

Medway Council

PLANNING COMMITTEE – 29 June 2016

Supplementary Agenda Advice

Page 32    MC/15/2332    Medway Bridge Marina, Manor Lane, Borstal

**Members Site Visit 15 June 2016**

Members attending: Cllrs Mrs Chambers (Chairman), Hicks, Bhutia, Bowler, Carr, Gilry, Potter, Royle, and Tranter

Following the opening of the meeting by the Chairman, the Head of Planning explained the application, summarised the representations received and set out the planning issues for consideration as they related to matters of principle, access, unit numbers, flooding, and amenity.

**Residents** raised the following areas of concern:

- Manor Road too narrow to accommodate further development.
- At weekends, Manor Road is blocked by vehicles relating to football on open space area.
- Questions regarding heights.
- Access from Manor Road onto Borstal Street poor with difficult camber and poor visibility.
- Plans could change after approval.
- Manor Road cannot accommodate construction traffic.
- Site security concerns.
- Flooding concerns – access to application site floods.
- Where will prospective residents park when access road flooded.
- Where will café go.
- Not enough parking spaces.
- Local services already over stretched.
- Noise problems from motorway and rail.
- Sewer concerns
- Impact on users of right of way.
- Problem re access for emergency vehicles.
- Motor Homes would need to be re-located.
- What will happen to existing businesses.

**The applicant/Agent** responded as follows:

- Site is outside of flood zone and no objection from EA, but access road will be flooded at times but only for short periods as flooding is tidal and relates particularly to equinox tides.
- Height will be 4 storeys but will not be above height of trees to rear
- The public footpath will remain and not be affected.
- Existing businesses are important and will be retained or relocated on site.
- 25% affordable will be provided.
- Some existing caravans will be re-located.

## **Representations**

Following the production of the report **7 additional representations have been received** re-iterating the comments made in the representation section of the report and making the following additional comments:

- There are tunnels in the area.
- Re siting of caravans may impact on existing parking in the marina

Page 60

MC/16/1003

Mayfield House Hotel, 34 Kingswood  
Road, Gillingham, ME7 1DZ

## **Member site Meeting 15 June 2016**

Members attending Cllrs Mrs Chambers (Chairman), Bhutia, Bowler, Carr, Gilry, Potter and Royle. Cllr Price attended as ward Councillor

Following the opening of the meeting by the Chairman, the Senior Planner explained the proposal, the planning history, the representations received and the planning issues as they related to policy, residential amenity and parking.

**The applicant** then made the following comments:

- Have multiple shared accommodation across Kent which they manage
- Managed staff work in rotation
- CCTV on site that is managed centrally
- Have an ASB officer who manages all their portfolio
- Handed out a brochure
- Parking area covered by CCTV
- Staff members should not park on site.
- Unlikely that many if any guests will park
- Parking area used for deliveries
- Investing in community, rehabilitating people to get them back into permanent accommodation and society
- This is dedicated mother and baby unit site

There then followed a question and answer session between residents and the applicant that covered the following issues:

- Parking concerns
- What happens if a male turns up
- Where do children play
- Parking will be managed better
- Out of hours number
- No access to visitor permit parking scheme
- 1 member of staff on site at all times , with 2 managers working on a rota
- If residents increase more staff will be provided in terms of services on site (not managerial cover)
- Smoking only to rear not out front
- Keep register of all residents.
- Happy to have regular residents meetings
- Only one adult and one child in any room.
- Maximum number of adults and children as residents on site is 15
- Medway Council can undertake spot checks

Page 70      MC/16/0712      177 Berengrave Lane, Rainham, ME8 7UJ

#### **Member Site Meeting 20 June 2016.**

Members attending Cllrs Mrs Diane Chambers (Chairman), Cllr Hicks (Vice Chairman), Cllrs Bhutia, Carr, Etheridge, Gilry, Potter, and Royle.

Following the opening of the meeting by the Chairman, the Senior Planner described the proposed development, summarized the representations and set out the planning issues for consideration.

