

**Tonbridge**  
Medway

**29 October 2021**

**TM/21/02915/FL**

Proposal: Construction of a single detached dwelling with associated parking and erection of an ancillary garden building  
Location: 105 Hadlow Road Tonbridge Kent TN9 1QE  
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**1. Description:**

- 1.1 Planning permission is sought for the construction of a single detached dwelling, with parking and access, and an ancillary garden building, at 105 Hadlow Road. The building would be two storeys and of a conventional design, finished in a mix of brick and render with a small front gable. The property would have three bedrooms, two parking spaces, and an outbuilding in the rear garden providing ancillary accommodation.
- 1.2 This is a resubmission following the withdrawal of a previous scheme over design concerns. This scheme is amended to omit the three-storey rear dormer that was previously proposed and redesign the property.

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

- 2.1 At the request of Councillor Boughton to consider whether the revised proposals adequately overcome concerns relating to neighbour amenity and overlooking, both in respect of the main home and also the outbuilding.

**3. The Site:**

- 3.1 The site is currently part of the side garden of the existing property at 105 Hadlow Road. It has a fairly wide side plot which is less typical for the houses on this part of the road that are generally closer together. The land levels rise towards to the back of the site, and the properties are elevated from the road.
- 3.2 The site lies on the Hadlow Road, a main throughfare into the town, within an established residential area. Dwellings are a mix of forms and styles. The property is within the urban boundary of Tonbridge and not subject to any relevant policy constraints.

**4. Planning History (relevant):**

TM/07/04272/OA      Refuse      25 January 2008

Outline Application: Demolition of existing buildings, erection of one detached and pair of semi-detached houses, creation of new vehicular and pedestrian access and associated infrastructure

TM/21/01993/FL      Application Withdrawn      7 September 2021

Construction of a single detached dwelling with associated parking

**5. Consultees:**

5.1 TMBC Environmental Health:

Noise:

5.1.1 Due to the proximity of the A26, prior to first occupation of the building full details of noise mitigation measures shall be submitted to and approved in writing by the Local Planning Authority.

5.1.2 The details should consider the levels cited in BS8233:2014 and how these will be achieved, namely:

1. for gardens and other outdoor spaces, in particular those in para 7.7.3.2 which states a desirable limit of 50dB LAeq,1-hour, and a maximum upper limit of 55dB LAeq,1-hour; and

2. to at least secure internal noise levels no greater than 30dB LAeq, 8-hr (night) and 35dB LAeq, 16-hr (day) in bedrooms, 35dB LAeq, 16-hr (day) in living rooms and 40dB LAeq, 16-hr (day) in dining rooms/areas (ref para 7.7.2). Particular attention is drawn to the notes accompanying Table 4 in para 7.7.2 and that these levels need to be achieved with windows at least partially open, unless satisfactory alternative means of ventilation is to be provided.

5.1.3 The Applicant's attention is also drawn to the ProPG on Planning and Noise issued by the Association of Noise Consultants (ANC), the Institute of Acoustics (IoA) & the Chartered Institute of Environmental Health (CIEH).

5.1.4 The report shall detail any mitigation/attenuation measure needed to attain the abovementioned levels. It is important that the applicant's noise assessment includes specific data and we will require these details for approval before any decision can be made. Specific details of any necessary noise insulation/attenuation requirements (e.g. acoustic glazing, acoustically screened mechanical ventilation, acoustic fencing etc) will also need to be submitted for approval.

**6. Private Reps: 6 + site and press notice/5X/0S/5R. The reasons given for objecting to the proposed development are:**

- Land ownership queried
- Parking and highways problems
- No parking

- Increased flooding
- Question use of garden room
- No information on materials or wastewater
- Cramped
- Loss of green space
- Roof different
- Loss of sunlight and daylight
- Main objection is outbuilding
- Outbuilding looks like a bungalow
- Concern over noise impacts
- How will services reach the bungalow
- Garden grabbing
- Construction impact concerns
- No sewer capacity
- Overlooking
- Outbuilding a self contained unit
- Not in keeping

## **7. Determining Issues:**

7.1 The site lies within the urban boundary of Tonbridge, where new development is directed in accordance with policy CP1 of the TMBCS. Accordingly, there is no objection in principle to the erection of a dwelling here, with the key issues being the impact on the character and appearance of the area, neighbouring amenity, parking and highways, and consideration of 5-year housing land supply.

