

**Application No:** Y16/1069/SH

**Location of Site:** 41 Cromwell Park Place Folkestone Kent CT20 3SB

**Development:** Erection of a two storey attached dwelling.

**Applicant:** Mr Jason Wittwer  
11 Limes Road  
Folkestone  
CT19 4AU

**Agent:** Mr Marc Furminger  
Xmarc Architecture  
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41 Roman Way  
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Folkestone  
CT19 4JX

**Date Valid:** 19.10.16

**Expiry Date:** 14.12.16

**Date of Committee:** 28.03.17

**Officer Contact:** Mr Paul Howson

**RECOMMENDATION:** That planning permission be granted subject to the conditions set out at the end of the report and subject to satisfactory negotiations to amend the proposal to ensure the proposed dwelling is within the red line as shown on submitted OS plan

## **1.0 THE PROPOSAL**

1.1 The application is for the erection of a two storey attached dwelling. The proposal will create a pair of semi-detached dwellings, with the proposed new dwelling being of a similar size to the existing dwelling in terms of floorspace (minus the conservatory extension on the existing house) and garden space. The proposal will result in the existing house having a plot size of 200sqm and the proposed dwelling would have a plot size of 180sqm) The proposed dwelling would provide an open plan living room/dining area/kitchen lobby and cloakroom at ground floor; and, 3 bedrooms and a bathroom at first floor level. It would virtually mirror the front elevation of the existing house, with a small roof gable and single storey mono pitch front projection. The rear elevation would also be similar, but without the sun room. The proposed dwellings would have a conventional window arrangement on the front and rear elevations, with one flank wall window serving a stairwell. The existing parking area at the front will be utilised to provide two vehicle spaces for each of the respective dwellings. This would also be the bin storage area.

1.2 The site is at the end of a residential close, and forms part of the existing garden area of 41 Cromwell Park Place. The close is an 'L' shaped development of detached houses, part of a larger modern estate. 41

Cromwell Park Place, benefits from a larger than average garden than most of the other properties, by virtue of being in the rear corner of the close. The house would front the existing parking area of 41 Cromwell Park Place, and the west flank elevation would abut the west perimeter of the garden, which also forms the rear garden boundary of 7 and 9 Fairfax Close, which is 9-11m from the respective rear elevation walls. The existing garden to the side of 41 Cromwell Park Place which forms the application site is at the southern end laid to patio and features a shed, and is laid to lawn on the northern half.

- 1.3 Submitted with the application in support of the proposal is an Application Form; a plan identifying the site; aerial photos of the site; floor plans of the proposed building; elevation drawings of the proposed building; a Design and Access Statement. Subsequent to the initial application submission, a Sunlight and Daylight Study has been submitted; and, letters confirming agreement to lift restrictions concerning the site.

## **2.0 LOCATION AND DESCRIPTION OF SITE**

- 2.1 The application site is located within an established settlement boundary, there are no other designation identified on the local plan proposals map. The residential close is characterised by modern conventionally styled two storey detached dwellings, with open formal front gardens and enclosed rear gardens. The surrounding residential properties are a mix of red brick and sandy brick finishes, and concrete tiled pitched roofs.

## **3.0 RELEVANT PLANNING HISTORY**

85/0843/SH	-	Outline application for residential development approved with conditions 24.02.86
86/1335/SH	-	Outline application for residential development approved with conditions 20.03.87
87/0751/SH	-	Outline application for residential development refused 23.10.87
87/1060/SH	-	Erection of 91 dwellings with garages parking spaces and ancillary roads and services approved (no conditions) 06.01.88

## **4.0 CONSULTATION RESPONSES**

### **4.1 Folkestone Town Council**

Object – over intensive and out of keeping. Not attractive to have house built right across the plot and seems to overlook back gardens too much. Neighbours indicate that it obstruction an easement.

### **4.2 KCC Highways And Transportation**

Referring to the above description, it would appear that this development proposal does not meet the criteria to warrant involvement from the Highway Authority in accordance with the current consultation protocol arrangements. If there are any material highway safety concerns that you consider should be brought to the attention of the HA, then please contact us again with your specific concerns for our consideration.