**Residents** raised the following areas of concern:

- Additional traffic generated by the development will exacerbate existing highway problems on Berengrave Lane and Lower Rainham Road;
- Vehicles do not adhere to 20mph limit in Berengrave Lane;
- No footpaths and it is dangerous for children walking to school;
- Traffic volumes are heavy on Lower Rainham Road;
- Congestion at pinch points;
- Site lines cannot be achieved;
- Proposed footpath could encroach on neighbouring properties;
- Overlooking into rear gardens;
- Precedent for further development on neighbouring fields;
- Impact of street lighting.

## **Additional representations**

**3 letters** have been received making the following additional representations:

- The development is non-compliant with Paragraphs 32, 34, 35, 37 & 38 of the NPPF, and with Policies BNE1, BNE2, H9, T1, T2, T6 T13, T22 & BNE37 of the Local Plan;
- Traffic congestion and accidents in Lower Rainham Road
- Berengrave Lane is too narrow;
- Proposal would affect air quality;
- Precedent;
- This is a semi-rural area;
- Sight lines encroach on neighbouring property.

**Page 90      MC/15/2954      Land off Broadway, Gillingham, ME8 6DP**

### **Members site meeting 20 June 2016**

Members attending; Cllrs Mrs Chambers (Chairman), Bowler, Carr, Etheridge, Gilry, Griffiths, McDonald, Potter, Royle, and Tejan.

Following the opening of the meeting by the Chairman, the Senior Planner set out the application, the representations received and the planning issues as they related to matters of principle, use of land as open space, layout, design, amenity (for both residents and neighbours) and highways in terms of access and parking.

**The Agent** set out the rationale behind the application and how the scheme had been reduced to that currently proposed.

**Residents** raised the following issues:

- Access inadequate to cope with the development shifts and visitors.
- Not enough parking to serve staff and visitors
- Impact on on-street parking in the area.
- Access is for garage access only
- Have they considered access from Ito Way
- Not enough staff for 90 residents
- Deliveries and ambulances at night will cause disturbance.
- Use of access will impact on child safety
- Other sites could be developed first.
- Overlooking and loss of view.
- Would prefer housing to care home.
- Pavement proposals will impact on parking by garages.
- Land was given over to common use
- Loss of ecology

- Garage doors open over road.
- Car lights will shine into properties.

## Representations

**Two letters** from local residents subsequent to the site visit have been received, in summary raising the following matters:

- When was the access road changed from garage access to adopted road, as residents deeds state 'garage access'?
- Assuming a minimum of 24 staff at any one time all driving to work that only leaves approximately 10 spaces for visitors, not enough for 90 residents, existing parking problems in local roads, why not access from the dual carriageway;
- No assurance was given that local parking restrictions would not be put in place which would affect local residents;
- No survey by the fire service has been asked for;
- Noise pollution and loss of safety for children;
- Not clear if an impact report had been conducted;
- Water and sewage demands may adversely affect already stretched services and cause disruption to nearby residents;
- Inadequate parking and access arrangements including for emergency and service vehicles;
- Lighting;
- Loss of privacy;
- Other preferable sites elsewhere;
- More local residents should be consulted.

## Officer's Response:

- According to our records the access road was designated as public highway on 16 February 1970, presumably as part of the development of the adjacent estate (Broadway). At this time Kent County Council rather than Medway Council was the Highway Authority.
- Care home staffing levels have been provided as well as examples of existing care home parking levels. The anticipated maximum parking level from staff is at 2pm when manager, admin staff, maintenance and kitchen staff (11 people) would be in and the carers/nursing staff shift change would occur (18 on each shift). It is anticipated that this would result in 25 cars for staff (47 people), with 36 on-site spaces proposed. Visiting hours would be timed to avoid this peak, with a maximum of 15 staff vehicles anticipated during visiting times, leaving 21 spaces for visitors. The maximum adopted parking standards

indicate 1 space per 6 residents for visitors which would be 15 spaces in this case. The development aims to be self-sufficient in parking spaces, it is recognised that there is very limited space capacity on local roads;

- The introduction of a residents parking scheme would usually be at the request of local residents. It is not something which is proposed as part of the current application;
- Medway Fire Service was consulted on the application on 4/9/15 and 24/3/16, no responses have been received;
- Noise pollution and safety have been addressed in the main committee report;
- The application submissions include highways and parking statements/assessments;
- EDF Energy, Southern Gas, Southern Water and the Environment Agency have been consulted on the application and have not raised objections to the proposal on the basis of inadequate utilities;
- The other issues are addressed in the main Committee report. The application has to be determined on the basis of its impact, whether or not there are other potentially preferable sites available. The closest neighbours have been consulted and site notices erected.