### Character and appearance:

7.2 Policy CP24 of the TMBCS requires development to be of a high quality and be well designed to respect the site and its surroundings in terms of its scale, layout, siting, character and appearance. Policy SQ1 of the MDE DPD advises that new development should protect, conserve and, where possible, enhance the character and local distinctiveness of the area including its setting in relation to the pattern of the settlement, roads and surrounding landscape.

7.3 These policies are broadly in conformity with those contained within the NPPF which relate to quality of new developments, in particular paragraph 130 of the NPPF that requires proposals to be visually attractive as a result of good architecture, layout and appropriate and effective landscaping. Schemes should also be sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities).

7.4 The development patterns along Hadlow Road are very varied, with a wide range of dwelling types and plot sizes. The gaps either side of 105 Hadlow Road and its neighbour at 107 are comparatively large in comparison, and so the infilling of

this gap would not be considered to be out of keeping with existing space and separation along the street scene.

- 7.5 The new dwelling would sit comfortably within the gap, with good levels of separation maintained on each side of 1m, both between the host property and its neighbour. There is further separation between the neighbour's boundary and the neighbouring dwelling which increases the separation from the proposed house. This would be commensurate with the level of separation that would be expected for a suburban area.
- 7.6 In terms of the design of the dwelling, the scheme has been revised from earlier iterations to omit a large three store rear dormer. The simple gable end and mix of brick and render would match neighbouring properties and would be an unobtrusive addition to the street scene, in keeping with existing palettes and materials. The ridge height is slightly larger than the host property, but below that of the neighbour at 103. Overall, it is considered the design is appropriate for this suburban area and can enhance the street scene with a landscaping scheme, secured by condition.
- 7.7 Finally, as to the garden outbuilding, it would appear as a typical garden structure to provide additional ancillary space. Overall, it is not considered that the development would harm the character and appearance of the area, which would accord with policy CP24 of the TMBCS, and SQ1 of the MDEDPD.

*Neighbouring Amenity:*

- 7.8 On this matter neighbouring comments are noted. The principal considerations for neighbouring amenity are the impact of built form on adjoining gardens and properties (overbearing/overshadowing), loss of privacy from overlooking, and whether any noise impacts would be justified.
- 7.9 Dealing firstly with potential overbearing and overshadowing effects, I note that the property maintains good separation from number 103, which is further separated by its own side garden area. Whilst the building does extend beyond the rear building line of this property, given the level of separation it is not considered that this would be unusual or harmful for a suburban location. The property is also to the north-east of the neighbour at 103, and since the sun moves east to west, the impact on daylight and sunlight is not considered to be substantial, with the new development having no effect at all past a certain point in the day as the sun moves west.
- 7.10 Equally for the host dwelling at 105, the depth of the new dwelling is less so than the single storey rear projection of this property. It would not be expected to harm this dwellings amenity, or any other properties beyond given the greater levels of separation.

- 7.11 In terms of privacy and overlooking, all side facing windows can be obscure glazed to minimise overlooking. The rear outbuilding is single storey and so, although the rear garden is on a raised elevation, the building would not offer any vantage points into neighbour's gardens beyond existing ground levels. Any side facing windows can be obscure glazed by condition.
- 7.12 Whilst third party comments have been raised regarding potential noise impacts, it must be remembered that ordinary residential use will occasionally generate some noise and activity, but it is not usually beyond what would be expected in a residential area. This may include some parties or gatherings, but it is not reasonable or realistic to try and regulate these through the planning system. However, if noise and activity exceeded what is considered reasonable, then there is an alternative means to raise complaints, via noise/statutory nuisance legislation, through the Council's Environmental Health team or even the police. However, based on the proposed plans, there is no reason to think any excessive noise levels would occur.
- 7.13 In terms of outlook and visual impact of the outbuilding/development, it must be remembered that there is no right to a view in the planning system, particularly over third-party land. Some properties at the back of the site may be able to see the new outbuilding, but this does not suggest it would be harmful. It is also probable that a similar outbuilding could be constructed under permitted development once the dwelling was completed. New outbuildings are a routine occurrence in a suburban residential area. But a mere change in view or outlook does not equate to recognised harm in the planning system. It would also be open to neighbours to plant screening or fences if there was concern.
- 7.14 For these reasons it is not considered that the proposed development would have a harmful impact on the amenity of any adjoining properties.

