

MC/15/3949

Date Received: 5 November, 2015

Location: Rear Of 2 - 4 Wigmore Road, Wigmore, Gillingham, ME8 0SP

Proposal: Outline application with some matters reserved (landscaping) for construction of 2 single storey two-bedroom dwellings with associated parking

Applicant: Wigmore Fish Bar Ltd

Agent: Mr R A Clayton Robert A Clayton Building Plans 32 Watling Street
Gillingham Kent ME7 2YH

Ward Rainham Central

Recommendation of Officers to the Planning Committee, to be considered and determined by the Planning Committee at a meeting to be held on 6 April 2016.

Recommendation – Approval with conditions subject to;

A. The applicant signing a Unilateral Undertaking under Section 106 of the Town and Country Planning Act 1990 to secure £447.16 (£223.58 per dwelling) towards Designated Habitats Mitigation;

B. The following conditions:-

- 1 Approval of the details of the landscaping (hereinafter called “the reserved matter”) shall be obtained from the Local Planning Authority in writing before any development is commenced. The landscaping scheme as approved by the Local Planning Authority shall be implemented by a date to be agreed in writing by the Local Planning Authority. Any trees or plants which within 5 years of planting are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species.

Reason: To accord with the terms of the submitted application and to ensure that these details are satisfactory.

- 2 Plans and particulars of the reserved matter 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.

Reason: To comply with Section 92(2) of the Town and Country Planning Act 1990.

- 3 The development to which this permission relates must be begun no later than the expiration of 2 years from the final approval of the reserved matter or in the case of approval on different dates, the final approval of the last such matter to be approved.

Reason: To comply with Section 92 of the Town and Country Planning Act 1990.

- 4 The development hereby permitted shall be carried out in accordance with the following approved plans: site location plan, drawings no's 96.11.01/24 & 96.11.01/25 received on 23 November 2015.

Reason: For the avoidance of doubt and in the interests of proper planning.

- 5 No dwelling herein approved shall be occupied until a plan indicating the positions, design, materials and type of boundary treatment to be erected has been submitted to and approved in writing by the Local Planning Authority. The boundary treatment shall be completed in accordance with the approved details prior to the dwellings being occupied and shall thereafter be retained.

Reason: To ensure that the appearance of the development is satisfactory and without prejudice to conditions of visual amenity in the locality, in accordance with Policy BNE1 of the Medway Local Plan 2003.

- 6 No development above slab level shall take place until details and samples of all materials to be used externally have been submitted to and approved in writing by the Local Planning Authority, and the development shall thereafter be carried out in accordance with the approved details.

Reason: To ensure that the appearance of the development is satisfactory and without prejudice to conditions of visual amenity in the locality, in accordance with Policy BNE1 of the Medway Local Plan 2003.

- 7 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order amending, revoking and re-enacting that Order with or without modification) no development shall be carried out within Classes A, B, C, D, E, F and G of Part 1 and Class A of Part 2 of Schedule 2 of that Order unless planning permission has been granted on an application relating thereto.

Reason: To enable the Local Planning Authority to control such development in the interests of amenity, in accordance with Policies BNE1 and BNE2 of the Medway Local Plan 2003.

- 8 Prior to the first occupation of any of the dwellings herein approved, a solid 3 metre high barrier of at least 10 kg per metre squared, as detailed on the drawing number 96.11.01/23, shall be erected along the western boundary of the site and shall thereafter be retained.

Reason: To protect the residential amenities of the future occupiers of the bungalows from noise and to comply with Policies BNE2 and BNE9 of the Medway Local Plan 2003.

- 9 Prior to any development above slab level, a Mechanical Ventilation with Heat Recovery system (MVHR) for each of the dwellings herein approved shall be submitted to and approved in writing by the Local Planning Authority. The approved MVHR system shall be installed in accordance with the approved details and shall be made operational prior to the first occupation of any of the dwellings and shall thereafter be maintained as such.

Reason: To accord with the provisions of Policy BNE2 of the Medway Local Plan 2003.