At the site meeting the status of the land (ie its gifting to the people) was also raised, this is addressed in the 'Other Matters' section of the committee report.

#### Notes in response to possible access from Ito Way

*With regard to the potential of obtaining access from Ito Way Integrated Transport comment is that the creation of an access from Ito Way, which would require the construction of either a new roundabout or a deceleration lane, would be disproportionate to the scale of the development. The care home would generate fewer than 16 vehicle trips during the peak periods and only 237 trips between 0700 and 2100. Even if access could be provided, it would be expensive to construct and would require an extensive design process. However, if the applicant wishes to commission a consultant to design it, it would be assessed.*

*An access to Ito Way would probably require a deceleration lane to the north and a give way to the south for traffic entering/leaving the site. Much of the land needed for this together with visibility splays may fit within the existing highway land including the bund (approx. 4m high) which has well-established tree planting on it and which currently separates the site from the carriageway of Ito Way.*

*The main planning concerns of this are the opening up of the site to Ito Way, with the loss of bunding and trees as these provide separation for*

*the houses beyond, not just the site itself. It would also mean that the built development would be likely to move closer to the east and the backs of the houses in Priory Road, whereas it has been aimed to keep it away from here to limit the impact on these neighbours. The traffic noise impact on potential residents of the site from Ito Way would also need to be considered. A whole redesign would be needed as the existing layout could not simply be moved back to accommodate vehicular access from Ito Way.*

The applicant/Agent has written following the site meeting and his letter is appended in full to this supplementary agenda advice sheet for Member's information.

Page 110    MC/16/1989            Jeffery Street Car Park, Jeffery Street,  
Gillingham

### Representation

One further letter has been received, objecting, in summary, on the following grounds:

- The previous application for nine residential units does not have bearing on this case;
- The proposal does not fall within the aspiration of the Gillingham Town Centre Development Framework;
- There is no need for student accommodation in the area;
- There has been significant over-development of student accommodation in the High Street area;
- Parking spaces are already over-subscribed. The scheme is contrary to Policy T13 of the Medway Local Plan;
- Loss of privacy.

Page 134    MC/16/1562            Land between Chestnuts and  
Duddingstone Farm (know as Scarlett  
Meadow), Matts Hill Road, Hartlip

### Representations

Members have all been sent letters from local residents that raise issues relating to the application. This letter is appended in full to this supplementary agenda advice sheet.

Page 144 MC/15/4385

Land adjoining Four Seasons, 10a  
Matts Hill Road (known as Hilden field),  
Hartlip, ME9 7XA

### Representations

Members have all been sent letters from local residents that raise issues relating to the application. This letter is appended in full to this supplementary agenda advice sheet.

Page 170 MC/16/0439

Land adjacent to Tesco, Courteney  
Road, Rainham

### Appraisal

**Further comment** has been received regarding health and well-being from Public Health. The A2 is not unsurmountable to cross and closing hours after schools is a key factor in reducing obesity and should apply to hot-food take-aways within 400m of a school outside a core retail or local centre. Suggested closing hours are 15:00 – 17:00. After school children will be walking from school with parents and crossing A2 will be less of a problem.

In response to this, it is set out in the "Hot Food Takeaways in Medway" (2014) Guidance Document that hours will be restricted for locations within 400m of a school. The southern boundary to one school playing field is within 400m, but this is as the crow flies, not in a walkable route. The front entrance is further away and walking distance is greater than 400m.