Highway safety and parking provision:

- 7.15 Paragraph 111 of the NPPF states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. Policy SQ8 of the MDE DPD sets out that before proposals for development are permitted, they will need to demonstrate that any necessary transport infrastructure, the need for which arises wholly or substantially from the development, is in place or is certain to be provided. It goes on to state that development proposals will only be permitted where they would not significantly harm highway safety and where traffic generated by the development can adequately be served by the highway network.
- 7.16 The development would provide two parking spaces on the front drive. It is understood that it would be accessed over highways land owned by Kent County Council. The applicant has served the correct notices on the landowner, and they would need to satisfy themselves that permission can be obtained from the

landowner to access the parking spaces over this land. The parking area would need to be installed and laid out prior to occupation as part of the standard planning conditions imposed.

- 7.17 For a single dwelling within an urban area, it is considered that the level of parking is appropriate. It would also accord with the Council's adopted parking standards and, although they were adopted some time ago, it is considered that the level of parking provided would be adequate to meet the needs of a 3-bedroom home. The site is also within walking distance of bus services into town which would at least offer some opportunities for car free travel.
- 7.18 Ultimately, parking can only be a justifiable refusal reason if the displacement of cars onto the road would cause an unacceptable safety impact, or the displacement of parking would cause such inconvenience to neighbouring properties as to unacceptable harm their amenity. The additional parking from a single dwelling with two off street parking spaces would simply not reach these high policy thresholds. Any overspill would be so minor that it would not represent a robust or sustainable reason for refusal.
- 7.19 As to any other highways impacts, a single dwelling not on a main road would not trigger the threshold for consultation with KCC Highways and, as before, the number of additional vehicle movements would be very minor. For these reasons, it is not considered that the development would harm highways safety, nor provide a level of parking that would be considered unacceptable, either in terms of neighbouring amenity or for the impact on the safety of the road. As a result, the development would not conflict with policy SQ8 of the MDEDPD, nor paragraph 111 of the NPPF.

*Climate change/sustainability:*

- 7.20 It should be noted that adopted policies CC1 and CC2 within the MDE DPD are considered to be out-of-date. This is because The Housing Standards Review in 2014 removed the voluntary Code for Sustainable Homes and made it clear that local plans should not be setting any additional local technical standards or requirements relating to the energy performance of new dwellings. The energy performance of new build homes is a matter for the national Building Regulations.
- 7.21 Notwithstanding this position, it is clear that (whilst not adopted for Development Management purposes) the Council's corporate Climate Change Strategy is a material consideration. As such, it is for the decision maker to decide what weight should be afforded to it in the overall balance.
- 7.22 The Council's Climate Change Strategy covers the period 2020-2030 and applies to all aspects of the Council's business, not just planning. It states that where the local plan is silent on a specific issue (which is the case given that the adopted policies are out of date and the current position with the new local plan progression), the NPPF and the climate change strategy will remain material

planning considerations to be considered when determining planning applications. This application must therefore be determined in accordance with the requirements set out within the NPPF, as follows:

7.23 Within the NPPF, at paragraph 152 it states that:

*“The planning system should support the transition to a low carbon future in a changing climate, taking full account of flood risk and coastal change. It should help to: shape places in ways that contribute to radical reductions in greenhouse gas emissions, minimise vulnerability and improve resilience; encourage the reuse of existing resources, including the conversion of existing buildings; and support renewable and low carbon energy and associated infrastructure.”*

7.24 Additionally, paragraph 157 of the NPPF advises:

*“In determining planning applications, local planning authorities should expect new development to:*

*a) comply with any development plan policies on local requirements for decentralised energy supply unless it can be demonstrated by the applicant, having regard to the type of development involved and its design, that this is not feasible or viable; and*

*b) take account of landform, layout, building orientation, massing and landscaping to minimise energy consumption.”*

7.25 The proposed dwellinghouse should be as energy efficient as possible to seek to meet new climate change guidelines within building control and to create a long lasting and sustainable property for the future. Whilst no specific details are provided at the planning stage, it is likely that measures can be introduced following consent, for example, the property’s front roof slope is south-east facing and on an elevated position, which could make it suitable for solar panels or tiles, subject to visual impact consideration.

