

PLANNING APPLICATIONS FOR 27TH APRIL 2005

		<u>Page</u>
1	MC2004/1214 Gillingham North	1
	Outline application for the redevelopment of former industrial works to provide 808 residential units, live/work units, retail use (class A1), restaurant (class A3), hotel (class C1) with ancillary pub and restaurant (ancillary class A3), doctors surgery (class C1), harbour masters and Chandler, 93 bed student accommodation, new access arrangements, associated landscaping and car parking (demolition of all existing buildings) Former Akzo Chemical Works, Pier Road, Gillingham, Kent	
2	MC2004/2598 Walderslade	6
	Construction of single storey front extension, porch to side and pitched roof over garage (demolition of porch) 16 Tunbury Avenue, Chatham, Kent, ME5 9EH	
3	MC2004/2804 Rainham South	12
	Outline application for construction of twelve 3-bedroomed houses (1 terrace of eight & 1 terrace of four) together with new access road & associated parking Land adj., to Wigmore Reservoir, Maidstone Road, Rainham, Kent.	
4	MC2005/0054 Rochester East	18
	Change of use of property from Class A2 to retail sale of hot food Class A5 160 Rochester Avenue, Rochester, Kent, ME1 2DS	
5	MC2005/0067 Gillingham North	24
	Demolition of existing public house and construction of a terrace of three 2-bedroomed houses and a block of four single bedroomed flats 68 Saunders Street, Gillingham, Kent, ME7 1HU	
6	MC2005/0111 Peninsula	29
	Construction of two single storey blocks containing a total of 9 units for occupation by general industrial (Class B2) and warehouse and distribution (Class B8) uses Plot C, Kingsnorth Industrial Estate, Hoo St. Werburgh, Rochester, Kent	
7	MC2005/0240 Luton & Wayfield	36
	Outline application for construction of a two storey detached house with parking Rear of 30 Clarence Road, Chatham, Kent, ME4 5EH	
8	MC2005/0426 Princes Park	40
	Application for Prior Approval Under Part 24 of The Town and Country Planning (General Permitted Development) Order 2001 for installation of 8m high slimline monopole with 3 antennae (total height 9.4m) with associated equipment housing and ancillary development Heron Way (rear of 9 Penfold Close), Chatham, Kent	

Application for Prior Approval Under Part 24 of The Town and Country Planning (General Permitted Development) Order 2001 for installation of 15 metre high mast with 6 antennas and associated equipment cabinet (1.6m high, 0.7m wide and 1.8m long)

Land adj. to Bredgar Road, Gillingham, Kent

BACKGROUND PAPERS

The relevant background papers relating to the individual applications comprise: the applications and all supporting documentation submitted therewith; and items identified in any Relevant History and Information section and Representations section with a report.

Any information referred to is available for inspection in the Planning Offices of the Council at the Compass Centre, Chatham Maritime, Chatham.

1 MC2004/1214

Date Received: 2nd June 2004

Location: Former Akzo Chemical Works, Pier Road, Gillingham, Kent

Proposal: Outline application for the redevelopment of former industrial works to provide 808 residential units, live/work units, retail use (class A1), restaurant (class A3), hotel (class C1) with ancillary pub and restaurant (ancillary class A3), doctors surgery (class C1), harbour masters and Chandler, 93 bed student accommodation, new access arrangements, associated landscaping and car parking (demolition of all existing buildings)

Applicant: Berkeley Homes (Eastern) Ltd Berkeley House 7 Oakhill Road Sevenoaks Kent TN13 1NO

Agent: Mr L West Barton Willmore Planning Partnership Barton Willmore Planning 6th Floor Venture House 27-29 Glasshouse Street London W1R 6BW

Ward: Gillingham North

Recommendation – Refusal

- 1 The proposed development would put pressure on existing educational establishments in an identified area of growth where there is little or no capacity in local schools. The applicants have declined to make a contribution that is reflective of the number of children that are likely to be accommodated within the development. The Local schools would not therefore have the capacity to cater for the additional demand and there would not be the funding available to provide the additional facilities that would be required that are directly attributable to the proposed development. The proposal is therefore contrary to the provisions of Policy S6 of the Medway Local Plan 2003.
- 2 The proposed development would put pressure on the limited open space and play provisions within the area. While the development proposes some open space and play provision within the scheme, this is not considered to be sufficient to meet all the demands of the prospective residents and they will seek to use and have demands for facilities that either do not exist in the area or are already overstretched or of poor quality. The applicants have declined to make a reasonable contribution reflective of the demands and pressure that their development would have on open space and play facilities in the area and the proposal is therefore contrary to the provisions of Policy S6 of the Medway Local Plan 2003.

Background

Members will recall that at the planning committee of 12 January they considered a planning application for a mixed-use development, including 808 residential units. The Committee

resolved to approve the application subject to the referral of the application to the Government office for the south east, a Section 106 Obligation being entered into and 54 conditions.

The Government Office for the South East have considered the proposal and have advised that the application has taken PPG3 into account by making more efficient use of land, creating more sustainable patterns of development by exploiting and delivering accessibility by public transport to jobs, education and health facilities, shopping, leisure and local services. PPG13 has also been addressed by accommodating housing within existing urban areas, actively managing the pattern of urban growth to make the fullest use of public transport and to be accessible by walking or cycling. The Secretary of State was therefore satisfied that Medway Council should determine the application.

Since receiving the letter from the Government Office Officers have been in negotiation with the applicants with respect to the heads of agreement and the conditions.

Negotiations have been positive but with two exceptions. The heads of agreement required:

- (i) A contribution towards the improvement of Primary and Secondary facilities in the Medway Area; and
- (ii) A contribution towards improvements to play space and facilities in the vicinity of the application site.

In relation to the Education, Officers applied the normal pupil product ratio for dwelling units of 2 or more bedrooms and requested a contribution of £2,316,000. The applicants have offered £300,000.

On the play space aspect Officers again applied the usual formulae and required a contribution of £715,900. This was to go towards the provision of the urban park at Hillyfields. In discussions, Officers agreed they would accept a slightly reduced provision if this would still enable the urban park to be delivered. The applicants offered £72,473.

Case for the applicants

The applicants have submitted a letter and report to substantiate their assessment of the contribution required. Copies are appended to this report for all members of the Development Control Committee and further copies are available from officers upon request.

In summary the applicant's case is as follows:

Education

- The County Council research document distinguishes between various unit types much lower child yield from flats;
- Research on similar Berkeley Homes development confirms a low child yield for flatted schemes elsewhere;
- The approach taken with the J5/J6 report clearly aligns the Council to a similar view to Berkeley Homes on flatted developments;
- Information from Census 2001 for Medway shows declining household size which leads to lower child generation per household; and

- Recognised definition of flats indicates they are not perceived as family homes thus reinforcing the need to apply different assumptions of child yield to this form of development.

The report goes on to refer to consideration by an education consultant and based on the conclusions Berkeleys have marginally increased their contribution offer towards primary school provision to £400,000.

In addition to this, and reflective of Officers reluctance to accept the above justification, Berkeleys have offered to conduct surveys on the occupancy of each phase 12 months after they are 90% occupied. If the survey finds that the child yield is in line with Medway's expectations then Berkeleys will agree to pay a pro rata rate which will give the Council assurances that should additional numbers of children be generated their needs will be met.

Open Space

- There is a significant amount of on site open space provision being made available for informal recreation much of which is available as new public realm. This includes a 0.3km riverside walk, a new open piazza equivalent to the size of a football pitch and other environmental benefits;
- There is also sufficient on site provision for 0-7 year olds in the form of additional play areas i.e. a LAP and LEAP;
- It is acknowledged by Berkeley Homes that provision should be made off site for play areas; and
- The number of children likely to be generated by the development who would use the intended improved facilities i.e 8-16 year olds, is significantly lower than the Council expects based upon Berkeley Homes nationwide experience as an urban regeneration company.

Berkeley Homes assessment shows the number of children estimated on site at 137 which if related to the Council's formulae produces a contribution figure of £72,473.

In addition Berkeley Homes are willing for this to increase similar to the Education contribution should surveys show a greater number of children on site in the future.

Council Response

In considering the response it is appropriate to consider the basis for the contribution requests.

Circular 1/97 sets out when it is appropriate to use planning obligations. Effectively they should relate to the development and seek to address an issue that would otherwise make the development unacceptable. The applicants have agreed that the principle of contributions towards education and play space fulfils the requirements of circular 1/97 and are acceptable.

Gillingham Waterfront Planning Brief sets out a number of requirements for the development of the site:

- A balanced mix of land uses is required including housing and public open space;

- In terms of housing there should be a mix of sizes, types and tenures with dwellings for a variety of occupiers. Given the location it is expected that flats will predominate. Some should contain 3 or more bedrooms to be suitable for families;
- Contributions will be required towards Education; and
- It is important that residents have access to adequate open space to meet formal and informal recreation needs. This may include improvements to off site facilities.

The applicants prepared their development following extensive negotiations with officers to meet the aims and objectives of the development brief adopted by the Council. They were fully aware of the above requirements set out within the brief.

The proposed development includes the following breakdown of dwelling units:

- 51 Studios
- 227 one bed flats
- 369 two bed flats
- 117 three bed flats
- 44 Town Houses

A total of 808 units are proposed. It is accepted that studio and 1 bed flats will not accommodate children and should be discounted from the formulae. This leaves a total number of "counting units" of 530.

The applicants have agreed they will pay the full contribution for Primary provision for the town houses. They have not agreed secondary referring to spaces available in a few selected schools. Clearly this is not appropriate as for secondary the Council's practice is to look a secondary for the entire Medway Area. They need therefore to pay the full contribution for secondary for the town houses.

The main area of disagreement relates to flats. Officers cannot accept that there will not be any children within the 2 and 3 bed flats (486 units). The development brief specifically refers to the flats being of a size appropriate for families, the original committee report to members sold the development on the basis of a mixed development in terms of the housing provided (including families) and we are moving towards a more continental style of living which includes families living in appropriately sized flats.

In specific response to the bullet points made by the applicants officers have the following responses:

- In the preceding paragraph to the section of the County Council research document referred to by Berkeley's it states that "*...higher density development may in future produce new forms of dwellings and larger flats and townhouses which accommodate more children than at present in these forms of dwelling*";
- That may be the case now but times are changing as we move to a more continental style of living where people and families are more comfortable living in flats;
- J5 and J6 is a completely different site. It is much smaller, more confined, little on site open space and completely surrounded on site by the marina basin. It will not be a desirable or safe environment for children. Berkeley Homes scheme is very different, much larger more open space and much safer. A generally much more acceptable environment for children;

- Despite that there are pressures on schools in the area and if this situation is exacerbated by the proposed development then circular advise is clear that developers should pay to solve the problems their development creates; and
- Flats will in the future accommodate more families particularly where (as in this instance) they are of an appropriate size.

In addition the applicants have put forward an offer that relates to increased payments based on surveys to be undertaken 12 months after each phase is 90% occupied. This may appear attractive but does not really deal with the contention that the flats will be increasingly attractive to families as we move towards a continental style of living. In addition it does not deal with the individual who purchases a property lives there for a while and then rents out to a family in the future.

In terms of play space, it is accepted that the applicants are providing a LAP and a LEAP on site, and that there are proposals for areas of open space within the site and a riverside public realm as well as improvements proposed to the pier. This is all excellent and will result in a high quality development well spaced out as set out in the original committee report. However it will not meet all the open space needs generated by the development and this is clear in the development brief and indeed accepted by the applicants.

The applicants base their contribution offer on their calculation of the number of children likely to be housed in the development. The above clearly demonstrates that this is incorrect. If the assumption is incorrect then the offer must be a vast underestimate as well.