Essentially this is a sit down restaurant and drive through. The bulk of customers would travel by car. If opening hours are restricted, the probability is that parents would go to shopping at Tesco first then go to the restaurant/drive through after.

### Recommendation

The recommendation remains as set out in the report.

Page 184 MC/16/1892

29 Yarrow Road, Weeds Woods,  
Chatham, ME5 0SD

### Appraisal

**Amendment** to the Principle section, paragraphs 3, 4 and 5 within the report, due to the submission of Marketing information and a supporting email from the applicant dated 27 June 2016 informing of the ability to rent the premises and proposed classes to be provided.



Marketing information has now been provided in the form of two letters received on the 16 June 2016 from Look Estates and Grey Fox estate agents. The Look Estates letter states that the property was listed between January 2015 and June 2015 and little interest was raised and that interested parties wanted to use the property differently. The Grey Fox letter states that the property was listed between January 2016 and the present. There was interest for the property as a takeaway and tyre shop. The intention to retain as a barber has been unfruitful due to the number of existing salons and barbers within the area.

The marketing information provided does not provide significant justification for the proposed change of use. Marketing evidence would usually be required to demonstrate the property being marketed for an uninterrupted 12-18 months period primarily focusing on the interest generated for the potential of either A1, A2 and A3 uses which are the focus of the Policy R10 of the Medway Local Plan 2003.

The supporting email from the applicant essentially lists the types of dance classes that will be provided, whilst indicating that other leisure uses can be operated from the unit due to the lack of availability within community halls. It is considered that this email is not significant to prove the use as a community facility.

In the absence of suitable marketing information and supporting evidence, regarding the need for this particular unit above any other units, particularly empty units or a detailed statement outlining the benefits of the use of a community facility. It is not possible to conclude that there would not be a detrimental impact on the sustainability of the Local Shopping Centre and local amenity and therefore the application is considered contrary to paragraph 7 of the NPPF and Policy R10 of the Medway Local Plan 2003.

### **Recommendation**

The recommendation remains as set out in the report.

**Page 190    MC/16/1458            765 Maidstone Road, Rainham, ME8 0LR**

### **Representation**

**Seven** additional representations have been received, raising the following objections:

- The development is totally out of character and proportion to the plot;
- No consideration has been given to residents;
- Overlooking;
- Eyesore;
- The layout would not work in terms of access to homes;

- Intensification of parking on the highway where existing problems already occur;
- Adverse impact on highway safety;
- Overdevelopment of the site;
- Bungalows would be best sited to the side;
- Building works would adversely affect local residents' wellbeing;
- Rear gardens have been contaminated by asbestos sheeting storage.

**Page 206 MC/16/1465**

**Fort Pitt Grammar School, Fort Pitt Hill  
Chatham, ME4 6TJ**

### **Recommendation**

**Amend condition 8 to:**

Following the first occupation of the proposed Science and Sixth Form Centre building, the existing single-storey science block to the northern side of the site shall be used for storage purposes only and shall not be used for any other purpose. If the science block is demolished, full details of the finished surface level and mitigation works shall be submitted to and approved in writing by the Local Planning Authority prior to demolition and any works shall be carried out in accordance with any subsequent approved details.

Reason: In the interests of highway safety and amenity protection in accordance with the objectives of Policy T1, T13, BEN1 and BNE2 of the Medway Local Plan 2003.

**Add the following condition:**

20. No development shall take place until the applicant, or their agents or successors in title, has secured the implementation of a programme of archaeological work in accordance with a written specification and timetable which has been submitted to and approved in writing by the Local Planning Authority.

Reason: Required prior to commencement of development to ensure that features of archaeological interest are properly examined and recorded, accordance with Medway Local Plan Policies BNE20 and BNE21.

**Page 230 MC/16/1896**

**Verge opposite 7 and 9 Eden Road and  
The Street, High Halstow, ME3 8TB**

### **Representations**

**Cllr Roy Freshwater** has written in to fully support the petition signed by 69 local residents and 25 letters from residents in High Halstow objecting to the

proposed siting of the mast in the middle of the village, as it would not be acceptable aesthetically or practically and requests that Planning Committee rejected this application and encourages that alternative sites in or near High Halstow be investigated as the views of 5 letters supporting the application would be met if an alternative less prominent location can be found.

