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| Application Number | 16/01601/AS |
| Location | 1 Primrose Cottages, Lenham Heath Road, Lenham, Maidstone, Kent, ME17 2BT |
| Grid Reference | 91817 / 49585 |
| Parish Council | Charing |
| Ward | Weald Central |
| Application Description | Renovation of existing conservatory (resubmission of application 15/00203/AS) (retrospective) |
| Applicant | Ms M Froud, 1 Primrose Cottages, Lenham Heath Road, Lenham, Maidstone, Kent, ME17 2BT. |
| Agent | Mr D Harman, Building Drawings, 124a North Road, Hythe, Kent, CT21 5DY |
| Site Area | 0.0079ha |

(a) 30/8R, 7S , 2X (b) S (c) -

Introduction

1. This application is reported to the Planning Committee at the request of one of the Ward Members, Cllr. C Bell.
2. This is a resubmission of a previous application that was initially reported to the planning committee in June 2015 where there was a resolution to permit subject to a number of matters to be resolved prior to the granting of planning permission. These were as follows:
 - a) The serving of the requisite ownership notice on the adjoining neighbour at No.2 Primrose Cottages.
 - b) The receipt of amended plans to the satisfaction of the Head of Development, Strategic Sites and Design and the Joint Development Control Manager showing a parapet design gutter to be built to the satisfaction of the Building Control Officers.

- c) The receipt of amended plans showing an improved treatment of the side elevation with the neighbouring dwelling at No.2 Primrose Cottages, to improve its visual appearance.
 - d) Written agreement from the owners of No.2 Primrose Cottages to the carrying out of the amended plans within their ownership, being submitted to the Council.
 - e) No further material planning objections being received from the immediate neighbour at No.2 Primrose Cottages.
 - f) Matters a-d above being carried out within 3 months of the date of this Planning Committee.
3. Subsequently amended details were submitted that showed a revised side elevation treatment with high level side windows with a lead flashing and a half-rounded gutter design attached to the eaves. Given that the amended details were not in accordance with the Committee resolution (in particular in relation to the drainage details), the application went back to the Planning Committee for re-consideration. Officers recommended the permission be granted however members Resolved to refuse the application for the following reasons:
- a) The extension by virtue of its design, form and materials would not be sympathetic to the design and scale of the existing dwelling and would result in a visually intrusive building in the landscape.
 - (b) The standard of the build, in the absence of a suitable method to allow drainage from the structure within the application site, would result in future maintenance problems and potential water ingress to the neighbouring property that would adversely affect the residential amenity of the occupants of as well as their enjoyment of the adjoining property.
4. Unlike the previously refused scheme (15/00203/AS), the plans submitted with this application clearly show the development to fall within the applicant's curtilage (as noted on the plans) and therefore the serving of notice on any adjoining owner(s) has not in this case been served. The agent has confirmed in writing that the existing building will be rebuilt as shown on the proposed plans, so that no part of the build will encroach or overhang the neighbouring property. The proposal would demolish the upper (block work) of the extension side (SW) wall facing the neighbouring property and the lower part of the roof and would rebuild this on the other (applicant's) side of the party wall, rather than on the wall as is the present situation.

Site and Surroundings

5. The application site comprises a semi-detached dwelling within open countryside that falls within the Greensand Ridge Landscape Character Area (LCA), where the guidelines for the area are to conserve and improve the landscape. A public right of way (PROW) runs from the road along the south eastern boundary of the lower part of the garden serving the dwelling.
6. A site location plan is attached as an annex to the report.