Officers have identified a contribution based on the usual formulae. They have expressed an ability to negotiate on that subject to it delivering the Hillyfields urban park. The proposed development will put pressure on the limited open space in this part of Gillingham. The Hillyfields proposal will provide a form of open space and a facility that will not and cannot be provided on the application site. Residents of the application site will indisputably benefit greatly from this facility. It is entirely reasonable therefore that the applicants should contribute towards its provision.

Conclusions

The requirements for contributions are entirely reasonable and the applicants accept the principle. The applicants were aware of the contributions very early in the development process through the Local Plan, Development Brief and the Council's developer contributions guidelines. This was confirmed in early discussions with officers. The assumptions upon which the applicants base their contribution offer are flawed and therefore the offer cannot be accepted.

The applicants have made it clear that they are not prepared to negotiate towards a figure anywhere the Councils request other than the offer of a survey with additional payments as necessary. As stated this does not prepare for future changes in styles of living and is therefore unacceptable.

Accordingly it is recommended that the application be refused purely on the basis of inadequate contributions and the unacceptable impact the development would therefore have on Educational establishments and open space provision in the area.

2 MC2004/2598

Date Received: 18th November 2004

Location: 16 Tunbury Avenue, Chatham, Kent, ME5 9EH

Proposal: Construction of single storey front extension, porch to side and pitched roof over garage (demolition of porch)

Applicant: Dr A Jha 15 York Avenue Chatham Kent ME5 9EP

Agent: Mr A L Millard D O Facilities 348 Lordswood Lane Chatham Kent ME5 8JT

Ward: Walderslade

Recommendation - Approval with Conditions

(as amended by letter, form 1A and plans received on 16th February 2005)

- 1 The development hereby permitted shall be begun before the expiration of five years from the date of this permission.
- 2 Prior to the commencement of the development, details of new fencing to the southern boundary to protect the amenity of the occupier of 18 Tunbury Avenue from disturbance from visitors to the surgery shall be submitted to and approved in writing by the Local Planning Authority. Such approved fencing shall be installed prior to the bringing into use of the new access to the surgery.
- 3 Materials used on the construction of external surfaces of the extensions herein approved shall match those used on the existing building.
- 4 The premises shall be used for the purpose of a doctors' surgery business and for no other purpose (including any other purpose in Class D1 of the Schedule to the Towns and Country Planning (Use Classes) Order 1987, or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification).
- 5 No more than 2 consulting rooms shall be used by general practitioners at any one time.
- 6 The surgery shall only operate between the hours of 0830 to 1900 Mondays to Fridays inclusive and closed on Saturdays, Sundays and National Holidays.
- 7 The area shown on the permitted drawings for vehicle parking shall be kept available for such use and no permanent development, whether permitted by the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking and re-enacting that Order) or not, shall be carried out on the land so shown or in such a position as to preclude vehicular access to this reserved parking space.

For the reasons for this recommendation for approval please see planning Appraisal section and conclusions at the end of this report.

Site Description

This application relates to a large detached building situated on the western side of Tunbury Avenue. The building is used as a doctor's surgery and there are 4 car parking spaces situated within the front curtilage of the property. There is a drive through under the first floor into a rear car parking area, which has three spaces plus a further space within a garage. The rear area is only available for use by staff and doctors.

The adjacent properties to the north and south are bungalows. The boundary treatment to the north consists of open chain fencing and to the south of 1.5 metre high fencing. There are a number of windows within the side elevations of both adjoining properties facing onto the application site. The area is predominantly residential.

The existing ground floor accommodation comprises of an entrance porch, reception room, waiting room, surgery room, nurses room, toilets and storeroom. The first floor is used for a library, bathroom, surgery room, treatment room and secretary office.

Proposal

This application is for the demolition of the existing porch, the construction of a single storey front extension, a porch to the side and a new pitched roof over the existing garage.

The existing flat roofed porch to be demolished has a depth of 2 metres at its longest reducing down to 1 metre, and a width of 1.9 metres. In front of this porch is a large ramp. The replacement front extension will have a depth of 3.1 metres and will extend the full width of the building. The height to the eaves will be 2.5 metres and 3.9 metres to the apex of the pitched roof. This extension is proposed to be used as a nurse's room. The original nurses room will be used as a surgery room. This will enable all facilities and rooms which are required to be accessed by the public to be located on the ground floor to meet disabled access requirements. The room at first floor previously used as surgery will become the practice managers room.

A new pitched roof over the existing flat roofed garage will link into the pitched roof over the front extension and will have a depth of 2.4 metres.

The applicant is required to comply with the new disabled access requirements under the Building Regulations and this involves constructing a new entrance. The proposed entrance porch will be constructed on the building's southern side adjacent to the side of no.18 Tunbury Avenue. It will have a width of 1.7 metres and a depth of 2.7 metres. The height to the eaves is 2.5 metres with 3.2 metres to the apex of the mono-pitched roof. The porch will replace an existing side access door and a new ground floor window is proposed within the main building and in front of the porch. A new gentle inclined ramp for disabled access will be provided up to the porch and adjacent to the southern boundary.

The submitted plans also show that the extension will have no impact upon the four frontage car parking spaces.

The agent has confirmed that the number of General Practitioners will remain as two and that the number of patients registered will not increase, and nor will the number of staff, which is six.

As the property's curtilage falls across the boundary with Tonbridge and Malling Borough Council a duplicate application has been submitted to that Council. The applicants require consent from both Authorities in order to undertake the work.

Relevant Planning History

ME87/0466	Change of use from private residence to a doctor's surgery including a small rear extension. Approved 11.08.1987.
ME92/0520	Single storey front extension to doctor's surgery. Approved 8.9.1992.
ME97/0019	Provision of pitched roof to replace existing flat roof to single storey rear extension. Approved 27.2.1997.
MC2005/0090	Duplicate application received from Tonbridge and Malling Borough Council for Consultation under Article 10 of the Town and Country Planning General Development Procedure Order 1995.

Representations

The application has been advertised on site and neighbour notification letters have been sent to the owners and occupiers of the following properties: 14,18,37,41 and 43 Tunbury Avenue; 43,45,47 Montford Road and Tonbridge and Malling Borough Council.

Six letters from five households have been received objecting to the development on the grounds of:

- Concern over the impact upon the bedroom and kitchen windows of the adjacent property at No.18;
- Object to any enlargement and expansion of the surgery with a resultant increase in road congestion and car parking;
- Concern over the resultant increase in noise and loss of privacy for the occupant of No.18 by patients entering the premises close to that property's windows;
- Concern that the proposed porch will overhang the boundary and that there is no provision of rainwater disposal;
- Concern over the reduction in the frontage car parking area; and
- Object to the proposed porch reducing light to a kitchen window.

Tonbridge and Malling Borough Council advise that they have no objections to the proposal.

A letter has been received from the applicant's agent in response to officers' request to relook at the internal layout to provide the waiting and reception areas at the front which

would do away with the need for the side porch and entrance currently proposed. The agent has advised that the alterations would not be possible for the following reasons:

- This would require additional internal alterations which would be very costly.
- The useable space for the reception and waiting area would be reduced from that which currently exists.
- To locate the porch and ramp relocated to the front would take up one of the parking spaces.
- While the side access will have an impact on the neighbour this will be minimised by the new fence proposed and must be balanced against the overall community benefits of improved surgery provision.

Development Plan Policies

Kent Structure Plan 1996:

Policy S2	(Environment)
Policy ENV15	(Built Environment)
Policy T17	(Parking Standards)

Kent and Medway Structure Plan: Deposit Plan September 2003

Policy SP1	(Sustainable pattern of Development)
Policy QL1	(Quality of Development and Design)
Policy TP19	(Vehicle Parking Standards)

Medway Local Plan 2003:

Policy BNE1	(General Principals for Built Development)
Policy BNE2	(Amenity Provision)
Policy CF4	(Primary Healthcare Facilities)
Policy T13	(Vehicle Parking Standards)

Planning Appraisal

This application raises the following issues for consideration:

- a) Design and impact upon the street scene
- b) Whether the proposal would cause harm to the amenities of the nearby residential units.
- c) Whether the proposal would prejudice highway safety and car parking implications.

Principle

The principle of the use of the building as a doctor's surgery has been established for some years. Policy CF4 of the adopted Medway Local Plan advises that new and improved doctors surgeries to meet the needs arising in local neighbourhoods will be permitted, subject to there being no undue loss of amenity to neighbouring residents. Proposals should also provide adequate on-site car parking.

Design Considerations

In design terms, it is considered that the proposed extensions respect the architectural character of the original building and will compliment its character as well as that of the street scene. The replacement of the existing flat roofs by pitched roofs is seen as an improvement to the appearance of the property.

In terms of design and appearance, the proposal, would be in keeping with the area and represents an improvement over what currently exists on the site and is therefore in compliance with policies ENV15 of the Kent Structure Plan and BNE1 of the Medway Local Plan.

Impact on Amenities

It is considered that the principal issue in this case is the effect of the proposal on the living conditions of neighbouring residents in terms of noise and general disturbance, loss of privacy and daylight.

The hours of opening of the surgery will remain as 08:30 to 19:00 hours Mondays to Fridays and closed at the weekends. The numbers of staff, General Practitioners and patients registered at the practice will not change. Therefore the number of visitors and activity at the property should not alter.

The original consent for the surgery did not restrict it to a surgery and there was a condition which sought to restrict the number of GP's to 1. It is considered appropriate (with the extended accommodation) to impose a condition restricting the use to that of a GP surgery and for no other use in class D1, as other uses in that class could include, for example, creche, day nurseries etc which could have a different and potentially greater impact on amenity. It is also clear that 2 GP's have operated from the premises for a considerable time (in breach of the previous condition but reflecting advice given with the previous application) and a condition restricting the number of GP's to 2 operating at any one time will regularise that while ensuring that any future intensification requires consent due to potential impact on amenity.

The proposed front extension due to its extent, height and distance from the boundary will not unacceptably impact on the amenities of occupiers of adjacent properties by way of overshadowing or loss of outlook and is therefore acceptable in those respects.

The proposed porch, being small in scale is considered not to harm the amenities of the occupiers of No.18 in terms of domination and enclosure to a degree that would warrant a refusal of planning permission. Although the porch will be built adjacent to the boundary, it is noted that there will be a gap of approximately 2 metres from the windows within the side elevation of No.18.

While the proposal will change the location of the access for the public from the front to the side adjacent to number 18 (which has windows along that side elevation), it is considered that this will not cause unacceptable harm or disturbance subject to the construction of an improved fence along that boundary. An appropriate condition is recommended.

In amenity terms the proposal is therefore viewed as being acceptable and in accordance with the policies ENV15 of the Kent Structure Plan and BNE2 of the Medway Local Plan.

Highways Impact, Traffic and Car Parking

With regard to the vehicle parking, the adopted vehicle parking standards (as maxima) for doctor's clinics require the provision of up to four spaces per consulting room and one parking space per member of staff. To satisfy this standard the proposal would require up to (8 spaces for visitors and 5 spaces for staff), a total of 13 spaces.

The submitted plans indicate that the existing car parking provision comprising of four frontage car parking spaces plus four spaces within the rear car park will not change.

As it is not intended to have any increase in numbers of patients or staff, the existing parking arrangements are therefore considered to be acceptable and no highways objection is raised to the application.

Recommendation and reasons for Approval

The extensions have been well designed to reflect and improve the appearance of the existing building without causing harm to the amenities of neighbouring properties. The use of the extension will not cause any intensification in terms of the number of GP's or surgery patients. The relocated entrance is acceptable subject to the additional fencing proposed. Accordingly it is considered that the application complies with the above development Plan Policies and is therefore recommended for approval.