- 10 Prior to the first occupation of any of the dwellings herein approved, until details of new chilling units, their siting and means of enclosure shall be submitted to and approved in writing by the Local Planning Authority. The chilling units shall be implemented in accordance with the approved details prior to the first occupation of any of the dwellings.

Reason: In the interests of the residential amenities of the occupiers of the bungalow and in compliance with Policy BNE2 of the Medway Local Plan 2003.

- 11 Prior to the first occupation of any of the dwellings herein approved details of a domestic sprinkler system to be installed in the bungalows shall be submitted to and approved in writing by the Local Planning Authority. The sprinkler system shall be implemented in accordance with the approved details prior to first occupation of the dwellings and shall thereafter be maintained.

Reason. Due to width of the access a fire appliance would have restricted access and as such a sprinkler system would protect the amenity of future residents and to accord with Policy BNE2 of the Medway Local Plan 2003.

- 12 The erection of fencing for the protection of the retained tree on the western boundary shall be undertaken in accordance with details submitted in the arboricultural report, reference AR/0111/05-11 dated 5 May 2011, 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.

Reason: Pursuant to condition 197 of the Town and Country Planning Act 1990 and to protect and enhance the appearance and character of the site and locality, in accordance with Policies BNE1 and BNE6 of the Medway Local Plan 2003.

- 13 Prior to the first occupation of any of the dwellings herein approved, the area shown on the submitted layout (drawing number 96.11.01/24) as vehicle parking space and turning area shall be provided, surfaced, drained and marked out on site. Thereafter it shall be kept available for such use and no permanent development, whether or not permitted by the Town and Country Planning (General Permitted Development) Order 2015 (or any order amending, revoking or re-enacting that Order) shall be carried out on the land so shown or in such a position as to preclude vehicular access to this reserved parking space and garaging.

Reason: Development without provision of adequate accommodation for the parking or garaging of vehicles is likely to lead to hazardous on-street parking and in accordance with Policy T13 of the Medway Local Plan 2003.

- 14 No construction works in respect of the development hereby permitted, shall commence until the necessary works to widen the access driveway and associated works to the flank walls on both sides of the access driveway have been implemented in full. Thereafter the access driveway shall be kept available for such use and no permanent development, whether permitted by the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking, re-enacting or modifying that Order), shall be carried out on that area or in such a position to preclude its use.

Reason: Required before commencement of development to avoid detrimental impact on residential amenities and highway safety both during construction and upon completion of the development and in accordance with Policies BNE2 and T2 of the Medway Local Plan 2003.

- 15 No development shall commence until details of the finished floor levels of the dwellings hereby permitted, in relation to the existing levels, have been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be implemented in accordance with the approved details.

Reason: Required before commencement of development to avoid any irreversible detrimental impact on surrounding residential amenities and in accordance with Policy BNE2 of the Medway Local Plan 2003.

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

Proposal

This is an outline application for the construction of 2 x single storey two-bedroom dwellings with associated parking, with landscaping reserved for future consideration.

The application site is part of a larger land holding that includes properties fronting Hoath Lane/Wigmore Road to the front, together with land immediately to the north which has the benefit of an extant planning permission for 4 bungalows (MC/13/3021). The site is accessed via a private drive between 48 Hoath Lane and 2 Wigmore Road,

which also serves the site of the proposed four bungalows. To the rear (west of the site) is an area of woodland, separating the site from Hoath Way.

The proposed bungalows would be located behind 2 & 4 Wigmore Road and would continue the line of development, established by the four bungalows to the north. Each bungalow would measure approx. 8m wide by 10m deep with a gross internal floor area of approx. 64.5 sq. m. and would rise to a ridge height of approx. 4m (compared to 3.8m for the adjacent bungalows). A total of 7 car parking spaces, plus a delivery space, are shown, serving the proposed bungalows, the four approved bungalows and the shops. The previous scheme showed 4 car parking spaces plus a delivery space.

The application is accompanied by a Planning Statement, an Arboricultural report and a noise assessment.

