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**Report of 24 February 2010**


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**Wateringbury**                      **569289 153174**    **16 November 2009**    **TM/09/02894/FL**  
 Wateringbury

Proposal:                      New garage and conversion of existing garage (Resubmission of TM/09/02055/FL)  
 Location:                      64 Phoenix Drive Wateringbury Maidstone Kent ME18 5DR  
 Applicant:                      Mr Crispin Maloney

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**1. Description:**

- 1.1 The proposal seeks planning permission to convert the existing garage and to extend the dwelling to create a new garage to the front of the existing.
- 1.2 The proposal is a resubmission from a previous application of the same description, which was withdrawn by the applicant. The proposal has been amended to lower the height of the flank wall bounding 63 Phoenix Drive and slope the roof away from the boundary.

**2. Reason for reporting to Committee:**

- 2.1 The application has been called to Committee by the local Members because of concerns over the amenity of adjacent properties.

**3. The Site:**

- 3.1 The application site is located within the settlement confines of Wateringbury where the principle of residential development is acceptable in broad policy terms.
- 3.2 The adjacent property, no. 63 Phoenix Drive, is situated at a lower ground level to the application site. The adjacent property lies to the south of the application site. There is an amenity strip, planted with a number of fairly mature shrubs, directly adjacent to the proposed garage, which lies within the ownership of no. 63. When viewing the site this strip gives the appearance of being within the ownership of the applicant as the boundary fence is the other side of this strip of land.

**4. Planning History:**

TM/05/03432/FL      Refuse                                      11 January 2006

Two storey side extension

TM/09/02055/FL      Application Withdrawn                      13 November 2009

New garage and conversion of existing garage

**5. Consultees:**

- 5.1 PC: No objection subject to concerns over parking in the restricted area and objections from neighbours.
- 5.2 KCC (Highways): This is a resubmission to which no highway objections were raised.
- 5.3 Private Reps: 10/0S/0X/2R. Two letters received from the same neighbour objecting on the following grounds:
- The proposal now acknowledges that there will be a requirement to either remove or prune shrubs on land within the ownership of the adjacent dwelling, however it does not state the full extent of the work required and whether they will be replaced or made good.
  - Maintenance of this strip of land within the ownership of the adjacent property would be impossible as a result of the proximity of the proposed wall to the adjacent fence line.
  - The proposal would have a detrimental outlook from the adjacent property.
  - The proposal would have a detrimental impact on the amenity of the adjacent property. This has been exacerbated by the completion of an extension to 62 Phoenix Drive, which also has an impact on the residential amenity and light of 63 Phoenix Drive.
  - The property's future desirability would be affected by the overbearing impact of the proposal.
  - The issue of the revised proposal's close proximity to the adjacent property has not been addressed, nor the impact on the residential amenity.
  - The site currently has 3 parking spaces. This proposal will result in 2 parking spaces and therefore it is likely to increase the amount of on-street parking given that the applicant does not use his garage.
  - The proposal will result in a loss of light.

**6. Determining Issues:**

- 6.1 The site is located within the urban confines, and accordingly, in principle residential extensions are acceptable.
- 6.2 The main determining issues relating to the application are the impact on parking, the impact upon the amenity of the adjacent property and the impact upon the amenity of the surrounding locality.