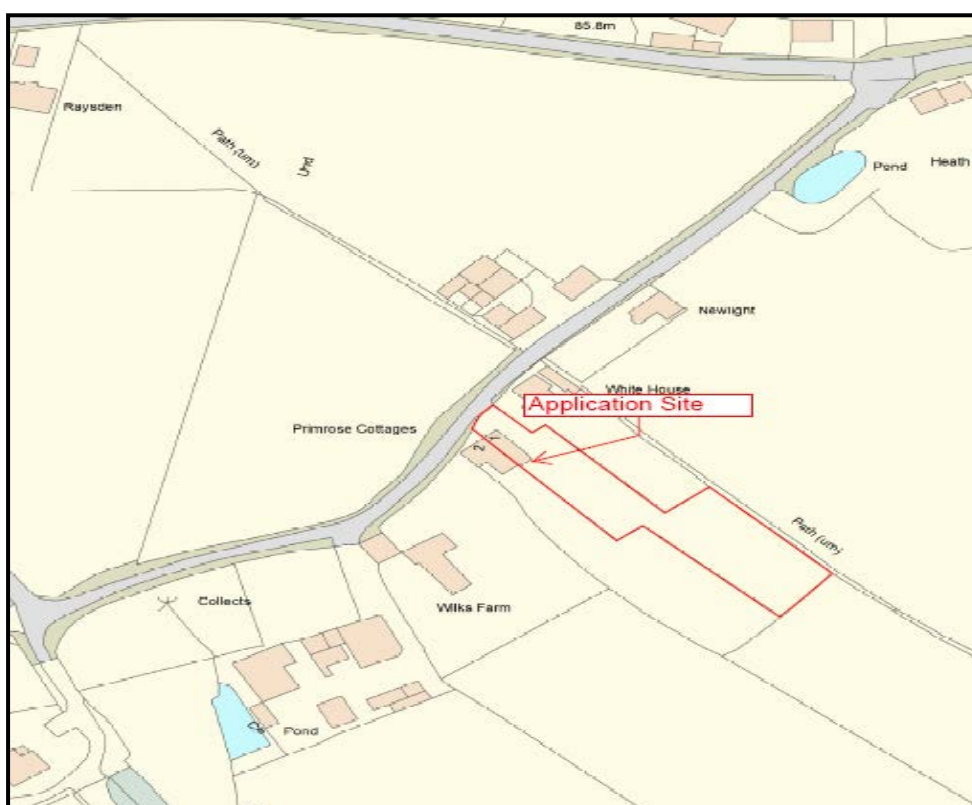


Figure 1 Site Location Plan

Proposal

7. The application is for full planning permission in retrospect for the renovation of a conservatory. The development includes the erection of new walls and a roof over the footprint of the previous conservatory. Planning permission is required because the depth of the resultant extension exceeds 3m on this semi-detached property.
8. The extension incorporates the existing openings in the rear of the original dwelling. The application describes the development as alterations to an existing conservatory.

9. The current extension comprises of blockwork that has replaced the original conservatory high level windows to the side SW elevation. This application varies from the previous submission (15/00203/AS), which proposed to reinstate high level windows, by now proposing that the side wall is to be rebuilt blocked up on the applicant's side of the party wall with a render (white) finish up to eaves level. A conventional gutter design like the previous scheme (15/00203/AS) is proposed, which shows a seamless half round profile gutter that would be installed by a gutter strap to the eaves fascia board above the recessed wall again all on the applicants land.