Further comments have been requested and will be reported to committee

## **5.0 PUBLICITY**

5.1 Neighbours notified by letter. Expiry date 14<sup>th</sup> November 2017

5.2 Neighbours notified by letter regarding supplementary documents. Expiry date 14<sup>th</sup> March 2017

## **6.0 REPRESENTATIONS**

6.1 8 letters/emails received objecting on the following grounds:

- The plot has a utilities easement
- Insufficient parking / access
- Semi-detached house would be incongruous
- Adverse visual impact
- No access to rear gardens
- Over development
- Overlooking (loss of privacy)
- Overbearing
- Loss of light
- Block side elevation fire escape
- Terracing effect (policy BE8)
- Noise and disturbance during construction
- Garden development
- Affordability questioned
- Too close to properties in Fairfax Close
- Over sails boundary

6.2 Cllr Roger West

- The application is guilty of overintensification it is close to properties in Fairfax Close neighbours tell me there is easement at the rear of these properties as Town Councillor for the area I have had many concerns from neighbours

6.3 Cllr Peter Gane

- I feel this will change the character of the area

## **7.0 RELEVANT POLICY GUIDANCE**

7.1 The full headings for the policies are attached to the schedule of planning matters at Appendix 1.

7.2 The following policies of the Shepway District Local Plan Review apply:

SD1, BE1, BE16, HO1, TR5, TR11, TR12, U1

7.3 The following policies of the Shepway Local Plan Core Strategy apply:

DSD, SS1, SS2, SS3, SS5

7.4 The following Supplementary Planning Documents and Government Guidance apply:

National Planning Policy Framework: Paragraphs 7, 49, 56

National Planning Policy Guidance

## **8.0 APPRAISAL**

### **Relevant Material Planning Considerations**

8.1 The main considerations in determining this application are the principle of development, design and the visual impact, impact on neighbour amenity, impact on highways, and legal restrictions and other matters raised in the representations.

### **Policy**

8.2 The principle of new development in this location is supported by saved local plan policy HO1, which supports residential infill within existing built up areas; and Core Strategy policy SS3 which states that the principle of development is likely to be acceptable in defined settlements. However, this is subject to environmental, highways, and other material planning considerations. Saved policy BE1 seeks amongst other things that development should accord with existing development in the locality, where the site and surrounding development are physically and visually interrelated. Further to this paragraph 49 of the NPPF states that 'housing applications should be considered in the context of the presumption in favour of sustainable development'.

### **Principle**

8.3 As set out above the current planning policy position is that the principle of residential infill in built up areas is acceptable subject to there not being significant harm in terms of environmental and highway safety considerations (saved policy HO1), and that development is directed to existing sustainable developments. Whilst the NPPF states that windfall housing sites should not include residential gardens (paragraph 48), in the context of the support of sustainable development in existing settlements,

garden development cannot be resisted in principle, unless significant harm is identified. Therefore, the application is acceptable in principle, subject to the level of any environmental harm not outweighing the economic and social benefits of the provision of a family home, which this report concludes is not the case.

### **Streetscene/Visual Amenity/Design**

- 8.4 The design of the proposed dwelling is a mirror image in form and materials of the existing house to which it would be attached. The differences being a slight variation of the fenestration and the omission of a matching sun room. The application site is tucked away in the far north west corner of the cul-de-sac, which would minimise visual impact. The building line of the properties on the west side of the close would obstruct views of the proposed dwelling from the highway to the south and upon entering the cul-de-sac. The proposed dwelling would only be visible from the turning circle at the end of the cul-de-sac, and in longer views across the green approximately 75m to the south east. As such, the proposed dwelling would not be visually prominent, and whilst acknowledging that semi detached is not the building typology of the cul-de-sac, the estate features detached, semi detached and terraced dwellings, and as such the building type would not be incongruous. In this context, an attached dwelling of a scale, form, materials, building line, roof ridge height and detailing that matches the surrounding properties, would not visually jar or dominate the streetscene, and would be considered to accord with local development in accordance with saved policy BE1.
- 8.5 Furthermore, the existing plot of 41 Cromwell Park Place at 407sqm is larger than the average plot size in the surrounding area. The size of the proposed sub-divided plot (180sqm) would be comparable to the plot sizes within the estate and in particular with the adjoining four properties at the northern end of the cul-de-sac, (which average 214sqm) and as such the proposal would not be a cramped form of development that would represent overintensive use of the site, and at 180sqm would provide adequate amenity space for future occupants, and maintain adequate amenity space for the existing dwelling with a plot size of 200sqm. Overall, it is considered the proposed development is sympathetically designed to assimilate into its surroundings, and would have minimal impact on the local streetscene, and would not therefore discernibly alter the character or the immediate of wider area.