Site Area/Density

Site Area (excluding drive) : 0.39 hectare (0.96 acre)
Site Density: 51.2 dph (20.75 dpa)

Relevant Planning History

MC/13/2031	Outline application with some matters reserved (appearance and landscaping) for the construction of four number single storey dwellings with provision of associated parking and access Refused 27/11/2013 Appeal Allowed with Conditions 13/05/2014
MC/11/2407	Outline application for construction of 4 bungalows to provide sheltered housing for the over 55's (Re-submission of MC/10/3434) Refused 03/01/2012 Appeal Dismissed 04/02/2013
MC/10/3434	Outline application for construction of 4 bungalows to provide sheltered housing for the over 55's (Re-submission of MC/09/2135) Refused 21/02/2011
MC/06/1506	Construction of a 5-bedroomed detached house with attached double garage (revised application to MC2005/2181) Refused 27/09/2006 Appeal Dismissed 14/06/2007
MC/05/2181	Construction of a 5-bedroomed detached house with attached garages Refused 28/04/2006
MC/05/1027	Outline application for construction of a detached dwelling,

replacement garage to 2 Wigmore Road and improvements to existing access adjacent to 48 Hoath Lane
Refused 19/07/2005
Appeal UPHeld 27/01/2006

MC/04/0319 Outline application for construction of a new house; replacement garage to 2 Wigmore Road and improvements to existing access adjacent to 48 Hoath Lane.
Refused 08/06/2004
Appeal Dismissed 21/02/2005

MC/04/0159 Reserved matters application pursuant to outline planning permission MC2001/1076 for construction of detached dwelling with detached double garage
Approved with Conditions 01/04/2004

MC/03/2213 Outline application for the construction of one bungalow and one house together with access and car parking
Decision Refusal
Decided 16/12/2003

MC/03/1820 Outline application for the construction of 1 No two storey and 1 No single storey dwellinghouses with associated amenity areas and parking
Withdrawn by Applicant 28/08/2003

MC/02/1206 Outline application for the construction of a detached bungalow; two flats in a 2 storey building; associated amenity areas and car parking together with single storey rear extension to existing building at 48 Hoath Lane.
Refused 13/09/2002
Appeal Dismissed 02/04/2003

MC/01/1076 Outline application for a detached dwelling with detached double garage (revised scheme)
Approved with Conditions 04/09/2001

MC/00/0798 Outline application for the erection of a detached dwelling and detached double garage.
Refused 31/10/2000
Appeal UPHeld 02/04/2001

MC/99/5342 Outline application for the erection of a detached bungalow and garage together with associated parking and access including demolition of existing extension to side of 48 Hoath Lane.
Refused 28/09/1999
Appeal Dismissed 28/04/2000

Representations

The application has been advertised on site and by individual neighbour notification to the owners and occupiers of neighbouring properties. Kent Fire and Rescue Service have also been consulted.

Wigmore Residents Association has written objecting on the grounds that:

- Backland development which is not appropriate in this location;
- Overlooking of adjoining properties;
- Additional traffic generated onto a busy road will increase risk of accidents.

3 letters have been received (2 from same household raising the following objections:

- The access is opposite a busy junction and next to shops, and the proposal will increase risk of accidents;
- Overlooking/loss of privacy;
- Noise disturbance, particularly at night;
- Backland development;
- No trees should be lost;
- Over development.

Development Plan

The Development Plan for the area comprises the Medway Local Plan 2003. The policies referred to within this document and used in the processing of this application have been assessed against the National Planning Policy Framework 2012 and are considered to conform.

Planning Appraisal

Background

There has been extensive planning history relating to this site and to neighbouring land within the same ownership, the most recent being application MC/13/2031 for outline permission for 4 bungalows on land immediately to the north, which was refused on 14 November 2013 for the following reasons:

- 1 *The development by virtue of the size of the footprint, the relationship with surrounding buildings, non compliance with Medway Housing Design Standards and limited garden sizes would constitute an overdevelopment of the site and result in a cramped form of backland development that would cause harm to the character and appearance of the area and be contrary to the National Planning Policy Framework 2012 promotion of good design, Medway Council's Housing Design Standards 2011 and policies BNE1 and H9 of the Medway Local Plan 2003.*
- 2 *The proposed development, by virtue of its proximity to take aways and*

chiller units, would result in a poor level of amenity for prospective occupiers of the development due to noise, smell and general disturbance. The development would therefore be contrary to Policy BNE2 of the Medway Local Plan 2003.