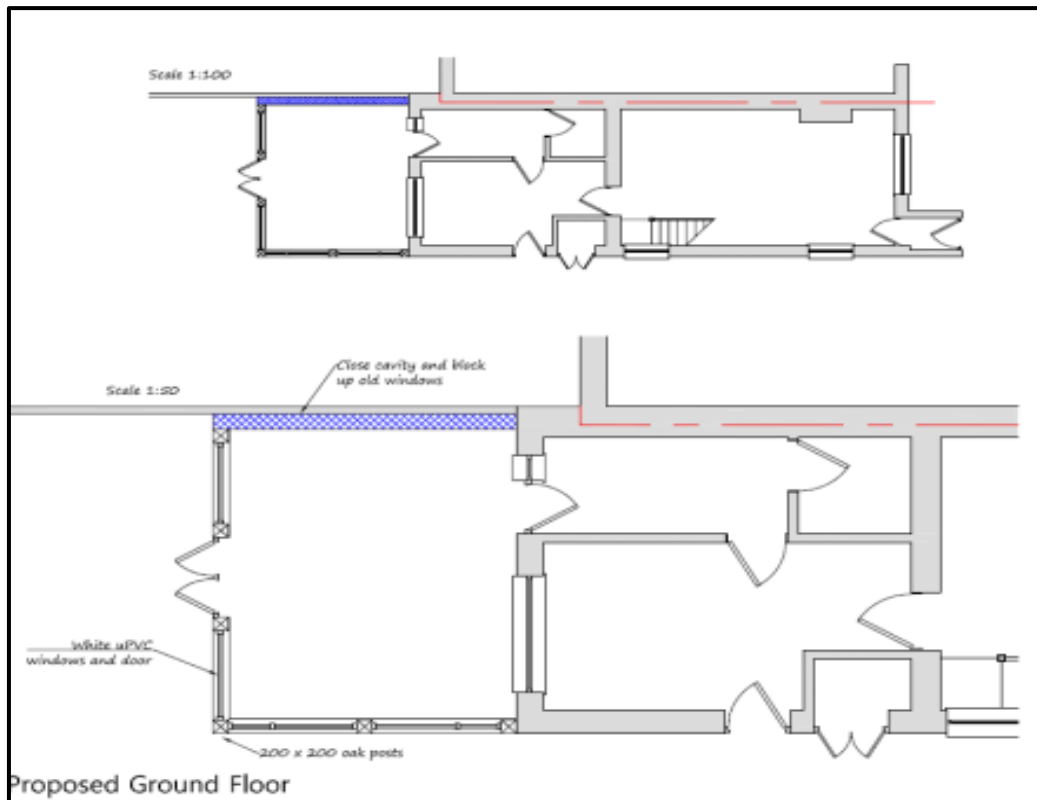


Figure 3 Proposed Ground Floor Plan

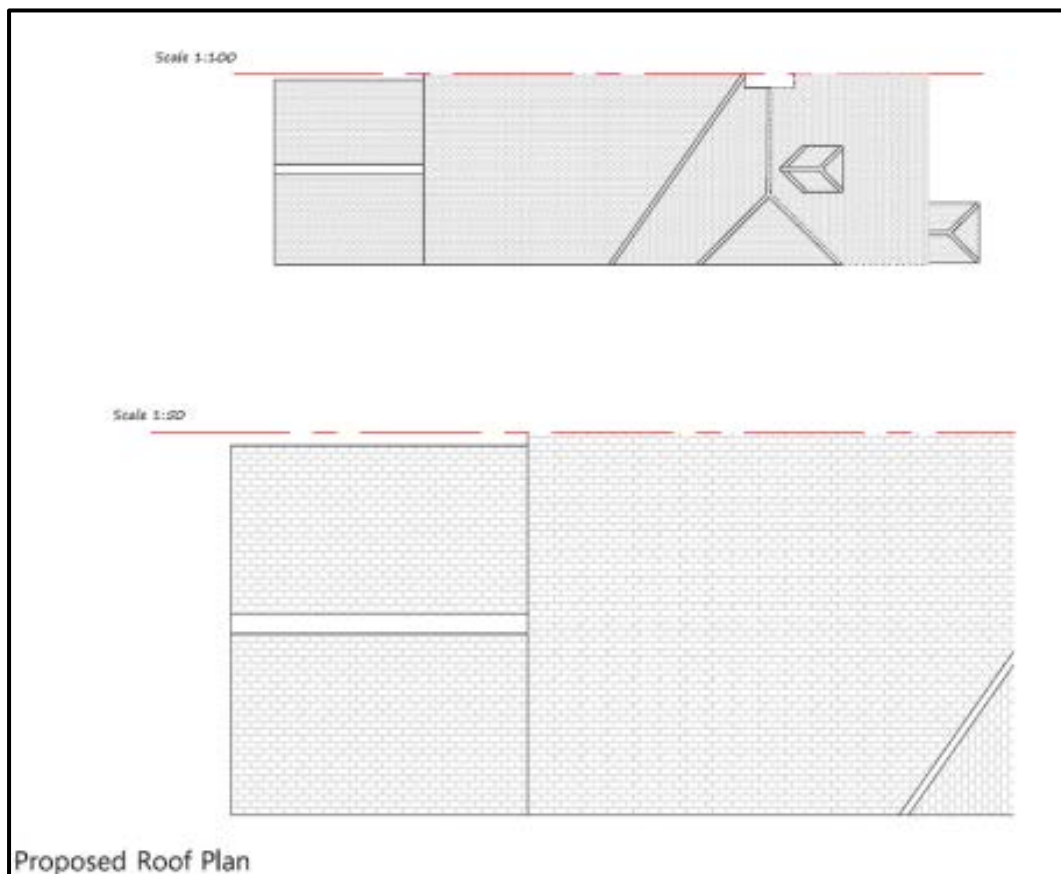


Figure 4 Proposed Roof Plan



Proposed North Elevation

Figure 5 Proposed North Elevation



Figure 6 Proposed East Elevation