[This application would normally fall to be considered under officers' delegated powers, but is been reported for Members' consideration due to the number of representations that have been received that are contrary to the officer recommendation and at the request of Councillor Ian Burt]

[This application was considered by Members at the Development Control Committee on the 6th April 2005 when it was determined to defer a decision to allow further discussions with the applicant.]

3 MC2004/2804

Date Received: 17th December 2004

Location: Land adj., to Wigmore Reservoir, Maidstone Road, Rainham, Kent.

Proposal: Outline application for construction of twelve 3-bedroomed houses (1 terrace of eight & 1 terrace of four) together with new access road & associated parking

Applicant: Brooke Homes Limited Robert Denholme House Bletchingley Road Nutfield Surrey RH1 4HW

Agent:

Ward: Rainham South

Recommendation - Approval with Conditions

(as amended by drawing no. BHL/04/01/A received on 14th March 2005)

- 1 Approval of the details of design and external appearance of the building(s), and the landscaping (hereinafter called "the reserved matters") shall be obtained from the Local Planning Authority in writing before any development is commenced.
- 2 Plans and particulars of the reserved matters referred to in Condition 1 above shall be submitted in writing to the Local Planning Authority for approval. Such application for approval shall be made to the Authority before the expiration of three years from the date of this permission and the reserved matters shall be carried out in accordance with the approved details.
- 3 The development hereby permitted shall be begun either before the expiration of five years from the date of this permission, or before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later.
- 4 No development shall take place until there has been submitted to and approved in writing by the Local Planning Authority a plan indicating the positions, design, materials and type of boundary treatment to be erected. The boundary treatment shall be completed before the buildings are occupied and shall thereafter be maintained for the duration of the development. Development shall be carried out in accordance with the approved details.
- 5 In this Condition "retained tree" means an existing tree which is to be retained in accordance with the approved plans and particulars; and paragraphs a) and b) below shall have effect until the expiration of 5 years from the date of occupation of any of the buildings for their permitted use.
 - a) No retained tree shall be cut down, uprooted or destroyed, nor shall any retained tree be pruned other than in accordance with the approved plans and particulars, without the written approval of the Local Planning Authority. Any

pruning approved shall be carried out in accordance with British Standard 3998 (Tree Work).

b) If any retained tree is removed, uprooted or destroyed or dies, another tree shall be planted at the same place and that tree shall be of such size and species, and shall be planted at such time as may be specified in writing by the Local Planning Authority.

c) The erection of fencing for the protection of any retained tree shall be undertaken in accordance with the approved plans and particulars before any equipment, machinery or materials are brought on to the site for the purposes of the development, and shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed in any area fenced in accordance with this Condition and the ground levels within those areas shall not be altered, nor shall any excavation be made without the written consent of the Local Planning Authority.

6 Prior to the occupation of the development the area of land within the vision splays shown on the plan hereunder approved shall be reduced in level as necessary and cleared of any obstruction between the points 0.6 metres above road level at the ends of the splays and be so maintained at all times.

7 The area shown on the permitted drawings for vehicle parking shall be kept available for such use and no permanent development, whether permitted by the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking and re-enacting that Order) or not, shall be carried out on the land so shown or in such a position as to preclude vehicular access to this reserved parking space.

For the reasons for this recommendation for approval please see Planning Appraisal section and conclusions at the end of this report

Site Description

The application concerns land to the south of and within the grounds of the water reservoir in Maidstone Road and the ownership of Southern Water. The site has a chain link fence and a gated access off the highway leading to a building housing a booster station for the reservoir which is some 6m in height to its roof ridge. [It is understood that this booster station has not been commissioned by the water authority.] The site is mainly laid to grass with dense tree and shrub planting on the boundary with the neighbouring residential property to the southeast in Fowler Close and other individual trees with a group near to the boundary at the back of the houses in Maidstone Road. Where it adjoins the reservoir on the north eastern and north western boundaries the land is embanked in grass, up to a height of some 5m to the grassed roof over the reservoir.

Proposal

The application is in part outline, with matters of design, external appearance and landscaping reserved for future consideration, although an indicative drawing of the houses as well as a definitive layout plan have been submitted. These show the construction of two terraces of 2-storey houses with front dormers on building lines parallel with the south west and north west boundaries of the site, with the rear gardens of 6, 7, 8 and 9 Fowler Close

and the Reservoir, at minimum distances of 9.6m from them and a side alignment of one of the terraces at a minimum distance of 5.6m from the rear garden boundary of 752 Maidstone Road. The houses would have average back garden distances in the order of 10m. The submitted layout plan has been the subject of revision to show a 4.8m wide access road with 2m by 2m vision splays at the junction with Maidstone Road and a 1.8m footpath on its southern side to serve 18 parking spaces and a turning head in front of the houses. The scheme entails the demolition of the booster station.

Site Area/Density

Site Area: 0.3489 ha (0.86 acres)
Site Density: 34.4 dph (13.95d.p.a)

Representations

The application has been advertised in the local press and by display of a site notice. The Primary Care Trust; Kent Wildlife Trust; Southern Water Services, Environment Agency, South Eastern Electricity Board, Transco, Police Architectural liaison officer; Wigmore Community and Residents Association and West Kent Area Health Authority have been consulted on the application along with the occupiers and owners of the following properties: 617, 633, 635, 639, 641, 645, 647, 653, 655, 666, 696, 700, 732, 734, 738, 750, 752, 754, 756, 760, 762, 776, & 780 Maidstone Road; 1 to 10 inclusive Fowler Close; 6, 10, 14 & 22 Harty Avenue; 106 Madden Avenue; 8, 21, 51, 54, 84, 126 & 142 Chart Place; 9 to 29 odd nos. inclusive Lime Court; 253 & 271 Wigmore Road; 271 Bredhurst Road; 29 MacDonald Road; 5 Wallace Road; and 64 Canadian Avenue.

A petition with 213 signatures from residents of 162 properties and 49 letters have been received in regard to the application in its original form, [including one from the Wigmore Community and Residents Association] making the following representations:

- The scheme represents backland overdevelopment which will result in the loss of planting and wildlife and a green open space and be out of character with and harmful to the appearance of the area;
- Houses within Fowler Close, Maidstone Road and nearby will suffer from overlooking, prejudice to security, a loss of light, and outlook;
- The development will increase traffic and exacerbate street parking problems and prejudice highway safety in Maidstone Road and the junctions with Lime Court and Chart Place;
- Local services such as schools, doctors and dentists are inadequate to serve the development;
- Risk of damage to pipes serving reservoir;
- Insufficient car parking spaces proposed;
- Inadequate access to serve the development;
- Construction work will cause traffic noise and dirt disturbance.

The Environment Agency has written to raise no objection and advise, with a copy to the applicants, that all construction work and drainage operations will need to have regard to the protections afforded to the groundwater in the Source Protection Zone which includes the site.

Southern Water has written to raise no objection to the proposed foul sewerage arrangements and note that there is no capacity in the existing sewerage system for

additional surface water drainage and this will need to be to soakaways or a local and drainage course. The proposed layout is acceptable in principle but no planting should take place within 3m of an existing public water supply mains.

Kent Police has written to raise no objections to the proposals subject to considerations of detailed security measures.

Development Plan Policies

Kent Structure Plan 1996

Policy ENV15	(Built Environment)
Policy T17	(Parking Standards)

Medway Local Plan 2003

Policy S6	(Planning Obligations)
Policy BNE1	(General Principles for Built Development)
Policy BNE2	(Amenity Protection)
Policy H4	(Housing In Urban Areas)
Policy H9	(Backland and Tandem Development)
Policy T13	(Vehicle Parking Standards)

Kent & Medway Structure Plan (Pre EIP Version) 2004

Policy QL1	(Quality of Development and Design)
Policy QL5	(Quality and the Density of Development)
Policy TP19	(Vehicle Parking Standards)

Planning Appraisal

The principle of development

The site has no specific designation in development plan terms and lies within a predominantly residential area within the urban area of the Medway Towns in the adopted Local Plan. Accordingly the principle of the proposed infill residential development is unobjectionable in development plan and national planning policy guidance terms.

Amenity considerations

The siting of the new houses would be at minimum distances of some 20m and 52m from the nearest neighbouring houses in Fowler Close and Maidstone Road respectively and in the former relationship would have the mature tree/shrub row intervening on the party boundary. This would avoid any unacceptable adverse impact on the amenities of neighbouring residents in regard to light loss.

In the case of the aspect towards the back gardens of the Maidstone Road, the windows to the new houses as illustrated would be at a minimum of 36m from the party boundary and this degree of separation and the retention of the existing mature boundary planting to the south west site boundary and the scope for new planting on the southeastern boundary would ensure that the windows up to first floor, as illustrated, should not give rise to any immediate or unacceptable effects upon the outlook or privacy of the neighbouring property.

Although the indicative details show dormer windows on one face of the terraces, as illustrated these would be restricted to allow only an aspect over the undeveloped reservoir grounds at a level which would be very close to the ground level there.

The neighbouring property most likely to be immediately affected by the development is the chalet bungalow at 734 Maidstone Road, which would adjoin the proposed access road and be closest to the new terraces, at a minimum distance of 38m in the case of the nearest one. In regard to the access, the new road would leave an intervening distance of some 3.4m, which could accommodate new screen planting under the proposals; while in regard to the matter of overlook from the development, the position of this neighbour is offset and the intervening distance would considerably exceed that of 21m identified in Kent Design guidance relating to privacy between developments [at para.8.64]. Although the close position of this bungalow to its party boundaries with the application site effectively precludes planting on that side, and the situation in that regard, it is considered that the potential for planting would adequately address the matter of potential disturbance from traffic to and from the development, and this together with the intervening distance involved from the nearest houses would ensure a satisfactory level of privacy for that neighbour.

Within the development itself, there is a very close relationship between the front of one terrace and the flank of the other at 13m, which would impact upon the amenities of the former in terms of aspect and light. However this would allow for a potential for sunlight to the face of the dwellings concerned for the bulk of the afternoon in a manner recognised in the pertinent advice commissioned by the former Department of the Environment from the Building Research Establishment. The matter of outlook is subjective but it is pertinent that Kent Design previously recognised an 11m separation between the rear and flank of dwellings as a good rule of thumb approach and it presently recognises a considerable degree of flexibility in this matter according to the site context. The new houses would be provided with an adequate area of amenity space and no amenity objections are raised to the development.

Design, appearance and impact on the character of the area

The development would have no material impact upon the appearance of the street scene or the local townscape, being set behind the development in Maidstone Road and Fowler Close, where there is a mature conifer hedgerow on the party boundary, and, with a suggested maximum roof height of 9.5m it would be mainly screened from views from the north, at the rear of Lime Court and Wigmore Road, by the elevated grass "meadow" over the reservoir, some 6m higher.

The proposed density of development at 34 dwellings per hectare, is within the range identified in national planning policy guidance expectations in PPG3 and emerging Policy QL5, while the main building form within the locality is of 2-storey form as proposed, which in the case of one of the properties in Maidstone Road has been augmented by a dormer at the rear, which overlooks the subject site. Accordingly no design objections are raised in regard to the suggested form and appearance of the development and its effect on the character of the area.

Much of the representation received has commented adversely on the effect of the development on the wildlife and planting on the site and backland position. In these respects it is to be noted that there are no trees on the site with a high individual amenity value worthy of protection and the development allows for retention of much of the planting which is

present with scope for new landscaping. The bulk of the site is open and laid to grass with limited wildlife habitat potential. This also reflects the situation for the adjoining reservoir land, and there is no record of any rare plant species or constraint in nature conservation terms. It is also material that the land is already a developed site with the access road and booster station, with an established road frontage and access. The pertinent policy provisions relating to backland development require regard for amenity and highway considerations but do not raise in principle objections to development in such a position.