- 3 *The proposed development would intensify the use of an existing access onto Hoath Lane where off street parking bays significantly restrict visibility to the north and south. Compounded by the high volume of traffic undertaking turning movements at the adjacent junction, the intensification in use of this access would have a negative impact on highway safety and increase the risk of road traffic accidents, contrary to policy T2 of the Medway Local Plan 2003.*
- 4 *The development by virtue of the limited garden size and the need for an extensive 3m high fence along the rear boundary to provide noise mitigation, would result in a poor level of amenity for prospective occupiers contrary to the provisions of Policy BNE2 of the Medway Local Plan 2003.*

A subsequent appeal against the refusal of planning permission was allowed on 13 May 2014. In his decision letter, the Inspector considered that the main issues were the effect on the character and appearance of the area, the effect on highway safety and the effect on the living conditions of future occupiers.

In terms of character and appearance, he noted that *"there would only be limited views of the proposed dwellings down the vehicle pedestrian access. Taking into account the single storey nature of the development, the drop in levels on the site and the fact that the dwellings would have a lower finished floor level than the frontage buildings the development would not be prominent or unduly harmful to the appearance of the area".* He did not disagree with the assessment made by the Inspector in the previous appeal (MC/11/2407) that *"the proposal would not appear cramped on the site as it would stand in a relatively spacious context and that neither the bungalows nor their plot sizes would be discordant. The trees were also considered in the previous appeal and the Inspector found that the proposal would not give rise to unacceptable pressure."* The Inspector could find no conflict with Policy BNE1 and H9 of the Medway Local Plan 2003.

In terms of highway safety, the Inspector noted that the access would be widened to *"provide sufficient width to allow two vehicles to pass which would allow vehicles to enter and leave the site with less impact on the highway. With low traffic flows, this was recognised as a benefit to highway safety."*

In terms of living conditions, the Inspector *"did not consider the marginal deficiencies highlighted would make the proposed dwellings unacceptable. Due to the orientation, siting and levels of the proposed units, relative to existing buildings, any overlooking would be at an oblique angle, such that there would be no harmful loss of privacy."*

The Inspector noted that whilst disturbance and smell from the hot food take-away had been raised, *"no substantive evidence has been presented to show the operation of these premises would cause unacceptable harm to future occupiers."*

It was recognised that the refrigeration and other units located to the rear of the frontage properties were in control of the appellant and a condition could be imposed requiring their replacement and re-location to an appropriate alternative position. This would reduce any nuisance or disturbance to future occupiers.

It was noted that "a 3m high fence to the rear (western) boundary would acceptably reduce traffic noise to the dwellings and gardens.... Further features would reduce the overall visual impact and interest to the boundary treatment, which with associated planting would not be overly oppressive and provide a satisfactory appearance."

In considering the current application, the primary issue would be the impact of an additional two bungalows over and above the previously approved four units.

Principle

Policy H4 of the Medway Local Plan 2003 states that within the urban area, residential development consisting of, the use of vacant or derelict land and residential infilling will be permitted (providing that a clear improvement in the local environment will result). The land is currently vacant and derelict and in this regard, the proposal would result in an improvement to the local environment and would therefore comply with Policy H4. In addition, Paragraph 49 of the NPPF states that housing applications should be considered in the context of the presumption in favour of sustainable development and the proposal, therefore would accord with the NPPF.

