
Tonbridge Higham	22 March 2023	TM/23/00364/FL
Proposal:	New bungalow to the rear of 15 Estridge Way (Revision to TM/20/00862/FL)	
Location:	1A Croft Close Tonbridge Kent TN10 4LA	
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1. Description:

- 1.1 Planning permission was granted under planning reference TM/20/00862/FL for the erection of a detached bungalow in the rear garden of 15 Estridge Way in June 2020.
- 1.2 The current application seeks to amend the permitted scheme in the following ways:
 - Minor increase in dwelling size
 - Minor reduction in window sizes
 - Introduction of porch projection
 - Use of render rather than brick
 - Use of grey metal roof tile rather than concrete
- 1.3 The application is retrospective and therefore the current application seeks to regularise works that have already been undertaken. The site is part of an ongoing enforcement action.

2. Reason for reporting to Committee:

- 2.1 The application has been called into Area One Planning Committee by the Ward Member Cllr King to consider the use of materials.

3. The Site:

- 3.1 The site lies within the confines of the settlement, within a wider residential estate. The host dwelling is a late 1940's semi-detached 3-bedroom house facing Estridge Way. The application site is to the rear and fronts onto Croft Close.
- 3.2 The application makes reference to the mixed character of the area and puts forward examples of the use of more contemporary materials in the wider area.
- 3.3 The area falls within E3 of the Tonbridge Character Appraisal Area which comprises Croft Close, Estridge Way and Godfrey Evans Close. The area is described as follows:

Estridge Way forms a quadrangle with short culs-de-sac leading off it and is accessed from Cornwallis Avenue and Orchard Drive via Colin Blythe Road. The

development was begun in the 1930s but was not completed until after the war. There has also been some more recent infill development which gives this area a more mixed character than the other areas.

4. Planning History (relevant):

TM/20/00862/FL Approved 19 June 2020

New bungalow to the rear of 15 Estridge Way

20/02173/NMA Approved 27 October 2020

Non Material Amendment to planning permission TM/20/00862/FL: Alteration to the internal layout only

5. Consultees:

5.1 EP: No objection

5.2 BC: After looking at the design access statement primarily the executive summary and para 7.6 regarding Part O (over heating) relating to the changes in materials and the type of construction, the details provided would not be unreasonable when looking for compliance with the latest requirements under the Building Regulations. It should be noted that the Building Regulation compliance is being dealt with an Approved Inspector under Initial Notice 22/00906/IN.

5.3 Neighbours: 6 objections (summarised)

- The application is retrospective, flouting planning rules
- The roof material is totally out of keeping and unsympathetic in a dominant position
- The application shows properties in a much wider area to provide justification for the changes
- Lack of notification of changes
- Lack of Council action from planning enforcement or building control
- Overbright security lights
- Lack of privacy

6. Determining Issues:

6.1 Retrospective planning permission can be sought and determined by the Local Planning Authority under Section 73a of the Town and Country Planning Act 1990. Extract of the act below.

73A Planning permission for development already carried out.

- (1) On an application made to a local planning authority, the planning permission which may be granted includes planning permission for development carried out before the date of the application.
 - (2) Subsection (1) applies to development carried out—
 - (a) without planning permission;
 - (b) in accordance with planning permission granted for a limited period; or
 - (c) without complying with some condition subject to which planning permission was granted.
 - (3) Planning permission for such development may be granted so as to have effect from—
 - (a) the date on which the development was carried out; or
 - (b) if it was carried out in accordance with planning permission granted for a limited period, the end of that period.】
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6.2 Guidance on retrospective planning applications can be found on the National Planning Practice Guidance under Paragraph: 012 Reference ID: 17b-012-20140306 which states:

A local planning authority can invite a retrospective application. In circumstances where the local planning authority consider that an application is the appropriate way forward to regularise the situation, the owner or occupier of the land should be invited to submit their application ([section 73A of the Town and Country Planning Act 1990](#)) without delay. It is important to note that:

- although a local planning authority may invite an application, it cannot be assumed that permission will be granted, and the local planning authority should take care not to fetter its discretion prior to the determination of any application for planning permission – such an application must be considered in the normal way;
- an enforcement notice may also be issued in relation to other elements of the development.

6.3 This legislation and guidance confirm that it can be appropriate for an applicant to submit a planning application to regularise works that have already been carried out and whilst the LPA must not pre-empt any determination it is important to note that the determination must be carried out in the normal way.

6.4 The application states that the alterations were in response to the updating of the Building Regulations and the roadmap to the Future Homes Standard. This is in addition to the targets set out by the Royal Institute of British Architecture and the Institution of Structural Engineers. The application also makes reference to a restrictive covenant, but such matters are civil and beyond the control of the planning system.

6.5 The original application was determined with regard to the Local Development Plan and the National Planning Policy Framework. In particular the principle of the

new dwellinghouse was found to conform to Policy CP11 of the TMBCS and paragraph 11 of the NPPF. In addition, the original assessment made reference to local plan policies Policies CP24 of the TMBCS and SQ1 of the MDE DPD, and paragraph 127 of the NPPF. The latter has since been updated and now paragraph 130 is of relevance.