7.26 As such, it is considered necessary to require a scheme to be formally submitted prior to any above ground development taking place. The scheme should detail specifically how the dwellinghouse will be designed and constructed to reduce energy demands and which shows where renewable technologies will be employed and embedded within the construction of the building and the materials to be utilised.

7.27 National guidance sets out that conditions can enhance the quality of development and enable development to proceed in a wholly acceptable manner. Furthermore, where conditions can be used to make development acceptable, these should be utilised. As such, this is an acceptable way of ensuring the development comes forward in an acceptable manner in this respect and certainly result in a more sustainable building than what currently exists on site.

7.28 On this basis, I can conclude that the proposed development meets the national and Council requirements in terms of climate change and renewable technologies by way of the Council's Climate Change Strategy and paragraphs 152 and 157 of the NPPF.

Other material considerations:

7.29 The site does not have any trees that would warrant protection in proximity to the development, and as the plot is largely cleared it is not considered that there would be any ecology impacts or harm to biodiversity. Biodiversity enhancement can be incorporated into any future landscaping scheme.

7.30 Third party comments have questioned the outbuilding to the rear of the property and whether it would be a separate unit. For the avoidance of doubt, permission is sought on the basis of it being an ancillary outbuilding, providing additional living space for the occupants. This means it cannot be used as a self-contained property or a separate dwelling without planning permission being required. If such a use occurred in future, it would be open to the Council to seek enforcement action. The outbuilding does not have a separate access and shares the garden area of the main host dwelling, and so there is no reason to think this would occur.

7.31 As to the accuracy of the drawings, the applicant has declared them to be accurate when submitting the planning application and the Council must accept this at face value. If the dwelling was not built in accordance with the submitted plans, then it could be subject to enforcement action.

7.32 Matters of drainage and provision of services and infrastructure would be dealt with under the building control regime for a small development of this size. There is no reason to think such services could not be provided in a main town location.

7.33 The Council's Environmental Health team have requested conditions to ensure suitable noise mitigation is provided, given the proximity of the road. This is considered reasonable and necessary to ensure suitable living conditions for future occupants.

7.34 Tonbridge and Malling Borough Council cannot currently demonstrate a 5 year housing supply. In such circumstances paragraph 11 of the NPPF sets out that the presumption in favour of sustainable development applies and the provision of new housing carries significant weight. This presumption is only disengaged if the application of policies in the NPPF that protect areas or assets of particular importance provides a clear reason for refusing the development proposed. There are no relevant policy designations in place that would justify disengaging the tilted balance.

7.35 Furthermore, there are not considered to be any adverse impacts that would significantly and demonstrably outweigh the benefits of one new home towards

local shortfall, which is the specific test provided for at paragraph 11 (d) (ii) of the NPPF in terms of applying the presumption in favour of sustainable development. Accordingly, the presumption in favour of sustainable development must be applied further increasing the weight in favour of granting permission. Subject to conditions, the application is therefore recommended for approval.

**8. Recommendation:**

- 8.1 **Grant planning permission** in accordance with the following submitted details: Proposed Elevations 30082A\_13 A received 29.10.2021, Street Scenes 30082A\_16 I received 29.10.2021, Proposed Floor Plans 30082A\_17 A received 29.10.2021, Site Layout 30082A\_18 K received 29.10.2021, Location Plan 30082A\_50 D received 29.10.2021, Design and Access Statement 30082A\_800 E received 29.10.2021, Letter Covering received 29.10.2021, Proposed Floor Plans 30082A\_14 K received 26.01.2021, Proposed Elevations 30082A\_15 M received 26.01.2021, 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 pursuance of Section 91 of the Town and Country Planning Act 1990.
- 2 No above ground development shall take place until details of materials to be used externally have been submitted to and approved by the Local Planning Authority, and the development shall be carried out in accordance with the approved details.  
  
Reason: In the interests of visual amenity.
- 3 The development hereby approved shall not be occupied until the areas shown on the submitted layout for a vehicle parking spaces has been provided, surfaced and drained. Thereafter it shall be kept available for such use and no permanent development, whether or not permitted by the Town and Country Planning (General Permitted Development) Order 2015 (or any order amending, revoking and re-enacting that Order) shall be carried out on the land so shown (other than the erection of a garage or garages) or in such a position as to preclude vehicular access to this reserved parking space.  
  