A development in the manner envisaged is therefore considered to allow for the submission of a detailed scheme, which would be in character with the locality and would accord with Policies BNE1, BNE2, H4 and H9 of the adopted Local Plan as well as Structure Plan Policy ENV15

Highways/parking

In regard to parking provision the provision at a standard of 1.5 spaces per dwelling is regarded as acceptable under the Council's adopted standards. The additional traffic generated by 12 additional houses in this position would not be to a degree which might be considered harmful in relation to the overall level of traffic using the road, and would have no unacceptable implications for the local highway network or its capacity. Although much of the representations express concerns of highway safety in regard to traffic levels and proximity to highway junctions within vicinity, the available frontage width and proposed access position would allow for the provision of acceptable vision and visibility splays on both sides and the low level status of the implicated access would not give rise to unacceptable impacts on highway safety for either pedestrians or drivers.

Planning obligation and community matters

The Director of Education has advised that no contribution towards educational services is being sought in this case given the number of units involved and the available provision of education service within the area. The development is below the threshold at which a proportion of affordable housing would be sought.

Conclusions and Reasons for Approval

The site is within the urban area. The layout proposed demonstrates how this number of units can be satisfactorily accommodated on the site without causing harm to the character of the area or the amenities of occupiers of neighbouring property. The proposed access is satisfactory in highway terms to serve this number of properties with the vision splays proposed. Accordingly the application is in accordance with the above-mentioned Development Plan policies and a grant of permission is recommended.

[This application is being reported to the Committee for determination because of the number of representations received contrary to the recommendation and in accordance with the instructions of Councillor Rodney Chambers.]

4 MC2005/0054

Date Received: 13th January 2005

Location: 160 Rochester Avenue, Rochester, Kent, ME1 2DS

Proposal: Change of use of property from Class A2 to retail sale of hot food Class A5

Applicant: Mrs M Eskisan 18 Chilton Drive Higham Rochester Kent

Agent: Mr J Liddiard 14 Wentworth Drive Cliffe Woods Rochester Kent ME3 8UL

Ward: Rochester East

Recommendation – Approval subject to:

- A The applicant entering into an agreement under Section 106 of the Town and Country Planning Act 1990 to secure:
- i. The cessation of the use of the premises at 106-108 Delce Road, Rochester as a hot food take-away or for any use falling within Class A5 of the Town and Country Planning (Use Classes) Order 1987 (as amended) upon the commencement of the use of the premises at 160 Rochester Avenue as a Class A5 outlet; and
 - ii. An undertaking from the applicant not to contest and/or seek compensation following the making of a Discontinuance Order by the Local Planning Authority, under Section 102 of the Town and Country Planning Act 1990, for the cessation of the use of the premises at 106-108 Delce Road for any purposes falling within Classes A3, A4 or A5 of the Town and Country Planning (Use Classes) Order 1987 (as amended) and the premises reuse for purposes falling under Classes A1 or A2 of the aforementioned Order once a Class A5 use has commenced at the premises at 160 Rochester Avenue.
- B and the following Conditions:
- 1 The development hereby permitted shall be begun before the expiration of five years from the date of this permission.
 - 2 The use hereby permitted shall only operate between the hours of 12.00 to 23.30 Mondays to Sundays inclusive.
 - 3 The use hereby permitted shall not be brought into use until arrangements for the conduction and extraction of fumes have been submitted to and approved in writing by the Local Planning Authority. The approved arrangements for the conduction and extraction of fumes shall be installed prior to the commencement of the use hereby permitted and shall thereafter be retained for the duration of the use.

- 4 Before the use hereby permitted is commenced, provision shall be made for the collection, storage and disposal of litter in accordance with details to be submitted to and approved in writing by the Local Planning Authority and such provision shall be retained for the duration of the use hereby permitted.

For the reasons for this recommendation for approval please see Planning Appraisal section and conclusions at the end of this report.

Site Description

The application site comprises a two storey property at the corner of Rochester Avenue and Delce Road. The building is currently vacant and the majority of the windows are boarded up. The ground floor of the premises was last occupied as a betting office (Class A2), prior to that use relocating to 104 Delce Road. The upper floor is also empty; there is an external wooden staircase to the rear providing access to the first floor, but this staircase is in a state of disrepair.

The application property is located within a Local Shopping Centre, which comprises all the properties on the western side of Delce Road from 82 to 136 (even). Within this Local Centre there are 18 commercial premises comprising: 13 retail (Class A1) units, a betting office (Class A2) and 3 hot food takeaway outlets (Class A5), including the applicant's existing premises at 106-108 Delce Road. The remaining commercial unit is an open car sales site.

[It is to be noted that the Town and Country Planning (Use Classes) Order 1987 was amended on 21 April 2005 with the effect that former Class A3 "food and drink" category has been sub-divided into the following new classes:

Class A3 = "Restaurants and Cafes"
Class A4 = "Drinking Establishments"
Class A5 = "Hot Food Takeaways"]

Proposal

The submitted application proposes the change the use of the ground floor of the premises from a betting office (Class A2) to a hot food take-away (Class A5) outlet. The submitted drawing shows the provision of a customer waiting area and servery at the front of the unit with a cooking and preparation area, store and staff wc at the rear. No details of the method of fume extraction have been submitted as part of the application. The upper floor would be used as accommodation for staff working at the premises.

The applicant currently operates a hot food take-away outlet at 106 to 108 Delce Road and intends to discontinue that business and relocate to the application premises. The applicant's agent has submitted on the applicant's behalf that if planning permission is granted for the current proposal she will be willing to enter into a Section 106 agreement to formally extinguish the lawful use of the premises at 106 to 108 Delce Road as a Class A3 food and drink outlet [with the recent amendments to the Use Classes Order the discontinuance of the food and drink uses at this premises will need to refer to Classes A3, A4 and A5.

It is submitted that the proposed take-away would be open from midday to 11.30 pm, seven days a week. It is submitted that 4 members of staff would be employed at the premises and these employees would all transfer from the applicants existing premises at 106/108 Delce Road.

Relevant Planning History

NK5/61/105	Change of use from retail shop to betting office Approved
ME/81/87	External staircase to first floor living accommodation Approved 20 February 1981
ME/87/0438	Proposed two storey extension to extend betting office on ground floor and create a single person's flat at first floor Approved 21 July 1987

Representations

This application has been advertised on site and neighbour notification letters have been sent to the owners/occupiers of: 11 to 27 (odd), 106/108, 110 to 120 (even) Delce Road; and 152 to 158 (even) and 171 to 181 (odd) Rochester Avenue.

A petition of 128 signatures and 6 letters have been received objecting to the application for the following reasons:

- The property is located on a corner with double yellow lines to the side and front and it has no off-street parking facilities available to it. The proposal will increase on street parking in Rochester Avenue and Delce Road, which will slow down traffic using those roads. Any increased on-street parking associated with the proposed use will be prejudicial to highway safety;
- There are adequate take-away facilities available in the area and there is no need for any additional units;
- The proposed use will generate fumes and litter;
- The proposed use will generate noise and disturbance as a consequence of customers coming and going to the premises, particularly in the evening period; and
- The proposal will transfer an existing nuisance from Delce Road to Rochester Avenue.

The Kent Police Architectural Liaison Officer has written advising that the area has intermittently suffered from disproportionate levels of antisocial behaviour, disorder and crime, with Class A1 and A3 uses and late night opening attracting youths who gather and linger. This proposal, together with existing late night retail outlets may exacerbate this situation and prejudice amenity by reason of noise, inconvenience, anti-social behaviour and disturbance.

Development Plan Policies

Kent Structure Plan 1996

Policy ENV15	(New Development)
Policy T17	(Parking Standards)

Medway Local Plan 2003

Policy BNE1	(General Principles for Built Development)
Policy BNE2	(Amenity Protection)

Policy R10	(Local Centres)
Policy R18	(Take-away Hot Food Shops)
Policy T13	(Vehicle Parking Standards)

Kent and Medway Structure Plan (Deposit Version) 2003

Policy QL1	(Quality and Design of Development)
Policy TP19	(Parking Standards)

Planning Appraisal

The issues for consideration in the determination of this application are: the principle of the proposal; the effect on the character of the area; amenity considerations; and parking.

Principle

The application site lies within a local shopping centre, as identified under Policy R10 of the adopted Local Plan 2003. Policy R10 contains a general presumption in favour of retaining retail, financial and professional services and food and drink uses (Classes A1, A2, A3, A4 and A5) in local centres and the proposal complies with this Policy.

Policy R18 of the adopted Local Plan refers specifically to proposals for the provision of food and drink premises, including hot food takeaway outlets, and sets out a presumption in favour of permitting such uses provided certain specified criteria can be met, including a requirement to ensure that the combined effect of the concentration of similar uses will not have an undue affect upon local environment or highway safety.

Within this local centre there are currently 13 retail (Class A1) units, one (Class A2) unit and 3 hot food takeaway outlets (Class A5). As the applicant intends to vacate her existing premises at 106 to 108 Delce Road; and is prepared to enter into a Section 106 agreement to preclude the continued use of that premises as a food and drink outlet, there will be no net increase of Class A5 uses relative to Class A1 uses in this local centre as a consequence of the submitted proposal. Furthermore, as the application premises are currently not in retail use, the proposal could result in a net increase in retail units in this centre, as 106 to 108 Delce Road is a double unit.

It is therefore considered that with the extinguishment of the existing Class A5 use at the applicant's existing premises that the currently submitted proposal will not adversely affect the vitality and viability of this local centre. Accordingly, no objection is raised to the principle of the change of use under the provisions of the aforementioned Development Plan policies.

It is to be noted that under Section 102 of the Town and Country Planning Act 1990 Local Planning Authorities can make Discontinuance Orders requiring the cessation of an existing lawful use of a property and replacing that lawful use with a new use specified in the order. It is to be further noted that Discontinuance Orders only take effect once they have been confirmed by the Secretary of State and that recipients of such orders can seek compensation from the Local Planning Order following an order's confirmation.

In order to ensure that the existing food and drink usage (Classes A3, A4 and A5) of 106 to 108 Delce Road is discontinued, it is recommended that the applicant should be required to enter into a Section 106 Agreement to secure:

1. the cessation of the use of that premises for purposes falling under Classes A3, A4 and A5 upon the commencement of the proposed Class A5 takeaway use at 160 Rochester Avenue; and
2. an undertaking from the applicant not to contest and/or seek compensation following the making of a Discontinuance Order by the Local Planning Authority for the cessation of the use of the premises at 106-108 Delce Road for any purposes falling within Classes A3, A4 or A5 of the Town and Country Planning (Use Classes) Order 1987 (as amended) and the premises reuse for purposes falling under Classes A1 or A2 of the aforementioned Order once a Class A5 use has commenced at the premises at 160 Rochester Avenue.

The effect on the character of the area

No proposals to alter the building are included with the application and the proposal does not, as such raise any design considerations. Any proposals for a new shopfront would need to be the subject of a separate application. The building does not present an attractive appearance to the street scene at present, and any proposal to bring it back into use would enhance its appearance. No objection is, therefore, raised under Policy ENV15 of the Structure Plan, Policy BNE1 of the adopted Local Plan and Policy QL1 of the Kent and Medway Structure Plan 2003 (the emerging Structure Plan).

Amenity Considerations

In addition to matters of principle, Policy R18 of the Local Plan also requires proposals for food and drink uses to have regard to the impact on residential amenity; opening hours; facilities for refuse disposal, storage and collection noise and general disturbance, and fume extraction. Policy ENV15 of the Structure Plan, Policy BNE2 of the adopted Local Plan and policy QL1 of the emerging Structure Plan require all development, including changes of use, to be assessed in terms of their impact on the amenities of the occupiers of neighbouring residential and commercial premises.