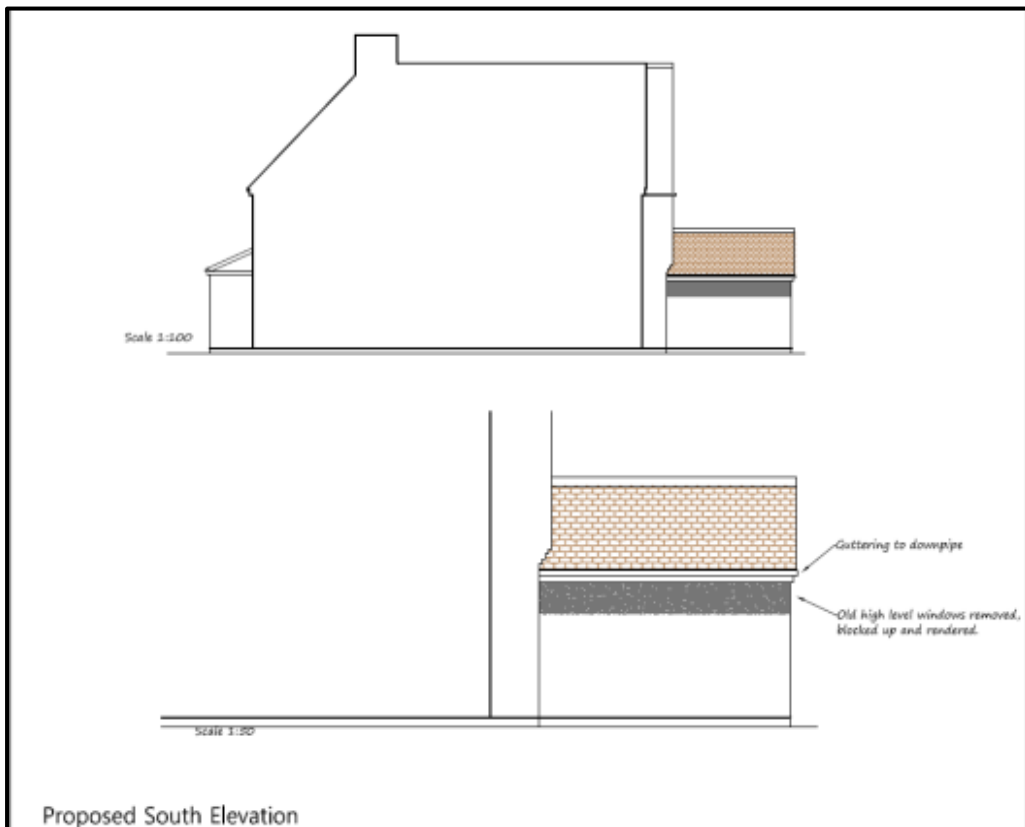


Figure 7 Proposed South Elevation



Figure 8. Picture of building/conservatory prior to rebuild works showing the high level windows on the side (NW) elevation facing the neighbour.



