

Planning Committee – Supplementary agenda no.2

A meeting of the Planning Committee will be held on:

Date: 20 December 2023

Time: 6.30pm

Venue: St George's Centre, Pembroke Road, Chatham Maritime, Chatham
ME4 4UH

Items

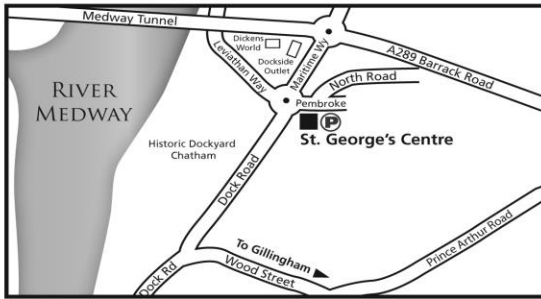
- 17 **Additional Information - Supplementary Agenda Advice Sheet No.2** (Pages 3 - 14)

Additional information on Planning Application MC/23/0106 Land at Middle Stoke.

For further information please contact Julie Francis-Beard, Democratic Services Officer on Telephone: 01634 332012 or Email:

democratic.services@medway.gov.uk

Date: 21 December 2023



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A summary of this information can be made available in other formats from **01634 333333**

Planning Application MC/23/0106 Land at Middle Stoke

Ward Councillor Christopher Spalding's Submissions for Meeting 20 December 2023

Preliminary - The right to address the committee.

1. On 30 November 2023 I received an email from the chair of the committee advising this matter was coming back to committee. The Chair advises that because I have spoken twice, I will not be allowed to address the committee for a third time.
2. However, I am afforded the opportunity to provide written representation if so advised but these representations have to be submitted by noon on 13 December 2023.
3. Residents and I believe this is not only unfair to the residents, but it is also undemocratic particularly in the circumstances.
4. This is the third time this application has come to committee. If All Saints were a three member ward then the residents would benefit from verbal presentations and submissions by a ward councillor, albeit a different one, on each occasion the application comes before committee.
5. Not to allow the ward councillor for a single member ward to speak because they have already spoken twice before is simply unfair to residents and I suggest undemocratic.

A ward councillor speaking at committee has in effect a week to prepare what they are going to say following the publishing of the agenda which contains the officers report.

The agenda with the officer's report, was emailed out at 3.36 pm on Tuesday 12 December. Having to provide written submissions by 12 noon on 13 December gives the ward councillor a few hours rather than days. Assuming of course that the ward councillor has that time available to them because they are not at work. Again, this is not just unfair but clearly, in my opinion, undemocratic.

In my case I have had to delay work on a Kent Police matter in order to attend to these written submissions.

Representations

Recent History

On 27 September the application for nine new dwellings came before the committee. It was recommended for approval with Twenty Four (24) conditions. Prior to the meeting condition 23 was amended.

Members are asked to study those 24 conditions. Members will note there is not a condition the application be referred to the Health and Safety Executive (HSE). Quite rightly the HSE needed to be consulted and the minutes reflect this.

Decision: Approved with conditions 1 to 24 as set out in the report for the reasons stated in the report and subject to notifying the HSE.

Condition 23 to be amended as follows:

23. Prior to occupation (or within an agreed implementation schedule) a signed verification report carried out by a qualified drainage engineer (or equivalent) must be

submitted to and approved in writing by the Local Planning Authority to confirm that the agreed surface water and foul water system has been constructed as per the agreed scheme and plans. The report shall include details and locations of critical drainage infrastructure (such as inlets, outlets and control structures) including as built drawings, and an operation and maintenance manual for the unadopted parts of the scheme as constructed.

Reason: This condition is sought in accordance with paragraph 168 of the NPPF to ensure that suitable surface water drainage scheme is designed and fully implemented so as to not increase flood risk onsite or elsewhere.

It appears that Dave Harris (Head of Planning) and Amanda Barnes (Senior Planner) met with the HSE on Wednesday 11 October 2023 (Source; HSE letter dated 17 October 2023).

Any communication or correspondence to the HSE prior to that meeting has not been disclosed on the planning portal.