The proposal amounts to backland development and Policy H9 states "Backland development will be permitted only when it does not constitute piecemeal development that would threaten the comprehensive development of a wider area. Tandem development will not be permitted. Backland development will be permitted when:

- (i) there is no loss of privacy from overlooking adjoining houses and/or their back gardens;
- (ii) there is acceptable vehicular access;
- (iii) there is no significant increase in noise or disturbance to adjacent residents from traffic using the access;
- (iv) existing natural features, such as trees, which contribute to the amenity of the area are retained or conserved;
- (v) there is adequate private amenity space for the existing and proposed dwellings; and
- (vi) the character and amenity of the area as a whole is maintained.

Subject to more detailed consideration of this aspects in the sections below and given that the principle of the development of the land to the rear of these properties was accepted with the previous grant of planning permission on appeal, no objection is raised to the current application under Policies H4 and H9 of the Medway Local Plan 2003 and Paragraphs 49 and 51 of the NPPF.

Design and appearance

The proposal is for low height bungalow units. The proposed development would be

screened from the road, behind the existing frontage development. Whilst there would be views along the access between 48 Hoath Lane and 2 Wigmore Road to the back of the site this would be restricted. Given the fall in ground levels from the east to west and diminution of the profile of the proposed terrace it is considered that the development would have minimal impact on the character and appearance of the street scene. Having regard to the above considerations and to the Inspector's comments, no objection is raised under Policies BNE1 and H9(vi) of the Medway Local Plan 2003 in terms of design and appearance and the character of the area.

Housing Design Standards

The DCLG's Technical Housing Standards provide a nationally described space standard. This specifies a minimum gross internal floor area (GIA) of 61 sq. m for a two bedroom, three person bungalow. The proposed bungalows would be identical in terms of layout and floorspace to those approved on the adjoining site and would have a GIA of approx 64 sq. m. Having regard to the Inspector's comments, no objection is raised in terms of Housing Design Standards.

Amenity

The proposed bungalows would be located approx. 15m from the rear of the properties to the east, 2 & 4 Wigmore Road. 2 Wigmore Road is a detached two storey building in retail use with ancillary residential accommodation, whilst, 4 Wigmore Road is a detached bungalow. Screening is proposed along the eastern boundary to the application site, thereby ensuring no overlooking. The proposed development would not result in any detrimental loss of light or outlook to neighbouring properties and no objection is therefore raised in this regard under Policies BNE2 and H9(i) of the Medway Local Plan 2003.

When the application for the 4 bungalows to the north was considered, it was accompanied by a Noise Assessment. This assessment has now been amended to include the 2 additional bungalows now proposed. There are two noise sources which could affect the proposed development: traffic from Hoath Way and noise from the chilling units to the rear of the hot food take-away at 48 Hoath Lane.

With regard to traffic noise from Hoath Way the noise report recommends a 3m high solid fence along the western boundary as a mitigating measure to reduce noise level to an acceptable level. As stated above, the Inspector considered that a 3m high fence would acceptably reduce traffic noise to the dwellings and gardens. A condition is recommended that this fence be erected prior to the occupation of any of these bungalows. Subject to this condition, no objection is raised under Policy BNE2 in terms of road traffic noise.

With regard to noise from the chilling units, The Inspector concluded that no substantive evidence has been presented to show the operation of these premises would cause unacceptable harm to future occupiers. However, in granting planning permission, he imposed a condition requiring, details of new refrigeration units and other units to be submitted to and approved by the Local Planning Authority prior to occupation of the bungalows. The bungalows proposed under the current application are slightly further from the rear of the hot food take-away. However, it is

recommended that this condition is also imposed on the current application as the bungalows now proposed could be built before those to the north. Subject to this condition, no objection is raised in this regard under Policy BNE2 of the Medway Local Plan 2003.

The inspector raised no concerns with regard to the impact of the additional vehicle movements on the amenities of the occupier(s) of 2 Wigmore Road. It is considered that the traffic generated by two additional units would also have minimal impact on the living conditions of those occupiers of that property and in this regard no objection is raised under Policies BNE2 and H9(iii) of the Medway Local Plan 2003.

Trees

The trees to the west of the site are subject to a Tree Preservation Order(TPO). No trees are proposed to be felled under the application and tree protection measures are recommended. The report recommends some coppicing for arboricultural reasons.