Figure 9. External view from neighbours side (NW) of rear addition/conservatory prior to rebuild works showing the high level windows recessed from the cavity wall.

Planning History

10. 15/00203/AS - Erection of single storey rear extension (retrospective) – Refused.

Consultations

Initial consultations for original application

Ward Members: The Ward Member, Cllr Claire Bell is not a member of the planning committee. No comments received.

Parish Council: Support the application, noting the structure in the main is a replacement. The removal of high level windows (as per the previous scheme) for blockwork with render would be an improvement.

Neighbours: 30 persons formally notified; 8 objections received raising the following concerns:

- the extension is unattractive, badly designed and not in keeping or in character with the cottages and would unbalance the pair of semi's.
- As the applicant did not maintain the previous structure, how will the new structure be maintained. There is no access to the side, so there will be an issue with maintenance.
- The cavity wall is not the applicant's. There is no evidence confirming the boundary line.
- The applicant has ignored the Council's previous advice/guidance.
- Cheaply built without planning permission.
- The application is the same as the previous scheme, there is no provision for a parapet gutter and the maintenance issue is not addressed. The drawings are now just professionally generated.
- This is not a conservatory, it would have to be 70% glass to constitute a conservatory.
- The extension encroaches on the boundary wall and the guttering would encroach.
- The extension harms the locality visually.

- The extension is poorly constructed and has not been built professionally.
- There is no provision for guttering or a soakaway where No. 2 is subjected to rain water and water ingress.

7 support comments received making the following points:

- The Building is not an eye sore and it is a safer building than the previous structure.
- The building has used the existing cavity wall and is slightly smaller than the previous building.
- The building has been dismantled and an oak frame has been installed on the lower brick and cavity walls.
- The materials are of good quality.
- There have been a number of extensions to No. 2.
- The conservatory is built on a wall within the applicant's ownership.
- Any previous findings by commissioned persons are only to demonstrate trespass.
- The new plans shows provision for drainage of water from the roof.
- The works have been carried out by competent tradespersons.
- Maintenance is not a planning matter.
- Why has the planning committee disregarded the officer's report. I will recommend the applicant appeals to the planning inspector.
- The extension is in keeping with the host dwelling and local buildings.
- The extension does not encroach beyond the dimensions of the old conservatory.

2 general comments covering the following:

- From the applicant highlighting that the various objection comments are friends of the neighbours of No. 2 and do not live locally and that the building is the subject of a civil dispute.
- The development has had no regard for due planning process and if a gutter system was installed then this would be acceptable.

Planning Policy

11. The Development Plan comprises the saved policies in the adopted Ashford Borough Local Plan 2000, the adopted LDF Core Strategy 2008, the adopted Ashford Town Centre Action Area Plan 2010, the Tenterden & Rural Sites DPD 2010, the Urban Sites and Infrastructure DPD 2012 and the Chilmington Green AAP 2013. On 9 June 2016 the Council approved a consultation version of the Local Plan to 2030. Consultation commenced on 15 June 2016. At present the policies in this emerging plan can be accorded little or no weight.

12. The relevant policies from the Development Plan relating to this application are as follows:-

Local Development Framework Core Strategy 2008

CS1 – Guiding Principles for Sustainable Development and High Quality Design.

CS9 – Design Quality.

HG9 – Extensions to dwellings in the countryside

Tenterden & Rural Sites DPD 2010

TRS17 – Landscape character and design

13. The following are also material to the determination of this application:-

Supplementary Planning Guidance/Documents

SPG10 – Domestic Extensions in Urban and Rural Areas

Local Plan to 2030

SP1 Strategic Objectives

SP6 Promoting High Quality Design

HOU8 Residential Extensions

Government Advice

National Planning Policy Framework 2012

14. Members should note that the determination must be made in accordance with the Development Plan unless material considerations indicate otherwise. A significant material consideration is the National Planning Policy Framework (NPPF). The NPPF says that less weight should be given to the policies above if they are in conflict with the NPPF. Paras as below.