Following preparation of the draft report for committee, **45 additional signatures** have been received by petition to add to the existing petition reported in the agenda.

### **Recommendation**

**Amend** condition 1 to refer to the amended plans showing the 12.5m high monopole:

1. The development hereby permitted shall be carried out in accordance with the following approved plans:

Plan 100 numbers 100C, 200C and 300 C, received by the Local Planning Authority on 20 June 2016.

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

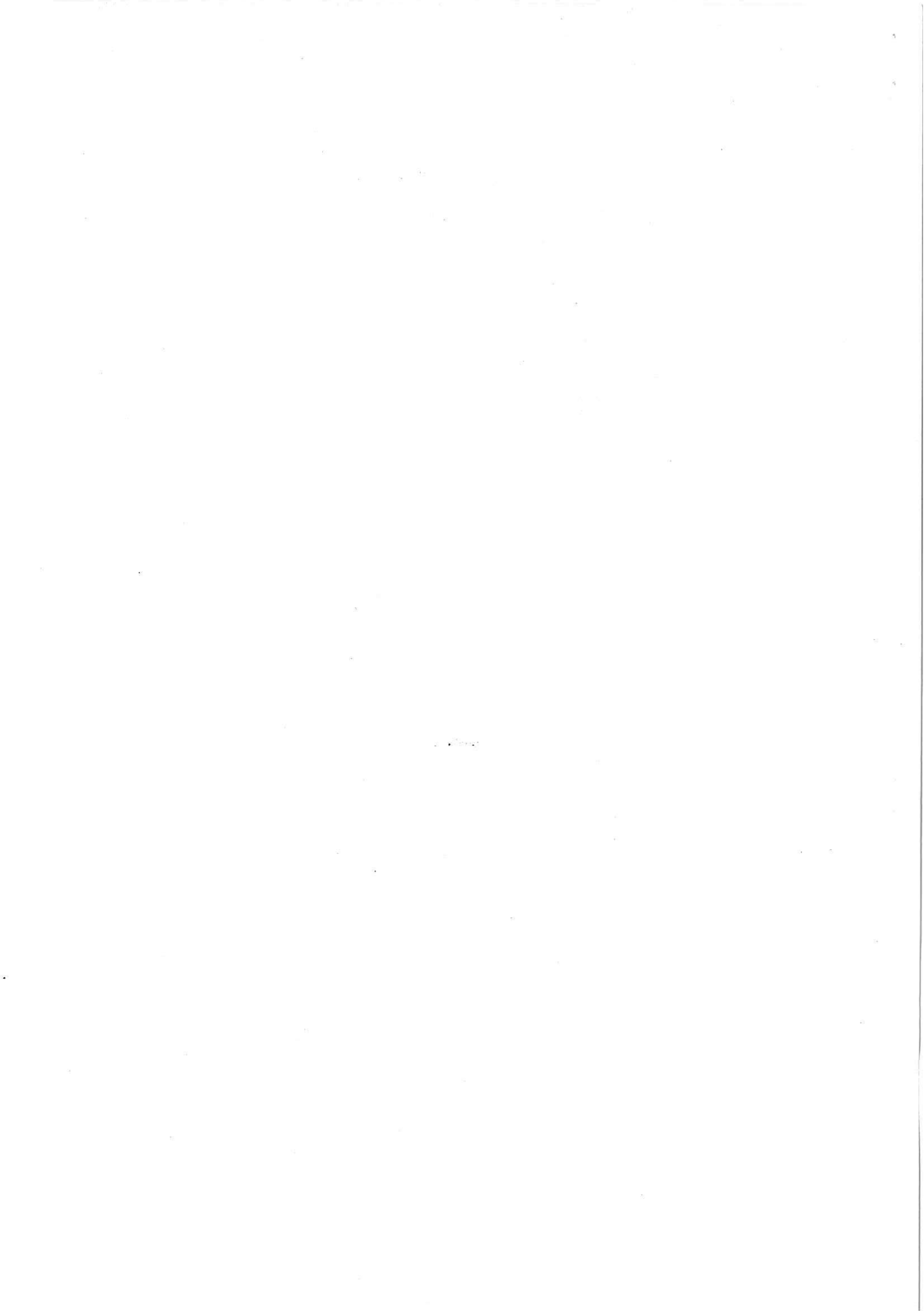
**Page 238 MC/14/1896**

**Thameside Terminal, Former Conoco Site, Salt Lane, Cliffe, ME3 7SU**

### **Recommendation**

**Amend** Condition 5 as follows:

5. The number of Heavy Goods vehicle movements to and from the site shall not exceed 40 two way movements in total in any one day. Records of all HGV arriving and departing the site shall be kept and maintained by the companies operating from the site and shall be provided for inspection by the Local Planning Authority within 24 hours of written notice (which includes email). No vehicles shall arrive at or depart from the site outside of the hours 07.00 – 19:00 Monday to Saturday and at no time on Sundays or Bank Holidays.



## Land off Broadway, Gillingham

1. A number of comments raised by residents on 20/06/16 require a response to ensure that the Planning Committee received a balanced picture about this planning proposal:

- a) At the first stage of the site meeting which was held inside the site to the east of the passageway between 19 and 21 Priory Road, a resident complained that all the consideration regarding the massing of the care home had been focused on its northern end towards Broadway. It was his view that the 3 storey bulk of the care home to the rear of his house (on Priory Road) would be 'oppressive'. As the officer's report makes clear the site is lower at this point than the adjoining houses; this was clear enough on site. The actual 'eye to eye' distance between say 21 Priory Road and the east facing elevation of the proposed care home would be 36 metres. This is a generous separation distance by any test and certainly one which will ensure the privacy of all concerned.
- b) Much attention was then focused on the proposed vehicular access via the garage colony off Broadway. It should again be said that vehicular access to the subject site was always going to be from this point. This was the arrangement under Policy H1 of the adopted 2003 Local Plan and it therefore has to follow that the Council itself was content with this arrangement. Residents however were unhappy with this and voiced their scepticism that the road serving these garages was not actually private but was indeed "adopted" in highway terms.