On Monday 16 October the chair kindly gave me a 'heads up' this application was going to have to come back to committee due to a further submission from the HSE.

In an email exchange the following day, Councillor Hubbard stated his understanding from Dave Harris (Head of Planning) is **"the change is significant and thus it will be subject to a new planning application."**

On 30 November 2023 the Chair emailed me about representations but also stated

"As the application has already been approved, the committee will be asked to just consider the reduction in the number of dwellings by two."

I have attached these email exchanges to ensure clarity.

On 22 November I had a meeting with the Monitoring Officer at which I raised the issue the residents thought the Head of Planning had been biased in favour of this application and the planning officer has misrepresented detail and misled the committee. I noted the planning application was now coming back to committee because of concerns from the HSE

I sought advice. It was suggested I should put everything in writing in detail and invite Dave Harris to consider whether matters had in fact been undertaken correctly or not. It followed that I could not do this until I have sight of the planning officer's report for consideration at the meeting on 20 December 2023.

It follows that complaint, the detail therein, and any response is not going to be available to members because of the deadline of noon on 13 December 2023 for written representations.

The HSE Letter dated 17 October 2023

One notes the first paragraph in which Mr Harris explained **"the background to the planning application which Medway Council is minded to grant permission for,"**.

This seems to indicate the HSE was under the impression planning permission had not yet been granted when in fact it had.

From the second paragraph **"the HSE noted that the pipeline operators are being consulted on the planning application."**

At the bottom of page two and over, the HSE states it was consulted on the application in February and advised against the proposed development because of the presence of four new dwelling in the inner consultation zone.

The letter continues,

“In the discussion you assured us that before considering granting planning permission the Council would consider the various options available.”

Once again, the HSE is apparently under the impression that planning permission had NOT been granted.

Looking back at the HSE response of 24 February 2023 the HSE advises against.

“The assessment indicates that the risk of harm to people at the proposed development site is such that HSE’s advice is that there are sufficient reasons on safety grounds, for advising against the granting of planning permission in this case.”

The HSE went as far as placing the advice not to grant planning permission in bold type!

This damning statement did NOT appear anywhere in the planning officer’s report!

Matters Arising

Questions arise from the aforementioned.

If the Head of Planning believes the change is so significant it requires a new application as per what he told the Chair of the planning committee, why is the committee only being asked to look at a reduction in number of dwellings?

Why did the planning officer not detail the severity of the HSE advice and reproduce in her report for committee in September those damning words?

“The assessment indicates that the risk of harm to people at the proposed development site is such that HSE’s advice is that there are sufficient reasons on safety grounds, for advising against the granting of planning permission in this case.”

The Current ‘Application’

Members attention is drawn to the inner zone on the MAHP map dated 14 November 2023. Members will note that the rear edges of the two pairs of semi detached properties at the front of the development along with the gardens fall within the inner zone. The gardens form part of those dwellings. They straddle the inner zone.

The HSE letter of 17 October 2023 refers to advice where a development straddles zone boundaries.

This clearly refers to a development as whole and not a dwelling or dwellings within a larger development.

On the basis of this advice the application should be refused.

Additional Consideration

At the meeting in September Dave Harris was at considerable length to stress the application was outline and that all options were open to change. This obviously includes the access road. This was the opinion of the applicant with whom I had a conversation when we left the meeting.

The HSE has NOT been directly consulted on the impact of any side access road, which could be a consideration given the flooding that occurs regularly where the proposed access road is shown on the drawings.

Members are invited to look at the videos provided to the planning portal and the photographs taken by myself yesterday at the site location.

Refusal

Taking all the considerations into account the application should be refused because it is in fact a new application and not a change to a previously agreed application.

Councillor Chris Spalding

From: Councillor Chris Spalding
Sent: 17 October 2023 09:08
To: Councillor Stephen Hubbard
Cc: harris, dave; barnes, amanda
Subject: RE: Middle Stoke Planning Application MC/23.0106

Ok, thank you.