National Planning Policy Guidance

15. Provides guidance relating to householder development.

Paragraph 001. The importance of good design.

Assessment

16. The main issues for consideration are:
- Impact on visual amenity
 - Impact on residential amenity
 - Other matters including drainage, poor construction of the extension and encroachment onto private land implementing the development.

Impact on visual amenity

17. Central Government advice contained within the NPPF provides concise guidance with the presumption in favour of sustainable development to be seen as a “golden thread running through decision-taking”. The NPPF also states that Local Planning Authorities should recognise the intrinsic character and beauty of the countryside and seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings.
18. Given the single story nature of the extension with its limited size and height, it does not unbalance the plan form of the cottages and it is clearly a subordinate form of development that sits comfortably on the host. In turn, the alterations replace a previous conservatory addition of broadly the same dimensions.
19. The design and form of the extension, with a pitched roof and gable end, follows the existing design of the dwelling and is therefore sympathetic in visual terms.

20. The use of a brick plinth and weatherboarding to the east and north elevations is traditional and sympathetic. The committee members found the previous scheme (15/00203/AS) to cause unacceptable visual harm to the host dwelling and locality in relation to the design and materials used of the south elevation, which were considered not to be sympathetic to the design and scale of the existing dwelling. The new scheme would replace the poorly constructed block work with a new wall that would be finished in render. This would be visually acceptable. There would be limited views of the development from the PROW to the south east.
21. The windows are well proportioned and acceptable in visual terms. Given the proposed changes to the side (south) elevation over the previously refused scheme, I do not consider there to be harm to the character and appearance of the surrounding countryside.

Impact on residential amenity

22. One of the previous reasons for refusal was:
23. *The standard of the build, in the absence of a suitable method to allow drainage from the structure within the application site, would result in future maintenance problems and potential water ingress to the neighbouring property that would adversely affect the residential amenity of the occupants of as well as their enjoyment of the adjoining property.*
24. As found in the previous decision, the current proposal offers the same drainage provision, a half-rounded gutter design that is fixed to the eaves on the south elevation and returns within the applicants site to the north. Given this, the development does not provide a suitable method to deal with surface water run-off into the application site, as this could result in surface run off and water ingress onto the neighbouring property if the gutter cannot be maintained. As the half-rounded gutter system would run parallel with the neighbouring property boundary, this would result in future maintenance problems in terms of access, and could lead to future water ingress to the neighbouring property that would adversely affect the residential amenity of the occupants of and their enjoyment of their property.
25. The flank wall of the extension extends above the boundary wall with the neighbour by approximately 28cm. The roof then slopes away. Whilst there is a window in the rear elevation of the neighbour at No. 2 close to the boundary wall and extension, I do not consider that the scale of the development would adversely affect the outlook from this window which serves a utility (non-habitable) room, or be overbearing upon the rear garden area of this dwelling, which has a private garden area across the width of the property.

26. Given the above, the development would be unacceptably harmful to the residential amenity of existing occupiers due to the surface water drainage issues..