The Inspector took the view that the impact of the trees with regard to light to the bungalows is not unreasonable, and even if there were subsequent pressure to fell some of these to improve light to the site the value of such work would be limited as trees of a similar height stand behind/further to the west. He also considered that the buildings would be outside the root protection area of these trees and felt that the construction of the bungalows would not cause harm to their long term future

Accordingly the proposal would not give rise to unacceptable pressure to fell or to drastically reduce adjacent trees and in this regard the proposal would comply with Policies BNE1 and BNE43 or H9(iv) of the Medway Local Plan 2003.

Highways

The adopted vehicle parking standards require the provision of 1.5 car parking spaces for a two bedroom unit. The application proposes a total of 7 car parking spaces for the development as a whole, plus a delivery space. Taken in the context of the previously approved 4 units, this represents 7 spaces and 1 delivery space to serve 6 units and in this regard the proposal is considered acceptable and no objection is raised under Policy T13 of the Medway Local Plan 2003.

The Inspector noted that the access would be widened to provide sufficient width to allow two vehicles to pass which would allow vehicles to enter and leave the site with less impact on the highway and recognised that with low traffic flows, this was a benefit to highway safety. It is considered that allowing an additional two units to be served by this improved access would not result in any additional harm in terms of highway safety and no objection is, therefore raised under Policies H9(ii), T1 and T2 of the Medway Local Plan 2003.

Bird Mitigation

As the application site is within 6km of the North Kent Marshes SPA/Ramsar Sites, the proposed development is likely to have a significant effect, either alone or in-combination, on the coastal North Kent Special Protection Areas (SPAs)/Ramsar

sites from recreational disturbance on the over-wintering bird interest.

Natural England has advised that an appropriate tariff of £223.58 per dwelling (excluding legal and monitoring officer costs, which separately total £550) should be collected to fund strategic measures across the Thames, Medway and Swale Estuaries. The strategic measures are in the process of being developed, but are likely to be in accordance with the Category A measures identified in the Thames, Medway & Swale Estuaries Strategic Access Management and Monitoring Strategy (SAMM) produced by Footprint Ecology in July 2014.

The interim tariff stated above should be collected for new dwellings, either as new builds or conversions (which includes HMOs and student accommodation), in anticipation of:

- An administrative body being identified to manage the strategic tariff collected by the local authorities;
- A memorandum of understanding or legal agreement between the local authorities and administrative body to underpin the strategic approach;
- Ensure that a delivery mechanism for the agreed SAMM measures is secured and the SAMM strategy is being implemented from the first occupation of the dwellings, proportionate to the level of the housing development.

The applicant has agreed to pay this tariff in principle. Subject to the applicant entering into a s106 agreement to secure this contribution, no objection is raised under Paragraph 118 of the NPPF and Policies S6 and BNE35 of the Medway Local Plan 2003.

Local Finance Considerations

There are no local finance considerations raised by this application.

Conclusions and Reasons for Approval

The principle of the proposed development is acceptable and it is considered that the proposal would not cause harm to the character and appearance of the locality. Subject to satisfactory noise mitigation measures, the proposal would result in the creation of an acceptable living environment for the future occupiers of these bungalows. The impact on the highway, trees and the amenities of the occupiers of adjoining properties is not unacceptable, and no objection is raised in terms of traffic generation and parking. The applicant is agreeable to pay a contribution towards bird mitigation. The application would therefore comply with Policies S6, H4, H9, BNE1, BNE2, BNE35, BNE43, T1, T2 and T13 of the Medway Local Plan 2003 is therefore recommended for approval.

The application would normally be determined under delegated powers but is being referred for Committee determination due to the extent of representations received and that the Committee have been involved in previous decisions.

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 Representations section within the report.

Any information referred to is available for inspection in the Planning Offices of Medway Council at Gun Wharf, Dock Road, Chatham ME4 4TR and here <http://publicaccess.medway.gov.uk/online-applications/>