From: Councillor Stephen Hubbard <stephen.hubbard@medway.gov.uk>
Sent: Tuesday, October 17, 2023 9:07 AM
To: Councillor Chris Spalding <chris.spalding@medway.gov.uk>
Cc: harris, dave <dave.harris@medway.gov.uk>; barnes, amanda <amanda.barnes@medway.gov.uk>
Subject: RE: Middle Stoke Planning Application MC/23.0106

Hi Chris,

This very much early doors. As I mentioned last night, my understanding from Dave Harris that the change is significant and thus it will be subject to a new planning application. Hence why nothing is appearing on the approved Outline Planning Application. No documentation at present.

Yours, Stephen

From: Councillor Chris Spalding <chris.spalding@medway.gov.uk>
Sent: Tuesday, October 17, 2023 9:01 AM
To: Councillor Stephen Hubbard <stephen.hubbard@medway.gov.uk>; barnes, amanda <amanda.barnes@medway.gov.uk>
Cc: harris, dave <dave.harris@medway.gov.uk>
Subject: Middle Stoke Planning Application MC/23.0106

Morning Stephen

Thanks for the heads up last night that the above application is going to have to come back before committee due to a further submission from the HSE.

I have logged onto the planning portal today but cannot find this see the new document(s). The only 'new' item is a letter from KKC Archaeological dated 27 September.

Could this new document be provided to me please.

Thank you

Chris

Councillor Christopher Spalding
Member for All Saints Ward – Medway Council

Councillor Chris Spalding

From: Councillor Chris Spalding
Sent: 11 November 2023 09:39
To: barnes, amanda; harris, dave
Subject: RE: MC/23/0106 - Middle Stoke

Received, thank you.

From: barnes, amanda <amanda.barnes@medway.gov.uk>
Sent: Friday, November 10, 2023 8:58 PM
To: Councillor Chris Spalding <chris.spalding@medway.gov.uk>; harris, dave <dave.harris@medway.gov.uk>
Subject: MC/23/0106 - Middle Stoke
Importance: High

Dear Cllr Spalding

Please find attached the revised masterplan for the site at Middle Stoke following consultation with the Health and Safety Executive (HSE). The number of houses has been reduced from 9 to 7 with two shown on the indicative master plan in the inner zone of the HSE consultation zones of the 5 feeder Shorne/Isle of Grain pipeline and the Isle of Grain/Deansgate pipeline.

The HSE advised that they do not advise against 1 or 2 new dwellings in the inner zone.

The application will come back to committee in December 2023 for consideration.

Kind Regards

Amanda Barnes | Principal Planner | Planning Service | Medway Council
Gun Wharf, Dock Road, Chatham, ME4 4TR | <https://www.medway.gov.uk/>



Planning Service, Medway Council,
Gun Wharf, Dock Road,
Chatham,
ME4 4TR

By email only

Your ref: MC/23/0106

Our ref: M2074

Chemical Explosives and
Microbiological Hazards Division 5
1.2 Redgrave Court
Bootle L20 7HS

Email: lupenquiries@hse.gov.uk
<http://www.hse.gov.uk/>
Stuart Reston – Team Leader

Date: 17 October 2023

For the attention of Amanda Barnes

Dear Ms Barnes,

**TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE)
(ENGLAND) ORDER 2015 - PLANNING APPLICATION MC/23/0106 - OUTLINE PLANNING
APPLICATION - DEMOLITION OF REDUNDANT FARM BUILDINGS AND CONSTRUCTION OF
9 NO. DWELLING HOUSES - LAND AT MIDDLE STOKE ADJACENT TO 1 & 2 JUBILEE
COTTAGES GRAIN ROAD**

Thank you for your time and that of the Council's Chief Planning Officer, Mr Harris on Wednesday in explaining the background to planning application for Middle Stoke which Medway Council is minded to grant permission for, and in discussing the advice of HSE's Land Use Planning advice team. As we discussed, the proposed development is in the vicinity of two major accident hazard pipelines – the 5 Feeder Shorne/Isle of Grain gas pipeline (7095_1367) operated by National Grid Gas plc and the Isle of Grain/Deansgate gas pipeline (7128_1399) operated by Southern Gas Networks.