### **Neighbouring Amenity**

- 8.6 In terms of neighbour amenity, there are several properties that need to be considered. The residential amenity of the occupants of the properties in Fairfax Close that back onto the site. The property to the rear 6 Naseby Close, and the property forward of the proposed dwelling 39 Cromwell Park Place. Also there needs to be consideration for future occupiers of the existing dwelling 41 Cromwell Park Place.
- 8.7 Starting with the properties to the west of the application site on Fairfax Close, where No.s 5, 7, 9 and 11 have rear gardens backing onto the site. 11 Fairfax Close would not be significantly affected as it is forward of the

proposed dwelling, with its rear garden adjacent to the proposed parking area. The proposed dwelling would be to the north of No.11 and thus would not cast a shadow over it, and overlooking of the back garden would not exacerbate that which already exists from the properties either side of it and from 39 Cromwell Park Place, particularly as the closest proposed first floor window in the front elevation serves a bathroom which would be obscure glazed. Equally, due to the orientation relationship between 9 Fairfax Close and the proposed dwelling, the occupiers of this neighbouring property would not significantly lose the light they receive to the back of their property from the proposed dwelling (see below), and the rear garden would not be overlooked by the proposed flank wall side window serving the stairwell, as this can be secured by condition to be obscure glazed and non-opening (which would also apply to 7 Fairfax Close). Furthermore, the proposed dwelling would only abut roughly one third of the rear garden boundaries of 7 Fairfax Close and roughly one half of 9 Fairfax Close as such would not be deemed overbearing, and an open outlook would be largely maintained. However, the proposed dwelling would be south east of 7 Fairfax Close and therefore the potential for loss of light in relation to this property needs further assessment, and the applicant was asked to provide a Daylight and Sunlight Study. This looked at both 7 and 9 Fairfax Close and shows there would be minimal loss of daylight and sunlight to the rear elevation windows of these properties and the proposed development meets the Building Research Establishment (BRE) requirements in this regard. Furthermore, the assessment of overshadowing of the rear gardens is better than the minimum BRE requirement. Therefore, the study concludes that the proposed development will have a low impact on the light received by the neighbouring properties, and as such the occupiers would be able to continue to enjoy the use of their rear gardens and rear habitable rooms, with any impact from the proposed development being within acceptable levels and would not warrant refusal of planning permission. Further to this, the outlook from the proposed rear bedroom windows would be across the rear section of the garden of No.7, and would not exacerbate overlooking that already exists from existing neighbouring properties. With regard to 5 Fairfax Close, there would be 13m space separation between the back of this neighbouring property and the rear elevation of the proposed dwelling, which would be sufficient to avoid significant shadow and overbearing impact, and overlooking from the proposed rear bedroom windows would not exacerbate overlooking that already exists from the properties either side or the existing dwelling (41 Cromwell Park Place) and 6 Naseby Avenue. Overall, whilst acknowledging the concerns raised by occupiers of the adjoining properties on Fairfax Close, it is considered due to the position of the proposed dwelling to the east of the neighbouring gardens and only partially straddling the respective boundaries, loss of light would not be significant, and overlooking would not exacerbate what would be normal in a dense development of two storey dwellings, subject to the side window being obscure glazed and non-opening secured by condition.

- 8.8 6 Naseby Close would have approximately 20m back to back space separation from the proposed development, and as such would not be considered to be affected by shadow, and overlooking would be no worse than exists from the at least 6 existing two storey dwellings around the rear

garden of this property. Furthermore, the property forward of the proposed dwelling 39 Cromwell Park Place has 16m space separation from the front of the proposed dwelling and the back of this neighbouring property, and overlooking of the rear garden would be no worse than exists from the properties directly to the rear of this neighbouring property.

- 8.9 Finally future occupiers of the existing dwelling 41 Cromwell Park Place would not be unduly affected, building regulations would ensure there is adequate sound insulation between the properties, and that adequate means of escape is provided, and overlooking of the rear garden would be no worse than already exists. Overall, impact on neighbour amenity is considered to be acceptable, with no conflict with saved policy SD1 in this regard.