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- 6.3 Policy CP24 of the TMBCS requires all development to be well designed and of a high quality in terms of detailing and use of appropriate materials, and must through its scale, density, layout, siting, character and appearance be designed to respect the site and its surroundings.
- 6.4 Saved policy P4/12 of the Tonbridge and Malling Borough Local Plan 1998 relates to extensions to residential properties. It states that extensions will not be permitted if they would result in an adverse impact on the character of the building or the street scene or upon the residential amenity of neighbouring properties in terms of light and privacy, and overlooking of garden areas.
- 6.5 There are currently 3 off-street parking spaces in addition to the garage. The proposal involves converting the existing garage into a habitable room and erecting a new garage in front of the existing garage on one of the existing parking spaces. This would result in three off-street parking spaces being retained (the garage and a double width driveway). Therefore, I am satisfied that the proposal will leave sufficient parking on site, that would accord with SPG4 (Kent Parking Standards, as updated by Kent Design in Interim Guidance Note 3, which was adopted by this Council following last Planning and Transportation Advisory Board) as at least 2 independently accessible spaces remain.
- 6.6 I am of the opinion that the design of the proposal will be in-keeping with the street-scene and surrounding locality.
- 6.7 The proposed extension would be located due north of the neighbouring dwelling (no.63) and, as such, would not cause an unacceptable loss of light to this property. Furthermore, the proposal meets the sunlight and daylight tests of the BRE. No windows would be located in the flank wall of the extension and as such the proposal would not cause a loss of privacy to the neighbouring properties – the subsequent insertion of windows can be prohibited by condition.
- 6.8 Planning permission is required for the proposal because the proposed extension would encroach onto the boundary with the adjacent property and because the applicant is proposing to convert the garage into an habitable room. When planning permission was granted for the original development a condition was attached requiring the garages to be retained as parking (but see para 6.5 above).
- 6.9 In the light of the above, should the applicant have chosen to retain the existing garage and moved the proposed extension in from the boundary to avoid any encroachment, a planning application would not have been required, and the extension would have been permitted development under Class A, Part 1 of the Town and Country Planning (General Permitted Development) Order 1995 (as amended). Members will recall that the mere grant of permission on 3<sup>rd</sup> party land DOES NOT oblige that 3<sup>rd</sup> party to allow the development to take place – that is a separate private legal matter.

- 6.10 Compared to the withdrawn application TM/09/02055/FL, the applicant has lowered the height of the flank wall on the boundary to no. 63 Phoenix Drive from 3.3m to 2.7m high, and has altered the design of the roofslope to slope away from the garden of no. 63. Whilst the adjacent dwelling is set at a lower ground level to the application site, thereby increasing the impact of the proposed extension, I am of the opinion that these 2 design changes have addressed previous concerns relating to the oppressive impact that would have resulted on the adjacent property.
- 6.11 These dimensions of the extension would meet current permitted development limits and this is a clear gauge as to the acceptability of the impact on no. 63, set against national criteria for householder development.
- 6.12 Whilst I note the neighbour's concerns regarding the impact that the proposal would have upon the amenity of their property and can empathise with the fact that an extension has recently been completed to no. 62 to their south, I am of the opinion that the impact that the proposed extension would have on the amenity of the adjacent property, especially bearing in mind the 'permitted development' fallback, does not justify refusal of the application.
- 6.13 I note the objections relating to the impact of the proposal upon the maintenance of the adjacent strip of land. However, this is not a material planning consideration, given that the conditional confines over such maintenance have expired.
- 6.14 In the light of the above considerations, on balance, I consider the proposal to be acceptable.

## **7. Recommendation:**

- 7.1 **Grant Planning Permission** in accordance with the following submitted details: Letter dated 13.11.2009, Floor Plan dated 13.11.2009, Roof Plan dated 13.11.2009, Elevations dated 13.11.2009, Elevations dated 16.11.2009, Section dated 16.11.2009, Site Plan dated 16.11.2009, subject to the following:

### **Conditions / Reasons**

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission. (Z013)  
  
Reason: In pursuance of Section 91 of the Town and Country Planning Act 1990.
2. All materials used externally shall match those of the existing building.  
  
Reason: To ensure that the development does not harm the character and appearance of the existing building or visual amenity of the locality. (D002)

3. The garage(s) shown on the submitted plan shall be kept available at all times for the parking of private motor vehicles.

Reason: Development without provision of adequate accommodation for the parking or garaging of vehicles is likely to lead to hazardous on-street parking.  
(P009)

### **Informatives**

- 1 This permission does not purport to convey any legal right to undertake works or development on land outside the ownership of the applicant without the consent of the relevant landowners.

Contact: Glenda Egerton