It is proposed that the new take-away outlet would close at 11.30 p.m., which is the same time as the applicant's existing premises and would be comparable with other take-away facilities in the locality. It is, therefore, considered that the proposal would not give rise to any unacceptable increase in the level of night time noise or disturbance. In this regard it is therefore considered that the proposed change of use will not give rise to conditions that would be detrimental to residential amenity in the immediately surrounding area and accordingly no amenity objection is raised to the submitted proposal.

No details of an external extraction flue have been submitted with the application and the installation of such equipment can be addressed by the imposition of a condition on any forthcoming planning permission for the proposed use. The applicant's agent has indicated that the external extraction equipment will be located as far from public view as possible. Suitable arrangements can be made for the storage, disposal and collection of litter through the imposition of a condition.

Having regard to all of the aforementioned considerations, it is considered that the proposal will not have a adverse affect upon local amenity and accordingly no objection is raised to this application under the provisions of Policy ENV15 of the Structure Plan, Policies BNE2 and R18 of the adopted Local Plan and Policy QL1 of the emerging Structure Plan.

Parking Considerations

This local shopping centre is generally well served by on-street parking facilities. Parking bays have been provided along Delce Road for customers calling at local shops. Although there is no bay immediate in front of the premises, there are bays within a short walking distance. It is considered that this proposal will not generate any material increase in the volume of traffic visiting the local centre, especially when regard is paid to the fact that applicant's business will be switching from other premises within this local centre to the application property. Accordingly, no objection is raised to the application under the provisions of T17 of the Structure Plan, Policy T13 of the adopted Local Plan and Policy TP19 of the emerging Structure Plan.

Conclusion and reasons for approval

Having regard to the aforementioned considerations, it is considered that as the submitted proposal will not result in: an increase in food and drink uses that will adversely affect the vitality and viability of the local centre; an unacceptable increase in noise or disturbance; and any material increase in on street parking to the prejudice of highway safety in the local area. The submitted application is therefore viewed as being in accordance with the provisions of Policies ENV15 and T17 of the Structure Plan and Policies BNE1, BNE2, T13, R10 and R18 of the adopted Local Plan.

[This application would normally fall to be determined under Officers' delegated powers but has been reported for Members' determination because of the number of representations that have been received contrary to the officer recommendation.]

5 MC2005/0067

Date Received: 13th January 2005

Location: 68 Saunders Street, Gillingham, Kent, ME7 1HU

Proposal: Demolition of existing public house and construction of a terrace of three 2-bedroomed houses and a block of four single bedroomed flats

Applicant: Mr & Mrs G Phimister Seekings Lower Hartlip Road Hartlip Sittingbourne Kent ME9 7ST

Agent: Mr L R D Simmons 46 Downsvie Chatham Kent ME5 0AL

Ward: Gillingham North

Recommendation - Approval subject to:

- A The applicant entering into an agreement under S106 of the Town and Country Planning Act to secure a contribution of £2,700 towards improvements to open space and play provision in the area.
- B The imposition of the following Conditions:
 - 1 The development hereby permitted shall be begun before the expiration of five years from the date of this permission.
 - 2 Details and samples of any materials to be used externally and any means of enclosure shall be submitted to and agreed in writing by the Local Planning Authority before development is commenced and development shall be carried out in accordance with the approved details.
 - 3 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking and re-enacting that Order with or without modification) no development within Part 1 Classes A, B, C, D and E of the Second Schedule to the Order shall be carried out on the site without the prior written approval of the Local Planning Authority.

For the reasons for this recommendation for approval please see Planning Appraisal section and conclusions at the end of this report.

Site Description

This application relates to a former Victorian/Edwardian public house on the corner of Saunders Street and Skinner Street, Gillingham. It is a two storey building with its main frontage to Saunders Street and a return frontage to Skinner Street, and includes a single storey addition and a garden enclosed by a 2.4 metres high wall. To the side of the building is a single storey garage, with a kitchen to the rear, leaving a 2.5m wide gap to the

neighbouring building, at first floor level. The building was built tight to the footpath along both frontages and although it contains features of interest, it is not listed or of a listable quality.

The former public house is adjoined to the west by Victorian terraced two storey houses. The immediately adjoining house, 70 Saunders Street, has the same rear building line at first floor level, but has a flat roof single storey rear extension projecting approx. 8m.

The surrounding area comprises predominantly Victorian terraced housing with little or no on site parking. However, to the east of the application site, on the opposite side of the road and enclosed by Skinner Street, James Street, Saunders Street and Cross Street, there is a development comprising of five storey flat blocks with communal parking.

Proposal

The proposal is to demolish the public house and associated outbuildings and to construct a development comprising four flats and three houses on the site. The application is a re-submission of application MC2004/0196 that was refused on 26 March 2004 and subsequently dismissed on appeal on 17 December 2004.

The bulk of the development will be at the northern end of the site and like the existing building would be built tight to the footpath; it would occupy the entire Saunders Street frontage and comprise 2 x one bedroom flats on each of the ground and first floors. The development will then turn the corner onto Skinner Street to provide an attached terrace comprising 3 x two bedroom houses.

The main wall of these houses would be set back one metre from the back of the footpath, although the living room on the ground floor would project forward to the front of the site. To the rear, each house would have a 3.5 metres deep garden and there would be a small communal garden area for the four flats.

The applicant has submitted a Unilateral Undertaking under Section 106 of the Town and Country Planning Act 1990 offering a contribution of £2,700 towards the provision of community facilities.

Site Area/Density

Site area: 0.032 hectare (0.079 acre)

Site density: 219 u.p.h. (88.5 u.p.a.)

Relevant Planning History

GL/86/158	Conversion of store/lobby to ladies and gents' lavatories Approved 29 th August 1986
GL/86/158A	Rear kitchen addition and internal alterations Approved 26 th August 1988
MC2004/0196	Demolition of existing public house and construction of a terrace of 3 two bedroom houses and a block of 4 single bedroom self-contained flats. Refused 24 th March 2004 Appeal dismissed 17 th December 2004

Representations

The application has been advertised on site and neighbour notification letters have been sent to the owners/occupiers of 146 and 148 Skinner Street, 70 and 72 Saunders Street, 1 St. Mary's Road and 1 St. George's Road.

A petition (12 signatures) and one letter have been received objecting on the grounds of:

- Loss of privacy;
- Loss of light;
- Loss of outlook;
- Proposal would exacerbate parking problems in the area;
- Noise and disturbance.

Development Plan Policies

Kent Structure Plan 1996

Policy ENV15	(Built Environment)
Policy T17	(Parking)

Medway Local Plan 2003

Policy S6	(Planning Obligations)
Policy BNE1	(General principles for built development)
Policy BNE2	(Amenity protection)
Policy H4	(Housing in urban areas)
Policy H5	(High density housing)
Policy T13	(Vehicle parking standards)

Kent and Medway Structure Plan 2003

Policy QL1	(Quality of Development and Design)
Policy TP19	(Vehicle Parking Standards)

Planning Appraisal

Issues

The prime consideration in the determination of this application is whether the reasons for dismissing the previous appeal have been overcome.

Principle

The site is within the built confines of urban area and its redevelopment would represent the acceptable redevelopment of a building currently in non-residential use within a predominantly residential area. The principle of the development is, therefore, acceptable and in accordance with Policy H4 of the Local Plan. The proposal also accords with Policy H5 of the Local Plan that promotes high density development close to town centres. The principle of the development was considered acceptable when the previous application was considered.

The previous application and the appeal decision

The previous application was refused on the grounds that:

- 1 The proposed represents a cramped form of development that fails to provide adequate private amenity space for the occupiers of the proposed houses and flats and as such would be contrary to Policy BNE1 of the Medway Local Plan 2003.
- 2 The proposal would result in an unacceptable loss of sunlight and loss of outlook to the occupiers of both the adjacent and proposed properties and as such is considered to be unacceptable in amenity terms and in conflict with Policy BNE2 of the Medway Local Plan 2003.

The Inspector considered that there were four main issues:

- i) Whether or not the development would amount to an unacceptable overdevelopment of the site, unduly detracting from the appearance and character of the area, and providing insufficient amenity space for the prospective residents;
- ii) Whether the proposal would materially harm the living conditions of the adjoining and nearby residents by reason of an overbearing impact or undue overshadowing of land and buildings, and a harmful loss of privacy;
- iii) Whether it would be reasonable and necessary for a financial contribution to be made by towards the provision of a children's play area and informal open space; and
- iv) Whether the lack of any of street parking would give rise to additional highway hazards or a material loss of amenity for residents of the area.

On the first two issues, the Inspector concluded that the proposal was an acceptable form of intensive infilling and a satisfactory redevelopment of a redundant building and would be consistent with Government Guidance. It had been satisfactorily designed and would cause no undue harm. The fact that the rear gardens are small was in his opinion not a good reason to resist the development, especially in this neighbourhood, where rear garden areas are generally small. He agreed that introducing a two-storey development onto the Skinner Street frontage would close a gap in the street scene replacing it with a building, but this would not be exceptional in the very closely-knit character of the area. He did not consider that the juxtaposition of dwellings would mean that an unacceptable relationship would materialise in terms of overshadowing or undue loss of light. Similarly, he agreed that there would be no overlooking as the first floor rear elevation windows would serve bathrooms and landings.

In relation to the third issue, he agreed that a contribution of £2,700 should be sought and that there were no exceptional circumstances as to why a contribution should not be made. As no planning obligation or unilateral undertaken had been submitted he dismissed the appeal.

On the issue of parking, he noted that roads in the vicinity are virtually at capacity most of the time. However, the public house would have generated some parking demand and he considered that seven new dwellings would have little impact on the overall demand for on-street parking in the neighbourhood. He was of the opinion that whether the development proceeds or not, there will be insufficient parking spaces available in nearby streets to meet demand, but as the site is in a sustainable location close to the town centre, local facilities and public transport, the proposal would not be unacceptable.

Infrastructure contributions

The only reason the Inspector dismissed the previous appeal was on the grounds of the lack of any contribution towards improving play facilities and open space in the area.

The application now submitted is exactly the same as that previously considered in design, layout and unit numbers with the only difference being that they have included with the application a unilateral undertaking to provide a contribution of £2,700 towards play facilities and open space in the area. Accordingly the Inspectors sole ground for dismissing the previous appeal has been addressed.

Conclusion

The proposed development is considered to be acceptable in principle and having regard to the previous appeal decision, the proposal is considered to be acceptable and in compliance with policies L4, BNE1, BNE2, and T13 of the Medway Local Plan 2003 and ENV15 of the Kent Structure Plan 1996. Accordingly, the application is recommended for approval.

[This application would normally fall to be determined under Officers' delegated powers but has been reported for Members' determination because of the number of representations that have been received expressing views contrary to the recommendation.]

