not in accordance with built form
- 43 It is acknowledged that the application is retrospective as development has been carried out on site and where what was built does not match the approved plans and drawings. This minor material amendment application would seek to amend the approved plans which would also result in the built form on site to be altered to match the submitted plans under this current application.
- 44 The measurements and details of the elevations would need to match that of the plans as a condition would be added to ensure that all future development would be in accordance with the submitted details. From the previous site visit accompanied by an enforcement officer, measurements were taken which suggested that the measurements included on the submitted plans were coherent with the submitted details. However, should it be found that the development is not constructed in accordance with the attached condition, enforcement action may be taken.

Community Infrastructure Levy (CIL)

- 45 Not liable.

Conclusion

- 46 The proposed amendments would not alter the nature of the development and would comply with the relevant local and national Policies.
- 47 It is therefore recommended that this application is approved.

Background papers

48 Site and block plan

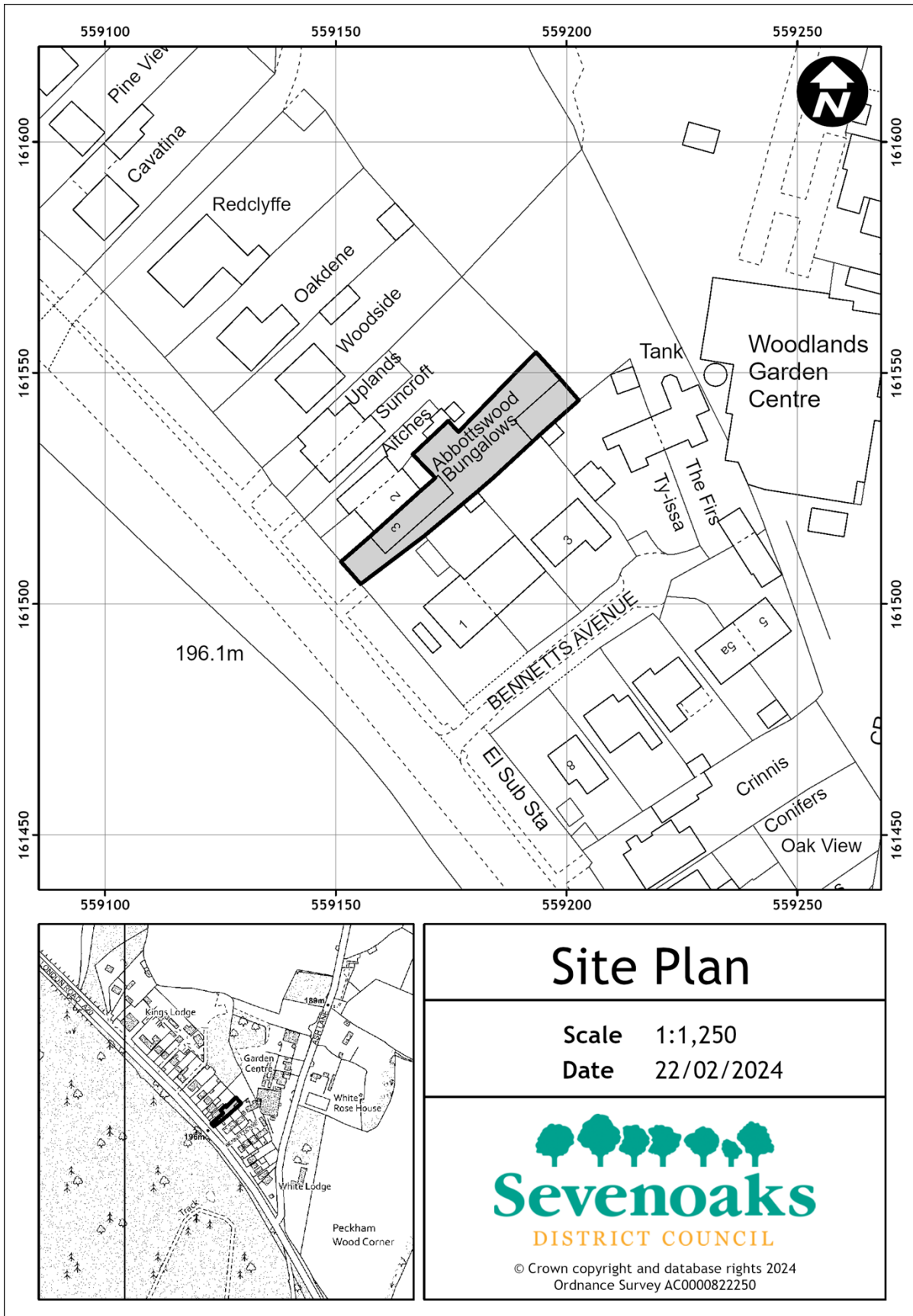
Contact Officer(s):

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Richard Morris
Chief Planning Officer

[Link to application details:](#)

[Link to associated documents:](#)



BLOCK PLAN OF THE SITE

PLAN TAKEN FROM 22/01084/HOUSE (ORIGINAL APPLICATION)