We noted that the pipeline operators are being consulted on the planning application, and we discussed how pipeline operators and HSE's Land Use Planning advice team consider different issues when providing advice on a proposed development within the vicinity of a major hazard pipeline.

Considerations of Pipeline operator

The pipeline operators consider the potential risk which the proposed development may pose to the integrity and the safe operation of the pipeline:

- The operator may have a legal interest (easement, wayleave, building proximity distance etc.) in the vicinity of the pipeline. This may restrict certain developments within a certain proximity of the pipeline.
- The standards to which the pipeline is designed and operated may restrict occupied buildings or major traffic routes within a certain proximity of the pipeline. Consequently there may be a need for the operator to modify the pipeline, or its operation, if the development proceeds.

In this case HSE understands that the 5 Feeder pipeline operated by National Grid Gas plc has a Building Proximity Distance which extends to 50 m on either side of the pipeline.

Considerations of HSE's Land Use Planning team

On the other hand the role of HSE's Land Use Planning team is to provide local planning authorities with safety advice on the risk to people at the proposed development from a major accident at a major accident hazard pipeline. In generating its advice, HSE takes account of the size and nature of the proposed development, the inherent vulnerability of the exposed population and the ease of evacuation or other emergency procedures for the type of development proposed. HSE's advice is usually determined by a combination of:

- the consultation zone in which the development is located (inner, middle or outer)
- the 'Sensitivity Level' of the proposed development

A decision matrix (<https://www.hse.gov.uk/landuseplanning/methodology.htm#matrix>), using the combination of the consultation zone and sensitivity level will determine HSE's response, which will be that HSE either 'Advises Against' or 'Does Not Advise Against' the granting of planning permission for the proposed development.

HSE's approach balances the principle of stabilising and not increasing the numbers at risk with a pragmatic awareness of the limited land available for development in the UK, and attaches weight to the risk where a proposed development might result in a large number of casualties in the event of an accident.

Explanation of HSE's LUP advice for the current planning application

HSE was consulted on this planning application in February (ref HSL-23022318115-308) as the proposed development lies in the inner and middle consultation zones of the 5 Feeder Shorne/Isle of Grain pipeline and the Isle of Grain/Deansgate pipeline (see Block

Plan in the Appendix). In that consultation HSE advised against the proposed development because of the presence of 4 new dwellings in the inner consultation zone of the 5 Feeder Shorne/Isle of Grain pipeline.

This reflects HSE's policy of advising against more than 2 new dwellings (i.e. a "sensitivity level 2" development in HSE's methodology) in the inner consultation zone.

Ways forward

In the discussion you assured us that before considering granting planning permission the Council would consider the various options available including discussing an amended plan with the developer. We also discussed other options, including:

- the planning committee granting planning permission against HSE's advice, in which case HSE would decide whether to request that the application be called in by the Secretary of State for his own determination, and
- the planning committee refusing planning permission on HSE's advice. In this case HSE would provide the necessary support to its advice in the event of an appeal.

HSE's LUP methodology and an amended application

You asked what HSE's advice would be for an amended planning application with a reduced number of dwellings.

As shown in the Development Type tables on HSE's LUP methodology webpages (<https://www.hse.gov.uk/landuseplanning/methodology.htm#tables>), HSE does not advise against 1 or 2 new dwellings in the inner zone, and does not advise against up to 30 new dwellings (at a density of no more than 40 dwellings per hectare) in the middle zone.

You asked how HSE's LUP methodology gives advice where a development 'straddles' zone boundaries. Under Rule 1a the development would normally be considered as being in the innermost zone to the major hazard unless either:

- less than 10% of the area marked on the application for that particular development type is inside that boundary, OR
- it is only car parking, landscaping (including gardens of housing), parks and open spaces, golf greens and fairways or access roads etc. associated with the development that are in the inner of the zones.

In those two situations the development would be considered to be in the outermost of the two zones.

We hope that this explanation of HSE's advice for planning application MC/23/0106 is helpful for the Planning Committee, and we look forward to hearing from you on the way forward.