However, this is our clear understanding about the status of this road and this was confirmed on a site by the Council's Highway Engineer.

As part of the planning application we employed Waterman Transport & Development, Highway Engineers who assessed the arrangement to access the site via the garage colony. They considered visibility at the junction with Broadway; the width of the access (8.6 metres); and likely traffic generation. In all these respects it was found to provide an acceptable access arrangement. In turn during the consideration of the planning application, the Council's own Highway Engineers agreed.

Subsequently the Council asked us to demonstrate that the turning head within the application site could accommodate the range of vehicles likely to access the site (swept path analysis). This was carried out to their satisfaction meaning that ambulances, for example, could leave the site in forward gear.

- c) In our view the proposed care home use will not generate significant volumes of traffic. The officer's report refers in effect to a net predicted figure of 214 trips between 0700 and 2100. This figure is not disputed and amounts to something of the order of 15 movements per hour which is hardly 'busy'.

A concern of residents was that residents using the garages would struggle to back out because of likely conflict with passing traffic. At 15 movements per hour such a conflict is likely to be quite rare. It is accepted that for users of the garages this set of circumstances would be inconvenient from time to time but it would hardly be unsafe. National guidance (the NPPF) seeks to ensure that "safe and suitable access" is provided to sites. We say that with the predicted traffic volumes (which are low) and the dimensions of the available highway, this would be the case here.

- d) Finally, there was a concern amongst residents about the level of parking. Again this is covered comprehensively in your officer's report. The officers found the level of provision satisfactory for the original 100 bed proposal. It follows therefore that a provision of 36 spaces for a 90 bed care home (increased slightly from the original figure of 34) must be acceptable given that it will then possess additional capacity over and above the standard required by the Council. Our experience as an architectural practice with a long standing association with care home construction is that residents do not own cars; most care staff do not come to work by car; and visitors tend to arrive at off-peak times (evenings and weekends). As such we simply do not anticipate a displacement of parking beyond the site boundary on to adjoining highways. Our experience is that the 36 spaces will be more than sufficient to accommodate the traffic generated by the care home.