6 MC2005/0111

Date Received: 9th February 2005

Location: Plot C, Kingsnorth Industrial Estate, Hoo St. Werburgh, Rochester, Kent

Proposal: Construction of two single storey blocks containing a total of 9 units for occupation by general industrial (Class B2) and warehouse and distribution (Class B8) uses

Applicant: K & N Welding & Engineering Jetty Road Kingsnorth Industrial Estate Rochester Kent ME3 3ND

Agent: Mr J Bolton Synergy Property & Planning Consultants Lingley House Commissioners Road Strood Rochester Kent ME2 4EE

Ward: Peninsula

Recommendation - Approval with Conditions

[as amended by plans received on 21 April 2005]

- 1 The development hereby permitted shall be begun before the expiration of five years from the date of this permission.
- 2 No development shall take place until there has been submitted to and approved in writing by the Local Planning Authority a plan indicating the positions, design, materials and type of boundary treatment to be erected. The boundary treatment shall be completed before the development is occupied and shall thereafter be maintained for the duration of the development. Development shall be carried out in accordance with the approved details.
- 3 Details and samples of any materials to be used externally and any means of enclosure shall be submitted to and agreed in writing by the Local Planning Authority before development is commenced and development shall be carried out in accordance with the approved details.
- 4 No development shall take place until full details of both hard and soft landscape works have been submitted to and approved in writing by the Local Planning Authority and these works shall be carried out as approved. These details shall include hard surfacing materials and any external refuse storage facilities. Soft landscape works shall include planting plans, written specifications (including cultivation and other operations associated with grass and plant establishment, aftercare and maintenance); schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate; and implementation programme.
- 5 All hard and soft landscape works shall be carried out in accordance with the approved details. The works shall be carried out prior to the occupation of any part of the development or in accordance with the programme agreed with the Local Planning Authority. The approved planting stock shall be maintained for a

minimum period of five years following its planting and any of the stock that dies or is destroyed within this period shall be replanted in accordance with details to be submitted to and approved in writing by the Local Planning Authority.

- 6 No materials, plant or other equipment of any description shall be stored in the open other than in areas and to such heights as may be approved in writing by the Local Planning Authority.
- 7 Prior to commencement of the development hereby permitted an investigation shall be undertaken to determine the nature and extent of any contamination. Any surveys to be undertaken in compliance with the requirements of this Condition shall be taken at such points and to such depths as the Local Planning Authority may stipulate. The results of the investigation together with a risk assessment by a competent person and details of a scheme to contain, treat or remove any contamination as appropriate, shall be submitted for the written approval of the Local Planning Authority. The approved scheme shall be fully implemented and a completion report issued by the competent person referred to above, stating how remediation has been completed and that the site is suitable for the permitted use, shall be provided to the Local Planning Authority prior to first occupation of the development hereby permitted.
- 8 The area shown on the permitted drawings for vehicle parking shall be provided prior to the first occupation of the development and shall thereafter be kept available for such use and no permanent development, whether permitted by the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking and re-enacting that Order) or not, shall be carried out on the land so shown or in such a position as to preclude vehicular access to this reserved parking space.
- 9 Prior to the commencement of the development hereby permitted a Flood Risk Assessment shall be submitted to and approved in writing by the Local Planning Authority. The submitted Assessment shall identify the level of flood risk applicable to proposed development and outline the floor levels for the buildings above Ordnance Datum Newlyn and any mitigation measures, including on-site flood defence measures, to address any identified flood risk and the means for the disposal of surface run off. Any flood risk mitigation measures surface run off disposal measures approved by the Local Planning Authority pursuant to the requirements of this Condition shall be installed strictly in accordance with the approved details and be made available for use prior to the first occupation of the development hereby permitted and shall thereafter be retained.
- 10 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking and re-enacting that Order) none of the units hereby permitted shall be used for purposes falling within Classes B1(a) or B1(b) of the Town and Country Planning (Use Classes) Order 1987 (as amended).
- 11 Sight lines of 45 metres by 2.4 metres shall be provided on both sides of any junctions between the internal access roads serving the development and the access roads providing access to and from the application site and no obstruction of sight greater than 0.6 metres above carriageway level shall be permitted within the sight lines.

For the reasons for this recommendation for approval please see Planning Appraisal section and conclusions at the end of this report.

Site Description

This application relates to a site at the northern end of Kingsnorth Industrial Estate, accessed via Jetty Road, which is an unmade road serving this and other plots at this end of Kingsnorth industrial area. The site has an area of 0.65 hectare (1.6 acres) and is currently used for fabrication and engineering works with associated open storage. There is an industrial type building on the site that is faced with grey metal cladding and yellow edging plus two portable buildings, one on top of the other, used as ancillary offices.

Proposal

The site currently has the benefit of an extant planning permission for a single storey industrial building, measuring approx 60 metres by 15 metres with total floorspace of 900 square metres, which was approved on 26 September 2003 under application reference MC2003/0369.

The current application proposes the construction of two industrial buildings, with a total floor area of 2,452 square metres. Each building will be sub-divided into smaller units. One of the proposed buildings will comprise four units and the other five units. It is proposed that the four units in one of the buildings would each have a floor area of 273m² and would be occupied by industrial (Class B2) users. The five units in the other building (which would have a total floor area of 1,360m²) would have individual floor areas ranging between 186 and 345m² and would be occupied by warehouse and distribution (Class B8) users. The proposed buildings would have shallow pitched roofs and would be clad in a mixture of brickwork and profiled colour coated cladding.

Vehicular access to the proposed units would be derived via central spine road dividing the two blocks of units. Parking for 32 cars, including 3 disabled spaces, and lorries is shown on the submitted drawing. The applicants have submitted a Transport Assessment to support the application. However no information has been submitted with the application to indicate the number of employees or hours of operation that will be associated with the proposed development, this being subject to who occupies the building. The applicant's agent has however provided estimates of the anticipated vehicle trip rates generated by the development.

Relevant Planning History

MC2003/0369	Construction of a single storey workshop/industrial unit. Approved 26 September 2003
MC2004/1695	Construction of two single storey industrial units. Withdrawn

Representations

The application has been advertised on site and in the press as a Major Development. Neighbour notification letters have been sent to TWK Recycling and Medway Portable

Buildings. Consultations have also been undertaken with the Environment Agency and Southern Water.

Hoo St. Werburgh Parish Council has written objecting to the application on the grounds that the proposed development will increase traffic using Ropers Lane and Stoke Road. The Parish Council has therefore requested that a traffic survey is undertaken to assess the possible increase in traffic on these roads.

The Environment Agency has written objecting to the application on the grounds that the site is within a flood risk zone and no flood risk assessment has been submitted with the application in accordance with the advice contained within PPG25 "Development and Flood Risk". The Agency has also commented that it does not accept the promotion of cesspools as a long term foul sewerage option in view of the potential environmental, amenity and public health issues arising from their inadequate operation and maintenance. So far as surface water is concerned, only clean, uncontaminated water should be passed to any soakaways to be provided in association with the development. Conditions should be attached to any planning permission relating to the discharge of water from the roads and parking areas, requiring a contamination assessment to be undertaken and the use of "clean" infill materials.

Southern Water has written advising that it has no comments to make on this application.

Development Plan Policies

Kent Structure Plan 1996

Policy ENV15	(Built Environment)
Policy T17	(Parking)

Medway Local Plan 2003

Policy S12	(Kingsnorth)
Policy BNE1	(General Principles for Built Development)
Policy BNE2	(Amenity Protection)
Policy BNE23	(Contaminated Land)
Policy ED5	(Proposed Employment Areas)
Policy ED7	(Special Industrial Uses)
Policy ED8	(Industrial Uses Not in a Use Class)
Policy T1	(Impact of Development)
Policy T13	(Vehicle Parking Standards)

Kent and Medway Structure Plan (Deposit Version) 2003

Policy NK2	(Medway)
Policy QL1	(Quality of Development and Design)
Policy FP1	(Employment Land Provision)
Policy FP3	(Locations of Strategic Importance for Business, Industrial or Distribution Uses)
Policy TP2	(Transport and the Location of Development)
Policy TP11	(Development and Access to the Primary and Secondary Road Network)
Policy TP14	(Development Traffic and Heavy Goods Vehicles)
Policy TP19	(Vehicle Parking Standards)

Planning Appraisal

The main issues for consideration arising from this application are: matters of principle including economic development considerations; design and appearance; amenity considerations; contamination issues; transportation matters; and flood risk implications.

Strategic policy

Policy S12 of the adopted Local Plan identifies Kingsnorth as a location where Class B2 (General Industry) and Class B8 (Storage and Distribution) uses will be permitted. This Policy also seeks to preclude development, which would prejudice access to river, and seeks contributions towards improvements to A228 and/or rail link where appropriate. In this instance, the proposal would not prejudice access to river.

This strategic policy therefore supports the principle of the proposed development on the application site.

Economic development policies

Policy ED5 of the adopted Local Plan also identifies Kingsnorth as a site for general industrial (Class B2), warehousing and distribution (Class B8) and light industrial (Class B1(c)) uses. Additionally Policies ED7 and ED8 respectively identify Kingsnorth as a location for special industrial uses and uses not within a use class (sui-generis uses).

Policy FP3 of the Kent and Medway Structure Plan (Deposit Version) 2003 (the emerging Structure Plan) identifies Kingsnorth as a site of strategic importance for business, industrial or distribution uses.

The proposed development is consistent with the provisions of the aforementioned Development Plan policies, subject to a condition being imposed on any forthcoming planning permission prohibiting any of the units being occupied by office or research and development users (Classes B1(a) and B1(b)).

Design and appearance

The design and appearance of the proposed buildings falls to be assessed under the provisions of Policy ENV15 of the Structure Plan, Policy BNE1 of the Local Plan and Policy QL1 of the emerging Structure Plan. The proposed building would be of a standard industrial design and would be similar to other buildings that have been constructed recently within the vicinity of the application site. Having regard to the context of the application site, it is considered that the design and appearance of the proposed buildings are acceptable and accordingly no objection is raised to the application under the provisions of the aforementioned policies.

Amenity considerations

Having regard to the application site's relationship with neighbouring premises and the character of the area and nature of the proposed uses, it is considered that the proposed development will not adversely affect the amenities of the occupiers of adjoining premises. In amenity terms no objection is raised to the application under the provisions of Policy ENV15

of the Structure Plan, Policy BNE2 of the adopted Local Plan and Policy QL1 of the emerging Structure Plan.

Contamination

As there has been a previous industrial use on the site and as there is a possibility that parts of the site are on made up ground, the application site may be contaminated. Policy BNE24 of the adopted Local Plan requires an investigation to be carried out where there is a risk of contamination.

A contamination investigation was carried out in accordance with a condition imposed on a previous planning permission concerning this site. This earlier survey identified elevated levels of lead and zinc. Given this background and having regard to the fact that the current proposal relates to a larger area, the imposition of a condition requiring a further investigation of the site is recommended.

Transport issues

Policy T18 of the Structure Plan, Policy T1 of the adopted Local Plan and Policy TP11 address the need to ensure that the highway network has sufficient capacity to accommodate any additional traffic generated by a new development.

To assist with the assessment of the highway implications of the proposed development a transport assessment has been submitted with the application. This assessment has established that there are 20 staff on site, operating between 07.00 and 17.00 Mondays to Fridays, although the use has and can operate 7 days a week. Most staff travel to work by car, although one employee cycles to the site. Current traffic flows are 25 vehicles (20 in and 5 out) in the morning peak (08.00 to 09.00) and 25 vehicles out (5 in and 20 out) in the evening peak (17.00 to 18.00). In addition in a typical day there are 2 HGV deliveries/collections, 6 employee movements on or off the site and 4 medium goods deliveries/collections.

With respect to the proposed development the transport assessment indicates a likely morning peak hour flow of 39 vehicles (31 in and 7 out) and a likely evening peak hour flow of 26 vehicles (4 in and 22 out).

The road network serving the site, and the remainder of Kingsnorth, comprises Stoke Road, Ropers Lane and the A228.

It is considered that the additional traffic generated by the proposal will not be significant and that the local road network has sufficient capacity to absorb any additional traffic that will be generated by the proposed development. Accordingly no highway capacity or safety objections are raised to this proposal under the provisions of the aforementioned transportation policies.

The adopted Vehicle Parking Standards require the provision of one car space per 50m² (gross floor area) as a maximum, one cycle parking space per 500 m² as a minimum, together with adequate lorry parking. When these proposals are applied to the proposed development there is a maximum requirement for the provision of 36 car parking spaces and 6 lorry spaces. No objection in parking terms is raised to the application under the terms under the provisions of Policy T17 of the Structure Plan, Policy T13 of the adopted Local Plan and Policy TP19 of the emerging Structure Plan.