### **Highways**

- 8.10 The site is in a sustainable location within an established residential area with good transport links to local facilities. Drawing 16\_05\_207 shows that there is space (12m x 12m) at the front of the proposed and existing dwellings to provide turning area and parking for two vehicles for each of the respective dwellings. The exact parking layout would need to be submitted for approval by Highways officers, and retention of the spaces can be secured by condition, however Highways officers have informally confirmed this arrangement would be workable, and their formal views will be reported at committee.

### **Restrictions**

- 8.11 Whilst not a planning consideration representations received raised concern about legal restrictions to the development. These have been addressed in subsequent correspondence from the applicant who has provided letters from a solicitors practice (Boys and Maughan) and the builders (Taylor Wimpey) confirming agreement to vary the restrictive covenant to allow the construction of the proposed new dwelling. As such, this would not be a constraint to the proposed development were planning permission to be granted.

### **Local finance consideration**

- 8.12 Section 70(2) of the Town and Country Planning Act 1990 (as amended) provides that a local planning authority must have regard to a local finance consideration as far as it is material. Section 70(4) of the Act defines a local finance consideration as a grant or other financial assistance that has been, that will, or that could be provided to a relevant authority by a Minister of the Crown (such as New Homes Bonus payments), or sums that a relevant authority has received, or will or could receive, in payment of the Community Infrastructure Levy. New Homes Bonus payments are not considered to be a material consideration in the determination of this application. In accordance with policy SS5 of the Shepway Core Strategy Local Plan the Council has introduced a CIL scheme, which in part replaces planning

obligations for infrastructure improvements in the area. The CIL levy in the application area is charged at £100 per square metre for new dwellings.

## **Other Issues**

8.13 In the representation received concern has been raised that there is no open access to the rear gardens, however, there is no planning requirement for this. Saved policy BE8 has been mentioned regarding the terracing affect, however this policy does not apply in this instance as it relates to householder extensions and not to new dwellings and the proposal would result in a pair of semi-detached dwellings not a terrace. Noise and disturbance during construction can be controlled through the submission of a Construction Management Plan to be approved by Environmental Health officers. The provision of a single dwelling would not be necessary for the Council to meet its housing targets; however, it is part of the mix in favour of the application. Finally, it has been brought to the attention of the applicant that the eaves would overhang the boundary, and the outcome of discussions to resolve this will be reported to committee.

## **Human Rights**

8.14 In reaching a decision on a planning application the European Convention on Human Rights must be considered. The Convention Rights that are relevant are Article 8 and Article 1 of the first protocol. The proposed course of action is in accordance with domestic law. As the rights in these two articles are qualified, the Council needs to balance the rights of the individual against the interests of society and must be satisfied that any interference with an individual's rights is no more than necessary. Having regard to the previous paragraphs of this report, it is not considered that there is any infringement of the relevant Convention rights.

8.15 This application is reported to Committee due to the views of Cllr Peter Gane who considers it will change the character of the area.

## **9.0 SUMMARY**

9.1 In conclusion, the principle of infill development is acceptable in urban areas, and as set out in this report there is no significant environmental harm in terms of visual amenity, residential amenity, and highways issues. The appearance and character of the area would not be adversely affected, there would be no significant additional adverse impact on neighbouring resident's enjoyment of the use of their gardens and habitable rooms, and the development can provide adequate parking and turning areas. As such, the economic and social benefits of providing a new dwelling in this location outweigh the limited harm, and therefore the proposal is considered to be sustainable development and is recommended for approval.

## **10.0 BACKGROUND DOCUMENTS**



10.1 The consultation responses set out at Section 4.0 and any representations at Section 6.0 are background documents for the purposes of the Local Government Act 1972 (as amended).

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**RECOMMENDATION – That planning permission be granted subject to discussions and amended plans ensuring the proposed dwelling is within the red line as shown on the submitted OS plan and the following conditions:**

1. Standard Three Year Condition
2. Submitted Plans
3. Material to match existing dwelling
4. Landscaping to be submitted for approval
5. Surface water and foul water drainage details to be submitted for approval
6. Boundary treatment details to be submitted for approval
7. Parking layout to be submitted for approval
8. Covered cycle parking to be provided
9. Bin storage details to be submitted for approval
10. Removal of permitted development rights
11. First floor front elevation window serving the bathroom, and the side elevation window serving the stairwell to be obscure glazed.
12. Construction Management Plan to be submitted for approval
13. Water efficiency

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Decision of Committee

Y16/1069/SH  
41 Cromwell Park Place  
Folkestone