With all this in mind and given your officer's recommendation we would urge therefore that the application is approved.

## Planning Applications

Planning application - MC/16/1562 - Land Between Chestnuts and Duddingstone Farm (Known as Scarlett Meadow) Matts Hill Road, Hartlip ME9 7XA.

Planning application - MC/15/4385 - Land Adjoining Four Seasons, 10a Matts Hill Road, (Known as Hildenfield), Hartlip, Sittingbourne, Kent ME9 7XA.

We have now employed the services of a barrister a Chris Jacobs  
[http://www.landmarkchambers.co.uk/christopher\\_jacobs](http://www.landmarkchambers.co.uk/christopher_jacobs)

If the decision of the committee is that planning permission is approved, we will be challenging that decision in the high court through an Environmental Judicial Review under the Aarhus Convention. As a last resort 7 of the residents have agreed to fund this, although if our case has merit we may agree a no win no fee arrangement. Alternatively, we will look at legal aid or pro bono arrangements. Be sure however this will go to court.

I believe your planning officer has incorrectly recommended permission or he has been asked to write his report in a particular way to allow for permission.

The latest planning rules state Gypsy and traveller encampments are inappropriate development in areas of outstanding natural beauty. Unmet need and personal circumstances are unlikely to clearly outweigh harm to the environment. Unless there are exceptional circumstances.

**The definition of exceptional. Unusual, uncommon, abnormal, atypical, extraordinary, out of the ordinary, out of the way, rare, singular, unprecedented, unexpected, surprising.**

Medway Council Local Plan Issues and options document states, Medway has a Council-run traveller site at Cuxton, accommodating 11 households and a travelling show people's site in Strood. The remainder of the provision is made up of small, privately owned sites, generally in rural and rural fringe locations on the Hoo Peninsula and south of Rainham. Matts Hill Road is in a rural fringe location in south Rainham.

During the last public meeting held at the Masonic Hall in Rainham with 75 residents in attendance and several council members and two officers from the planning department, I voiced my concern over further traveler encampments appearing in Matts Hill Road. I requested that a preemptive planning restriction notice was placed on the area to prevent any further applications for traveler encampments. I have written numerous letters and emails voicing my frustration and concern that Medway Council are encouraging unauthorized traveler encampments in Matts Hill Road.

Far from being exceptional these two planning applications are common, usual, ordinary, expected and not surprising. It is my firm opinion that Medway Council are encouraging the travelling community to buy sites in Matts Hill Road, giving a verbal guarantee that enforcement action will not be taken. The lack of any direct enforcement action seems to confirm this argument. Obviously this is only my opinion but I am sure in a high court under oath the truth will found.

#### **Unauthorised occupation of land.**

The planning officer has not considered this in his report

Another change to policy is intended to deal with the intentional unauthorised occupation of sites. From now on, if a site is intentionally occupied without planning permission, this would be a material consideration against any retrospective planning application for that site.

#### **Access**

The road is too narrow for the movement of static caravans, the process of moving a static caravan along Matts Hill Road can take three hours, during these times residents are prevented from access to their homes. Many of the residents due to their age have medical conditions that may require urgent medical help, An Ambulance or fire engine would be prevented from travelling along the road during this time. I have previously made Medway Council aware of this issue.

#### **Power Lines**

The height of the power lines will not allow for the safe transportation of static caravans on and off the sites. There is a risk of electric shock and fire when static caravans are being moved along the road. I have previously made Medway Council aware of this issue, and UK power Network.

#### **Amenity**

The Planning officer has stated the following.