- 6.6 The original Delegated Officer Report is attached at Appendix One. For completeness however the relevant policies can be summarised thus.
- 6.7 Policy CP24 of the TMBCS seeks to ensure that all development is well designed and respects the site and its surroundings. Policy SQ1 of the MDE DPD requires all new development to protect, conserve and, where possible enhance the character and local distinctiveness of the area. The aims of these local plan policies are echoed in paragraph 130 of the NPPF.
- 6.8 Paragraph 130 sets out that planning policies and decisions should ensure that developments will function well and add to the overall quality of the area, are visually attractive as a result of good architecture, layout and appropriate and effective landscaping and are sympathetic to local character and history.
- 6.9 The alterations to window sizes are minimal and make little discernible difference to the overall appearance of the dwellinghouse as built. Similarly, the introduction of a porch canopy and minor expansion of the dwellinghouse raise no further issues that were not considered at the time of the original submission. It would have been reasonable to deal with these amendments through the Non Material Amendment route. However, the change from brick to render and concrete roof tile to metal material alter the appearance of the dwellinghouse and therefore it is appropriate to submit a planning application for this element of the proposal.
- 6.10 Paragraph 134 of the NPPF seeks to ensure that development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design, taking into account any local design guidance and supplementary planning documents such as design guides and codes.
- 6.11 The National Design Guide sets out the characteristics of well-designed places and demonstrates what good design means in practice. It forms part of the government's collection of planning practice guidance and was intended to be read alongside the separate planning practice guidance on design process and tools.
- 6.12 Paragraph 56 of the National Design Guide states that:

“Well-designed places contribute to local distinctiveness. This may include:

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- *adopting typical building forms, composition, articulation, proportions, features, materials, details, patterns and colours of an area;*
 - *drawing upon the architectural precedents that are prevalent in the local area including the proportions of buildings and their openings;*
 - *using local building, landscape or topographical features, materials or planting types;*
 - *introducing built form and appearance that adds new character and difference to places, with particular attention to how buildings meet the ground and sky;*
 - *creating a positive and coherent identity that residents and local communities can identify with.”*

6.13 The wider area is identified as being of mixed character. The use of render is not unusual in the area, nor in similar residential estates within Tonbridge. The use of metal roofing however has been identified by objectors as being both out of keeping and unsympathetic, which is accentuated by the position of the dwelling being adjacent to the highway.

6.14 It is noted that the use of a metal roofing material is more contemporary than the original concrete tile. However, the area is identified as being of mixed character and does not benefit from any particular designation such as a Conservation Area. In light of the character of the immediate and wider area and the absence of any formal designation the use of a metal roofing material would not warrant a refusal of planning permission on this basis.

6.15 Objectors have drawn attention to the alleged lack of action on behalf of the Council. For clarity the site is the subject of an ongoing planning enforcement enquiry as demonstrated by the current application. It must also be noted that it is not the role of the building control regime to identify possible breaches of planning and it appears that the building control function is being undertaken by an independent building inspector rather than the Council.

6.16 Objectors also raise concern regarding the existing security lights at the dwellinghouse. The government planning portal website notes that light itself, and minor domestic light fittings, are not subject to planning controls. It is therefore usually accepted that unless the proposed lighting materially alters the appearance of the dwelling planning consent is not required. However complaints regarding artificial light can fall within the Environmental Protection Act 1990, should the level of intensity and subsequent harm constitute a statutory nuisance. This matter therefore falls beyond the scope of the planning system.

6.17 In conclusion, the amendments to the window sizes, introduction of a porch overhang and alteration to the size and position of the dwellinghouse do not materially affect the appearance of the dwelling. The use of render and metal roof

material is also acceptable when assessed with regard to the relevant local and national planning policies and associated guidance. The retrospective nature of the application has no bearing on the appropriateness or otherwise of the amendments to the original approval and I therefore recommend planning permission is granted.

7. Recommendation: planning permission is approved

- 7.1 This was approved in accordance with the following submitted details: Location Plan dated 16.03.2023, Proposed Floor Plans 1000 dated 16.03.2023, Block Plan 5000 dated 16.03.2023, Perspective view 5100 dated 16.03.2023, Proposed Roof Plan 1200 dated 16.03.2023, Proposed Elevations 2201 dated 16.03.2023, Proposed Elevations 2202 dated 16.03.2023, Proposed Elevations 2203 dated 16.03.2023, Proposed Elevations 2204 dated 16.03.2023, Drainage Layout dated 17.03.2023

Conditions:

- 1 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order amending, revoking and re-enacting that Order) no development shall be carried out within Classes A, B, C and E of Part 1 of Schedule 2 of that Order.

Reason: To prevent an overdevelopment of the site.

- 2 The existing vehicle parking and turning area shall be kept available for such use and no permanent development, whether or not permitted by the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order amending, revoking or re-enacting that Order) shall be carried out on the land so shown or in such a position as to preclude vehicular access to this reserved parking space.

Reason: In the interests of highway safety.

- 3 The development shall be carried out in accordance with the plans listed in the section of this decision notice headed 'This was approved in accordance with the following submitted details'.

Reason: To ensure the development is carried out in accordance with the approval and to ensure the quality of development indicated on the approved plans is achieved in practice.

Contact: Maria Brown

APPENDIX ONE

Delegated Report for TM/20/00862/FL: New bungalow to the rear of 15 Estridge Way approved with conditions on 19 June 2020