Other matters

- Encroachment onto neighbouring land
27. The plans provided with the new application show the development to fall within the applicant's ownership. The proposed development is built up against the party wall within the applicant's land, where the gutter would run along the edge of the party wall, within the applicant's curtilage. The applicant has signed and dated certificate A, confirming the land the development relates to is within their ownership and the agent has confirmed this in writing.
- Construction of the extension
28. Objectors have raised concerns about the poor construction of the extension. As noted in the previous officer's report, whilst this is not a material planning consideration I have been advised that the structure is exempt from the building regulations. This is because the existing rear wall, door and window of the original dwelling has remained untouched and the structure is an unheated area under 30 sq. m.
- Implementing the development
29. The proposed works include changes to the side (south) elevation that is directly adjacent to the neighbouring property No. 2. The works include a side wall with a rendered external finish and the installation of a new half-rounded gutter design, to address the visual and residential amenity concerns previously raised. In order to execute the required works, the developer would need access onto the neighbouring property. The occupiers of No. 2 have clearly confirmed (through the previous application) that they will not give consent for such access. Therefore the necessary works cannot be executed and the development would not be able to be implemented. As there would not be a reasonable prospect of executing the works any such condition requesting such works would not meet the relevant tests set out in the NPPF (Para. 206). Given the above, a permission cannot be issued.

Human Rights Issues

30. I have also taken into account the human rights issues relevant to this application. In my view, the "Assessment" section above and the Recommendation below represent an appropriate balance between the interests and rights of the applicant (to enjoy his land subject only to reasonable and proportionate controls by a public authority) and the interests

and rights of those potentially affected by the proposal (to respect for private life and the home and peaceful enjoyment of their properties).

Working with the applicant

31. In accordance with paragraphs 186 and 187 of the NPPF, Ashford Borough Council (ABC) takes a positive and proactive approach to development proposals focused on solutions. ABC works with applicants/agents in a positive and proactive manner as explained in the note to the applicant included in the recommendation below.

Conclusion

32. The extension/alteration works replace a previous conservatory extension and is of a size and design that sits comfortably on the original dwelling and does not result in harm to the character and appearance of the countryside. The residential amenity however of the adjoining neighbours would be adversely affected, as per the reason given in the previous scheme refused (15/00203/AS), in the absence of a suitable method to allow drainage from the structure within the application site, where this would result in future maintenance problems and potential water ingress to the neighbouring occupiers of No. 2, that would in turn result in a harmful affect to their residential amenity.
33. In addition, in the absence of consent by the neighbouring occupiers of No. 2, there would not be a reasonable prospect of executing the proposed works and therefore there is no reasonable prospect of the development being implemented.
34. Given the above, I therefore recommend that planning permission is refused.

Recommendation

Refuse

The proposal would be contrary to Policies CS1 & CS9 of the Local Development Framework Core Strategy 2008, Policy TRS17 of the Tenterden and Rural Sites DPD 2010 and policy HG9 of the Ashford Borough Local Plan 2000, Policy SP1 and HOU8 of the emerging Ashford Local Plan and would therefore represent development contrary to interests of acknowledged planning importance, for the following reason:

1. In the absence of firm proposals to implement and maintain an acceptable surface water drainage system the proposal would be likely to result in potential water ingress to the neighbouring property that would adversely affect the residential amenity of the occupants of as well as their enjoyment of the adjoining property.
2. In the absence of firm proposals to implement and maintain a render finish to the wall on the south elevation the development cannot be completed in a visually satisfactory way and would therefore impact upon the visual amenity of the adjoining property and the landscape.

Note to Applicant

1. Working with the applicant

In accordance with paragraphs 186 and 187 of the NPPF Ashford Borough Council (ABC) takes a positive and proactive approach to development proposals focused on solutions. ABC works with applicants/agents in a positive and proactive manner by;

- offering a pre-application advice service,
- as appropriate updating applicants/agents of any issues that may arise in the processing of their application
- where possible suggesting solutions to secure a successful outcome,
- informing applicants/agents of any likely recommendation of refusal prior to a decision and,
- by adhering to the requirements of the Development Management Customer Charter.

In this instance:

- the application was not acceptable as submitted and further assistance was required.
- The application was considered by the Planning Committee where the applicant/agent had the opportunity to speak to the committee and promote the application.

Background Papers

All papers referred to in this report are currently published on the Ashford Borough Council web site (www.ashford.gov.uk). Those papers relating specifically to this application may be found on the [View applications on line](#) pages under planning application reference 16/01601/AS.

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Annex 1



Ashford Borough Council



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