*This application is not considered to impact neighbouring amenity any more than the previous approval. The fact that there is boundary treatment in place and that this is sited approx. 17.5m from the boundary with Gramerci and over 20m to the original boundary with no.10 Matts Hill Road allows for a suitable separation.*

There is no boundary treatment. The 17.5-meter boundary with Granmerci is occupied by three caravans, and a car repair / car breakers yard operating 12 hours of the day all without permission and no sign of any enforcement action.



### **Human Rights Issues.**

In his report into the planning appeal for the site at nearby King's Langley (MC/09/1804) the Inspector concluded that the development would harm the character and appearance of the surrounding area, the AONB and SLA and in this respect would conflict with Policies BNE25, BNE32, BNE33 and H13 of the Medway Local Plan 2003. However, the harm would be localised and temporary. He also took account of the unmet need for traveller accommodation and the lack of a suitable available alternative for the appellant and her family. He considered that if the appeal were to be dismissed the effect on their human rights would be disproportionate. In this instance, he considered that other material considerations, including the needs of the appellant and her family outweighed the harm which would be caused to the countryside for a limited period of time. On this basis, he recommended that temporary planning permission be granted for a period of five years. This was changed to three years by the Secretary of State in his decision letter. During a recent visit to the site it was noted that the caravan and mobile home were no longer in situ.

The planning officer knows very well the Scamp family moved from the site several years ago and the site is now occupied by other travelers. The site has been permanently occupied by various travelers over the last three years. I have previously informed Medway Council regarding this and asked that planning enforcement is undertaken, the local government ombudsman is also looking at the enforcement taking place at this site .

The planning officer has not considered the human rights of the settled community residing in particular at Granmerci and Kings Langley, all council departments are required to consider how their decision affect a residents human rights.

#### **Article 1 of the First Protocol: Protection of property**

The protection of property gives every person the right to peaceful enjoyment of their possessions. This imposes an obligation on the State not to interfere with peaceful enjoyment of property. This right also imposes an obligation on the government to take necessary and reasonable steps to protect property.

A reasonable step by Medway Council to protect the human right to enjoy the peaceful enjoyment of property would have been a preemptive planning restriction notice.

### **Domination of settled community.**

*Policy C of the Planning Policy for Traveller Sites (2015) relates to sites in rural areas and the countryside. It states that when assessing the suitability of sites in rural or semi-rural settings, Local Planning Authorities should ensure that the scale of such sites does not dominate the nearest settled community. Given the location of this site and the fact that the majority of the settled community are located to the east (some 400m + away) it is considered that the current scale of traveller occupation here is not dominant.*

There are now 7 traveler sites housing 30 travelers surrounding two homes, Granmerci and Kings Langley. The three retired residents are part of the community and feel dominated and intimidated by the travelers.

### **Local services**

The site is too far away from essential local services, including shops, public transport, schools, medical and social services.

### **Not Travelers**

These people are no longer considered travelers as they have permanently given up traveling.

### **Adverse Effect on nearby residential amenity.**

*There should be no adverse impact on nearby residential amenity or agricultural interests.*

This is having a massive effect on nearby residential amenity.

The following extract is from a published case outlining the human rights argument.

*Consideration of further planning enforcement action: gypsy caravan site at Middle Road, Denton. Significantly the Inspector had concluded that the human rights of the gypsies to be allowed to remain were **outweighed by those of the immediate neighbours** to have the unlawful use of the site discontinued and that even a temporary planning permission should not be granted.*

Obviously I have only touched on the main issues of why in my considered opinion as a lay person planning permission should be refused. Once in court I am sure our barrister will find further more compelling reasons why planning permission should be refused. In my opinion the prudent option would be to refuse planning permission. As this is a retrospective planning application no appeal can be made.

As you are probably aware the local government ombudsman is undertaking an enquiry in to the lack of enforcement action taking place regarding unauthorised traveler encampments in Matts Hill Road. Once he has finished this report we will also be seeking barrister's opinion regarding this matter. And again if our case has merit we will be in court for the second time.

It is our intention to attend the committee meeting on the 29<sup>th</sup> June 2016 at 6.30pm. This will enable us to instruct our barrister on the morning of the 30<sup>th</sup> June 2016.