Reason: To ensure that parking is provided and maintained in accordance with the Council's adopted standards.
- 4 Prior to the first occupation of the development hereby approved a scheme of landscaping and boundary treatment shall be submitted to and approved by the Local Planning authority. All planting, seeding and turfing comprised in the approved scheme of landscaping shall be implemented during the first planting

season following occupation of the buildings or the completion of the development, whichever is the earlier. Any trees or shrubs removed, dying, being seriously damaged or diseased within 10 years of planting shall be replaced in the next planting season with trees or shrubs of similar size and species. Any boundary fences or walls or similar structures as may be approved shall be erected before first occupation of the building to which they relate.

Reason: In the interests of visual amenity.

- 5 The windows on the first floor side (flank) elevation shall be fitted with obscured glass and, apart from any top-hung light, shall be non-opening. This work shall be completed before the extension is occupied and shall be retained thereafter.

Reason: To minimise the effect of overlooking onto adjoining property.

- 6 Prior to first occupation of the building full details of noise mitigation measures shall be submitted to and approved in writing by the Local Planning Authority. The details should consider the levels cited in BS8233:2014 and how these will be achieved, namely:

1. for gardens and other outdoor spaces, in particular those in para 7.7.3.2 which states a desirable limit of 50dB LAeq,1-hour, and a maximum upper limit of 55dB LAeq,1-hour; and

2. to at least secure internal noise levels no greater than 30dB LAeq, 8-hr (night) and 35dB LAeq, 16-hr (day) in bedrooms, 35dB LAeq, 16-hr (day) in living rooms and 40dB LAeq, 16-hr (day) in dining rooms/areas (ref para 7.7.2). Particular attention is drawn to the notes accompanying Table 4 in para 7.7.2 and that these levels need to be achieved with windows at least partially open, unless satisfactory alternative means of ventilation is to be provided.

The Applicant's attention is also drawn to the ProPG on Planning and Noise issued by the Association of Noise Consultants (ANC), the Institute of Acoustics (IoA) & the Chartered Institute of Environmental Health (CIEH).

The report shall detail any mitigation/attenuation measure needed to attain the abovementioned levels and specific details of any necessary noise insulation/attenuation requirements (e.g. acoustic glazing, acoustically screened mechanical ventilation, acoustic fencing etc).

Reason: To ensure an acceptable noise environment for future occupants.

- 7 No above grounds works shall take place until a detailed scheme that demonstrates how the approved dwellinghouse will be designed and constructed to reduce energy demands and which shows where and how renewable technologies will be employed across the development have been submitted to

and approved in writing by the Local Planning Authority. The development will be carried out in strict accordance with the approved details.

Reason: In the interest of reducing the energy demands of the development in accordance with paragraphs 112, 152 and 157 of the National Planning Policy Framework 2021 and the Borough Council's Climate Change Strategy.

- 8 The development shall be constructed at the level indicated on the drawing referenced 30082A\_16 REV I received on the 29<sup>th</sup> of October 2021.

Reason: To accord with the terms of the application and to protect the visual amenity of the area.

### **Informatives**

- 1 A formal application for connection to the public sewerage system is required in order to service this development. More information is available on Southern Water's website via the following link <https://beta.southernwater.co.uk/infrastructure-charges>. The disposal of surface water from this development should be in compliance with the following hierarchy of Part H3 of Building Regulations:

- a) An adequate soakaway or some other adequate infiltration system.
- b) A water course.
- c) Where neither of the above is practicable: a sewer.

The design of the proposed basements and on-site drainage system should consider the possibility of surcharging within the public sewerage system in order to provide the protection from the risk of flooding.

- 2 The proposed development is within a road which has a formal street numbering scheme and it will be necessary for the Council to allocate postal addresses to the new properties. To discuss the arrangements, you are invited to e-mail to [addresses@tmhc.gov.uk](mailto:addresses@tmhc.gov.uk). To avoid difficulties for first occupiers, you are advised to do this as soon as possible and, in any event, not less than one month before the new properties are ready for occupation.

Contact: Adem Mehmet