Flood risk

The comments of the Environment Agency are noted in this regard. However, having regard to: previous extant planning permissions which have been granted on this and on adjoining sites without the Agency passing comment to this affect; the existing development in the locality; and the fact that in all other respects the proposal is acceptable, it is considered that an objection based on the flood risk alone cannot be sustained. Policy CF13 of the adopted Local Plan contains a prohibition against development which amongst other things: harms the integrity of flood defences; and fails to provide a means of escape for people in the event of a flood. The proposal does not fail to satisfy any of these criteria. Accordingly, it is considered that these concerns can be addressed by means of the imposition of a condition on any forthcoming planning permission.

Conclusion and reasons for approval

The proposal is considered to be acceptable in terms of the strategic policy applicable to Kingsnorth, the promotion of economic development, design, traffic and parking considerations. It is also considered that the concerns relating to flooding can be satisfactorily addressed. The submitted application is therefore viewed as being in accordance with the provisions of Policies ENV15 and T17 of the Structure Plan and Policies S12, BNE1, BNE2 and T13 of the adopted Local Plan and is recommended for approval.

[The application would normally fall for determination under officers' delegated powers, but is being referred to Committee for consideration in view of the objection from the Parish Council, which is contrary to the officer recommendation.]

7 MC2005/0240

Date Received: 4th February 2005

Location: Rear of 30 Clarence Road, Chatham, Kent, ME4 5EH

Proposal: Outline application for construction of a two storey detached house with parking

Applicant: Mrs C Eastwood 30 Clarence Road Chatham Kent

Agent: Mr B Kendall B J Kendall & Associates 7 Noke Street Farm
Wainscott Rochester Kent ME3 8BJ

Ward: Luton & Wayfield

Recommendation – Refusal

- 1 The proposal by virtue of its limited plot size and the loss of garden to serve the existing dwelling would result in a cramped form of development that would fail to respect the character and amenities of the surrounding area and would therefore conflict with Policies ENV15 and ENV16 of the Kent Structure Plan 1996 and Policies BNE1 and H4 of the Medway Local Plan 2003.
- 2 The proposal, by virtue of the limited size of the plot, the proximity to neighbouring property, the two storey nature of the dwelling proposed and the height of the land, would result in a form of development that would cause harm to the amenities of occupiers of neighbouring properties by virtue of overlooking, domination and loss of outlook. Therefore the proposal is contrary to Policy ENV15 of the Kent Structure Plan 1996 and Policies BNE1 and BNE2 of the Medway Local Plan 2003.

Site Description

The application site comprises the rear garden area of 30 Clarence Road which is a detached bungalow with dormer to the rear. The property has also been extended to the rear at single storey level in the form of a conservatory. The property is located immediately adjacent to the junction between Clarence Road and Shipwrights Avenue.

The boundary with Shipwrights Avenue is a black brick wall approx. 18.m high. The garden of the property slopes up away from the existing property. Number 30 is sited approx. 2.8m higher than the properties on the opposite side of Clarence Road. The rear boundary of the site due to the slope of the land is at a similar level to the eaves of the roof of number 30. The boundary with number 32 is a chain link fence approx. 1m high. To the rear of the site within the curtilage, is a hardstanding platform with a picket fence approx. 1m high. The platform provides parking for up to two vehicles.

The street scene comprises of two-storey residential dwellings to the northwest, northeast and southeast. To the southwest of the site is an area of grass leading to open space further to the south of the site.

Proposal

The submitted application seeks outline planning permission for a house to the rear of 30 Clarence Road. All matters (siting, design, external appearance, means of access and landscaping) are reserved for future consideration.

Site Area/Density

Site area: 0.017ha (0.044acres).

Site density: 58.86 dph (22.72 dpa)

Relevant Planning History

MC2004/1472 Insertion of dormer windows to front and rear to facilitate conversion of roof space into additional living accommodation.
Approved 23 August 2004

Representations

The application has been advertised on site and neighbour notification letters have been sent to the owners and occupiers of 25, 27, 29, 28, 31 and 32 Clarence Road; 22 and 23 Oakum Court, Shipwrights Avenue and 4, 5 and 6 Sailmakers Court, Shipwrights Avenue.

No representations have been received.

Development Plan Policies

Kent Structure Plan 1996

Policy S2	(Environment)
Policy ENV15	(Built Environment)
Policy ENV16	(Urban Open Space and 'Town Cramming')
Policy H3	(Housing in Urban Areas)
Policy T17	(Parking Standards)

Medway Local Plan 2003

Policy BNE1	(General Principles for Built Development)
Policy BNE2	(Amenity Protection)
Policy H4	(Housing In Urban Areas)
Policy T1	(Impact of Development)
Policy T2	(Access to the Highway)
Policy T13	(Vehicle Parking Standards)

Kent and Medway Structure Plan (Deposit Version) 2003

Policy SP1	(Conserving and Enhancing Kent's Environment and Ensuring a Sustainable Pattern of Development)
Policy QL1	(Quality of Development and Design)
Policy QL5	(Quality and Density of Development)
Policy T19	(Vehicle Parking Standards)

Planning Appraisal

The application needs to be considered in the light of the following issues:

- Principle
- Street scene
- Impact on the amenities of occupiers of neighbouring property
- Highway Safety

Principle

The application site is situated within a predominantly residential area within the urban area. As such the general principle of development on this site is acceptable, having regard to the advice contained in PPG3 "Housing" and Policy H4 of the adopted Local Plan.

Street scene and design

The character and pattern of development within Clarence Road comprises predominantly of two-storey properties sited on long narrow plots. The application site is approx. 177.48m² of the rear garden of 30 Clarence Road. The proposed siting of any dwelling on this application site to rear of number 30 Clarence Road would result in a density of 56 dph. Guidance in PPG3 (Housing) puts density at between 30 to 50 dph. Although this range is only given as a guide, it is considered that in this respect, the construction of a dwelling on this site would result in a pattern of development that does not reflect the character of the area around Clarence Road and would result in an over development of the site. The application property would have only a limited garden area to serve it while the garden remaining to serve the existing property would be significantly reduced. This would be distinctly out of character with the layout, garden sizes and character of the other properties within Clarence Road. The proposal would prejudice the appearance of the streetscene and would be contrary to the provisions of Policies ENV15 and ENV16 of the Structure Plan, Policies BNE1 and H4 (ii) of the Medway Local Plan 2003 and Policies QL1 and QL5 of the Kent and Medway Structure Plan (Deposit Version) 2003.

Neighbours' amenities

Although no design or external appearance details have been submitted with the application, it is considered that due to the location of the application site to the rear and at a higher level than numbers 30 and 32 Clarence Road, the siting of a dwelling will be dominant and result in a detrimental impact on the amenities of occupiers of those properties. In addition and for the same reasons the proposed property would result in the overlooking and domination of numbers 30 and 32.

Given that the proposal is for a two-storey dwelling and when considered along with the higher land level that the dwelling would be built on, the proposal would have the potential to result in the overshadowing and loss of daylight to number 30 and other surrounding properties.

In terms of amenity space, if a dwelling similar in size (61.83m²) to the existing property at number 30 Clarence Road were to be located on the application site, the amenity area left for the site would be approx. 115.65m². The proposal also states that car parking will be

provided. Given that the minimum area for a single garage is approx. 13.2m², this further reduces the amenity space to approx. 102.45m². Most properties within Clarence Road have a garden area of approx. 153m² or above. Therefore in relation to other properties within Clarence Road, the application site would lack amenity space to serve the prospective occupiers of the proposed property.

For the reasons discussed above the proposal would be contrary to the provisions of Policy ENV15 of the Kent Structure Plan 1996, Policy BNE2 of the Medway Local Plan 2003 and Policy QL1 of the Kent and Medway Structure Plan (Deposit Version) 2003.

Highways

Due to its location, the application site is capable of providing adequate parking provision on site without compromising the safety of other highway users. The proposal would be in accordance with Policies T1 and T2 of the Medway Local Plan 2003.

With respect to car parking provision the adopted parking standards require up to 1.5 spaces to be provided per unit on average in the urban area. The applicant has not denoted the level of parking provision, however due to the size of the site in terms of area, it is unlikely that provision above one space could be accommodated. However, it is not considered that the provision of only one space will cause harm to the amenities of this area and no objection is raised to this aspect of the application under the provisions of Policy T17 of the Kent Structure Plan 1996, Policy T13 of the Medway Local Plan 2003 and Policy TP19 of the Kent and Medway Structure Plan (Deposit Version) 2003.

Conclusion

It is considered that the proposal would result in a cramped form of development with little amenity space around it and with little amenity space left to serve the existing property. In addition due to the land levels and limited size of the site any dwelling (particularly 2 storey) would result in overlooking, domination and overshadowing of adjoining properties detrimental to the amenities that the occupiers can reasonably expect to enjoy. The application is accordingly recommended for refusal.

[This application would normally fall for determination under delegated powers but is being reported for Committee determination at the request of Councillor Davis.]

8 MC2005/0426

Date Received: 9th March 2005

Location: Heron Way (rear of 9 Penfold Close), Chatham, Kent

Proposal: Application for Prior Approval Under Part 24 of The Town and Country Planning (General Permitted Development) Order 2001 for installation of 8m high slimline monopole with 3 antennae (total height 9.4m) with associated equipment housing and ancillary development

Applicant: Mr D Swallow Vodafone Limited TCI Willow Court Minns Business Park 7 West Street Oxford OX2 0JB

Agent:

Ward: Princes Park

Recommendation:

A Prior Approval be required for the siting and external appearance of the mast.

B Prior approval be granted subject to:

(as amended by drawings received on 11th April 2005)

- 1 The development hereby permitted shall be begun before the expiration of five years from the date of this permission.
- 2 Notwithstanding the submitted plans, the mast and equipment housing herein approved shall be powder coated to a colour to be approved in writing by the Local Planning Authority prior to the commencement of the development. The powder coating shall be carried out in accordance with these approved details prior to the bringing into operation of the mast and shall thereafter be maintained.

For the reasons for this recommendation for approval please see Planning Appraisal section and conclusions at the end of this report.

Site Description

The application site relates to a grass verge and lay-by on the south east side of Heron Way. Further to the south east, behind the proposed site, the land drops away steeply towards Redwing Road and Princes Avenue, set approximately 150 metres away. On the north east side of the road lie two-storey terraced dwellings whose rear gardens project towards the road; these properties are set approximately 1m higher than the road.

Proposal

This is a prior approval application where external appearance and siting only are to be considered and involves the erection of an 8 metre-high mast having a total height (including proposed three antennae) of 9.4 metres. The three antennae will be contained within a glass reinforced plastic shroud located at the top of the proposed mast.

The mast would also be accompanied by ancillary radio equipment housing measuring approximately 1.8 metres by 0.6 metres by 1.3 metres in height. It is proposed that no powder coating be used for the proposed mast so that it blends in with adjacent street lights and the radio equipment housing be painted a dark green colour.

The applicants are Vodafone who advise that much of their 2G Network is in place and they are now commencing rollout of their 3G networks. The applicants have submitted a detailed supporting statement that is paraphrased below:

Where appropriate 3G will be fitted to existing 2G sites however 3G antennae have a smaller network coverage than 2G bringing a requirement for further base stations. Therefore the intention is to provide a reliable 3G coverage in this area and as such, the development is required. Due to technical requirements of the 3G systems it has not been possible to identify an existing telecom mast within or outside the proposed cell that meets the coverage objectives. The applicant's have stated that they have undertaken a full site search including exploring the possibilities of mast sharing and have selected the proposed site as the preferred site available.