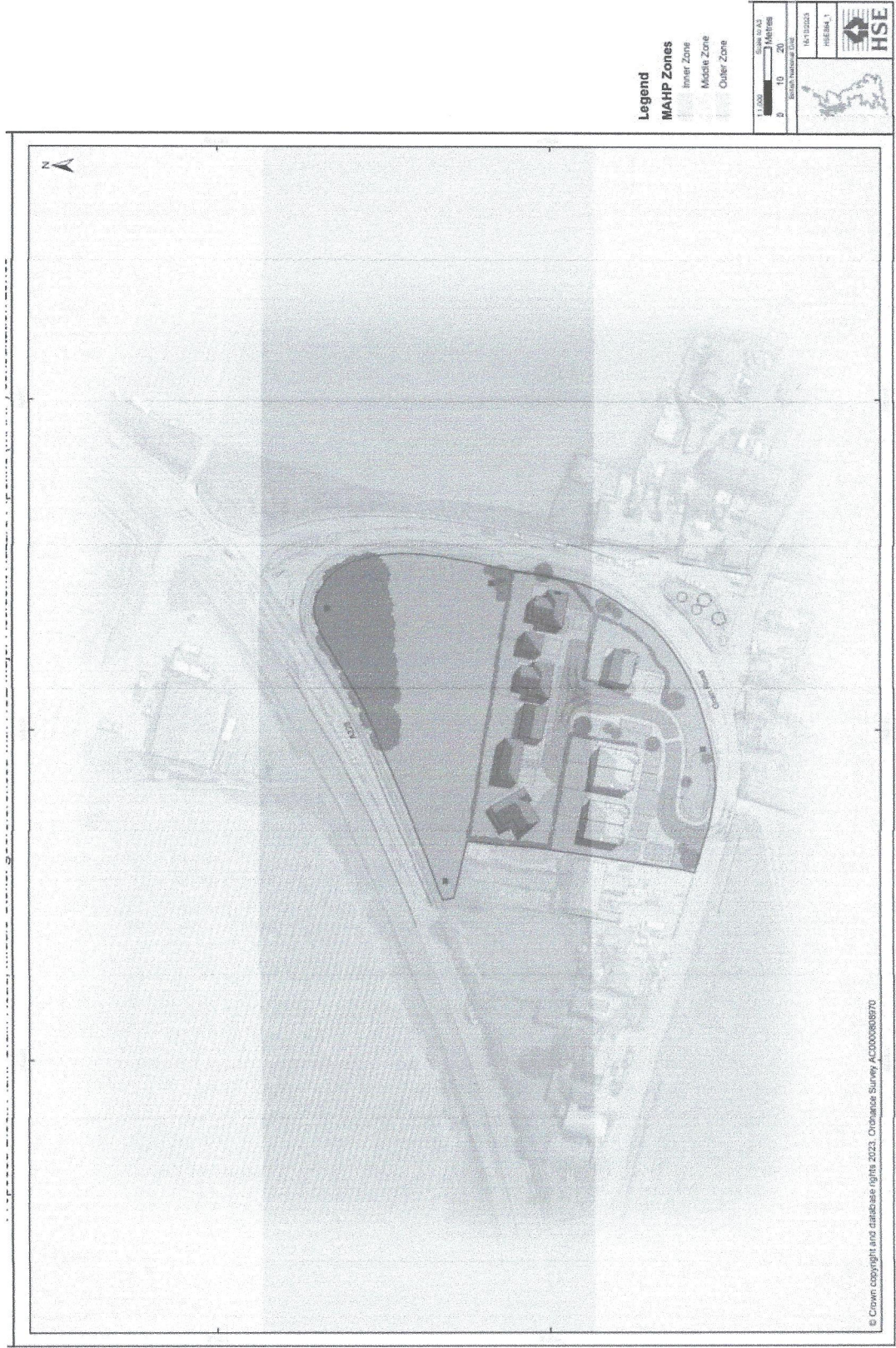
Yours sincerely

Richard Lomax

Richard Lomax

Land Use Planning advice team

Appendix. Block Plan for planning application MC/23/0106 superimposed with inner and middle consultation zones of 5 Feeder Shorne/Isle of Grain gas pipeline



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