They acknowledge concerns relating to health and safety issues but would advise that the application has been accompanied by an ICNIRP self certification certificate – furthermore they advise that any emissions fall well below ICNIRP emission guidelines. They have carried out a wide range of consultations with interested bodies prior to submitting application. This included notifying Kingfisher Community Primary School approximately 300 metres from site. They have gone through the process of looking at alternatives to erection of a new mast but consider that given lack of suitable existing structures or masts that in design and siting terms the proposed installation is acceptable and meets the guidance set out in PPG8 and Medway Local Plan.

Representations

The application has been advertised on site and neighbour notifications have been sent to the owners and occupiers of numbers 5-18 (13 does not exist) and number 23 Snowdon Close.

Twelve letters have been received raising concerns on the following grounds:

- The proposal represents a health risk to residential properties
- The proposal represents an unsightly development

Development Plan Policies

Kent Structure Plan 1996

Policy ENV15 (Built Environment)

Medway Local Plan 2003

Policy BNE1	(Built Development)
Policy S4	(Landscape and Urban Design)
Policy CF14	(Telecommunications)

Kent and Medway Structure Plan (Deposit Version) 2003

Policy QL1	(Quality of Development and Design)
------------	-------------------------------------

Planning Appraisal

This is an application for prior approval and therefore the only issues for consideration are the siting and appearance of the proposed mast in relation to the surrounding area.

Siting and Appearance

The site lies within the urban area. The verge on which the mast and equipment cabins is to be sited forms part of the highway verge comprising a small green area fronting Heron Way. There are no trees save for some overgrown planting along this side of the road however there are a number of intermittent lighting columns approximately 8 metres in height on both sides of the road.

The site is directly overlooked by rear gardens of properties fronting Penfold Close. The mast and equipment cabinets will be visible from these properties although they will be set some (approximately) 35m away.

There are a number of street lamp columns in the immediate vicinity, which are similar in terms of height, location and appearance to the mast proposed. Accordingly, it is not considered that the mast and equipment cabin will be out of scale or character with the generality of street furniture in this location. Given that the land gradients sharply downhill towards the east, it is not considered that the proposed mast's siting and height would interrupt or adversely affect the setting of the area. In addition as the street lighting furniture are intermittently set apart from each other, it is not considered that the proposed mast would constitute visual clutter.

It is therefore considered that in size, design and siting terms the mast and associated equipment cabins will not result in an excessive loss of visual amenity to the area. However it is recommended that careful consideration be given to the powder coating of the proposed mast and equipment housing and therefore a condition controlling this aspect is recommended. The proposal is therefore considered in accordance with Government guidance on design and siting set out in PPG1 and PPG8, policy ENV15 of the KSP, policies BNE1 and CF14 of the Medway Local Plan 2003 and QL1 of the Kent and Medway Structure Plan (Deposit Version) 2003.

Health concerns

Government advice set out in PPG8 confirms that health considerations and public concern can, in principle, be material considerations in determining applications for planning permission and prior approval.

However paragraph 98 of PPG8 states: *“However it is the Government’s firm view that the planning system is not the place for determining health safeguards. It remains central Government’s responsibility to decide what measures are necessary to protect public health”*

Furthermore when making an application for Prior Notification Approval there is now a requirement, amongst other things, that it should be accompanied by a statement confirming that a proposed mobile base station when operational, will meet the ICNIRP guidelines.

An ICNIRP certificate has been submitted with the application and taking into account the provisions of paragraph 98 above, the Council is not in a position to challenge the proposal on health grounds. In any case the applicants have stated that the exposure levels would be thousands of times less than the ICNIRP safety recommendations and given their evidence there would appear to be insufficient evidence to demonstrate that any adverse health effects would arise from the proposal.

Conclusions and Reasons for approval

It is considered that the proposed mast and equipment cabin will not be particularly obtrusive in the street scene and will reflect, in terms of siting and appearance, existing street furniture. Accordingly, it is considered that the proposal is in compliance with government guidance and the above relevant policies and that prior approval be required and approved.

[This application would normally all to be determined under Officers’ delegated powers but is reported for Members’ attention owing to the number of representations received contrary to the recommendation.]

9 MC2005/0477

Date Received: 10th March 2005

Location: Land adj. to Bredgar Road, Gillingham, Kent

Proposal: Application for Prior Approval Under Part 24 of The Town and Country Planning (General Permitted Development) Order 2001 for installation of 15 metre high mast with 6 antennas and associated equipment cabinet (1.6m high, 0.7m wide and 1.8m long)

Applicant: O2

Agent: Mr R Henderson, Turner and Partners, The Old Hospital Ardingly Road, Cuckfield, Haywards Heath, West Sussex

Ward: Twydall

Recommendation – Prior Approval Not Required

For the reasons for this recommendation for approval please see Planning Appraisal section and conclusions at the end of this report.

Site Description

The application site comprises a small hard paved area adjacent to the northern elevation of number 1 Bredgar Road, which is small industrial unit. The application site is situated within an industrial estate that comprises a number of units of varying sizes.

There is a telecommunication mast located to the east of the application site.

Proposal

The submitted application is for “prior approval” and has been submitted pursuant to Part 24 of the Town and Country Planning (General Permitted Development) Order 1995. The application proposes for the installation of a 15 metre high mast to support 6 telecommunications antennas and the installation of an associated equipment cabinet that would be 1.8 metres wide, 0.8 metres deep and 1.65 metres high.

The submitted application documentation includes a certificate confirming that the proposal complies with the ICNIRP standards.

It is submitted that this installation will replace an earlier proposal to install a 12 metre high mast at the junction of Beechings Way and East Court Lane, which was the subject of Prior Approval application MC2004/2692 for which it was determined that prior approval was not necessary.

Relevant Planning History for Telecommunications Equipment Within the Vicinity of the Application Site

MC2000/0046	Prior Approval for the installation of telecommunications apparatus Land at Derfshaw, Bredgar Road Prior Approval not required 31 January 2000
MC2001/0587	Enlargement of a telecommunications enclosure, replacement of a mast (15m) with a lattice tower (25m), erection of seven additional antennae and an equipment cabin Land at Derfshaw, Bredgar Road Approved 30 May 2001 but not implemented
MC2003/0272	Installation of an 18 metre lattice tower with 3 antennas and 3 dishes together with associated equipment cabinets in a secure compound Adjacent to 199 Eastcourt Lane Refused 17 March 2003
MC2004/2692	prior Approval for the installation of a 12m high telegraph pole-style mast with three internal antennae and associated equipment cabinet Junction of Beechings Way and East Court Lane Approved 21 January 2005

Representations

The application has been advertised on site. Neighbour notification letters have been sent to the owners and occupiers of following properties: 1, 2, 3, 4, 15, 16 and 18 Bredgar Road and Bowen House, Kings Ferry, Lennox Sandry Co Ltd, Universal Engineers Peckham Ltd, Kestner Engineering Co Ltd, GSE Plant Hire and Dershaw Limited.

Five letters have been received objecting to the application for the following reasons:

- Health concerns for employees working at premises adjoining the proposed installation; and
- Impact on computer systems.

Councillor Griffiths has written as Ward Councillor commenting that it is preferable to have this mast sited within an industrial area rather than a residential area because commercial premises will be occupied for less time than residential properties, reducing exposure to emissions emanating from the equipment.

Development Plan Policies

Kent Structure Plan 1996

Policy ENV15	(Built Environment)
Policy T21	(Telecommunications)

Medway Local Plan 2003

Policy BNE1	(General Principles for Built Development)
-------------	--

Policy CF14 (Telecommunications)

Kent and Medway Structure Plan (Deposit Version) 2003

Policy QL1 (Quality of Development and Design)

Planning Appraisal

Background

Although this proposal constitutes 'permitted development' and so does not require the submission of a full planning application for planning permission, the developer is required to apply for a determination as to whether the prior approval of the local planning authority is required for the siting and appearance of the proposed development. This means that the only matters, which can be considered, within the context of this prior approval submission, are the siting and appearance of the proposed development.

The applicant has stated that it originally planned to change the orientation of existing antennae on an existing multi-operator mast within this industrial estate, but it has been unable to do this due to a restrictive covenant on the land that limits the use of the land to industrial uses only. The applicant has been unable to lift this covenant during its attempts during the past year.

In assessing this application regard must be paid to both central Government guidance and Development Plan policies. Government guidance is set out in Planning Policy Guidance Note 8 "Telecommunications" (2001) (PPG8) and generally promotes the growth of new and existing telecommunications systems whilst keeping the environmental impact to a minimum".

Siting

The proposed location for this installation is at the end of Bredgar Road on highways land adjacent to the industrial estate. This siting is therefore not subject to the covenant that applies to the premises within this industrial estate. The application site is close to a dead end within the estate and will therefore not generally be visible to passing traffic or pedestrians. The proposed mast will be sited close to industrial buildings and will therefore not generally be visible outside the estate.

It is considered that in siting terms this is an appropriate location for the proposed development.

Appearance

Having regard to the character and appearance of the adjoining industrial premises, it is considered that, while this installation will have a utilitarian appearance, it will not detract from the character or appearance of the surrounding area.

It is therefore considered that the proposed development will have an appropriate appearance in this location.

Other matters

Concern has been raised in respect of the potential adverse health effects of mobile phone masts and equipment. Planning Policy Guidance (PPG) Note 8 “Telecommunications” states that *‘...it is the Government's firm view that the planning system is not the place for determining health safeguards. It remains central Government's responsibility to decide what measures are necessary to protect public health. In the Government's view, if a proposed mobile phone base station meets the ICNIRP guidelines for public exposure it should not be necessary for a local planning authority, in processing an application for planning permission or prior approval, to consider further the health aspects and any concerns about them...’*

In this respect it is to be noted that in a recent case, to which application MC2002/1809 refers, for the installation of telecommunications equipment opposite the junction of Maidstone Road and Fairview Avenue, Wigmore, which is a residential area, the application was refused by the Council for three reasons, the second of which was:

“The proposed development is for the expansion of the service offered by the applicant, namely the provision of enhanced in-building signal reception and will therefore result in the generation of additional electromagnetic emissions within the reception of the application site...[the development] is perceived by the community as having an unacceptable health risk which outweighs the fact that the equipment is in compliance with the International Commission on Non-Ionising Radiation Protection (ICNIRP) guidelines referred to in ‘PPG 8 – Telecommunications (2001)’. Its installation will therefore be harmful to the amenity of those who live and play in the area.”

The applicant appealed against this decision and this appeal was allowed. The Inspector in determining the appeal considered the concerns regarding health matters and determined that because the proposal was ICNIRP compliant and no compelling evidence of the risks to health had been presented by the objectors, that this concern was not of sufficient strength to outweigh the findings of the Stewart Report and Government Guidance set out in PPG8.

The applicant's agent has confirmed that the proposals the subject of the current submission will comply with the ICNIRP (International commission on Non-Ionising Radiation Protection) guidelines for public exposure, therefore objections to the siting of the equipment on health grounds cannot be substantiated as a planning reason for raising an objection to the proposed development.

Conclusion and reasons for the recommendation

Taking the above matters into consideration, the appearance and siting of the mast, antennae and base station are considered to be acceptable and the proposal is considered to be in accordance with the provisions of Policies ENV15 and T21 of the Structure Plan, Policies BNE1 and CF14 of the adopted Local Plan and Policy QL1 of the Kent and Medway Structure Plan 2003 (Deposit Version) 2003 (the emerging Structure Plan).

Taking these factors into account it is recommended that Prior Approval is not required in this case.

[This application would normally fall to be considered under the officer's delegated powers but is being reported for Member's consideration because of the number of representations that have been received which are contrary to the officer recommendation.]