

MC/13/1804

Date Received: 26 July, 2013

Location: Site at Lower Upnor Depot, Lower Upnor, Rochester, ME2 4UP

Proposal: Conversion of 5 existing buildings to light industrial use (Class B1) Use of building at site entrance for a restaurant (Class A3). The erection of 20 two and three storey dwellings to the southern portion of the site and the demolition of 3 buildings and replacement by 2 new car parking areas and a new single storey class B1 building together with alterations to the site access and provision of central car park and ancillary works including ramp and stairs to upper ground at rear of site

Applicant: Ordnance Yard Developments Ltd

Agent: Mr Hume Hume Planning Consultancy Ltd 18 Waldron Road Broadstairs Kent CT10 1TB

Ward Strood Rural

Recommendation of Officers to the Planning Committee, to be considered and determined by the Planning Committee at a meeting to be held on 29 January 2014.

Recommendation - Refusal

- 1 Insufficient ecological survey work has been carried out to assess the impact of the proposed development on biodiversity / ecology, especially protected species known to be present on the site, and what mitigation, if any, would be required. Furthermore, no adequate ecological management plan has been provided that details how the amenity area will be managed or how the proposed management will impact on the reptile population known to be present within the site. In the absence of such ecological survey work the potential impact on protected species cannot be ascertained and the proposal is considered to be contrary to paragraphs 109 and 118 of the National Planning Policy Framework, paragraph 99 of the Government Circular 06/2005 "Biodiversity and Geological Conservation – Statutory Obligations and their Impact within The Planning System" and Policies BNE37 and BNE39 of the Medway Local Plan 2003.

Proposal

This proposal related to the redevelopment of the former Lower Upnor Depot, which is currently owned by the Ministry of Defense (MOD) and was last used for military purposes. This submission seeks full planning permission for a mixed used development comprising the change of use / conversion of five existing buildings, from their current Sui Generis use to light industrial use (Class B1(c) Light Industrial), the change of use of building at site entrance to a restaurant (Class A3) and the erection of twenty, two and three storey, dwellings within the site. Additionally, the application proposed the construction of two new car parking areas and a new single storey class B1 building, together with alterations to the site access and provision of central car park and ancillary works including ramp and stairs to upper ground at rear of site. A separate conservation area consent application for to the demolition of 3 buildings has also been submitted and is being considered separately from this submission.

Dealing with the above proposals in slightly more detail, the development site can be split into two portions, the northern and southern portions. The development proposals in the northern portion of the site comprise;

- The change of use / conversion of existing building 9 (No 5 Shell Store), building 6 (Wet Guncotton Store), building 5 (No 3 Shell Store) and building 3 (Dry Guncotton Store) from their existing sui generis uses to Class B1 (light industrial) use;
- The conversion of existing building 8 (Filled Mine Store) to a Class A3 restaurant;
- The demolition of building 4 (No 2 Shell Store), considered under the separate conservation area consent submission, and its replacement with a car parking area;
- The demolition of building 7 (Locomotive Shed), considered under the separate conservation area consent submission, and its replacement with a new building 25 metres in length by 16.5 metres in depth with a ridge height of 7.9 metres above the ground level;
- The removal of a small section of boundary wall to the Upnor Road frontage;
- The creation of a central car parking area that the applicants have indicated would be available during the evening and weekend periods for public use;

The development proposals in the southern portion of the site comprise:

- The conversion of Magazine B (a Grade II* Listed Building) to use within Class B1 (light industrial);
- The erection of new residential dwellings comprising:
 - a) The erection of twelve 3 bed dwellings to the west (rear) of the Magazine B building;

- b) The erection of a raised two storey residential terrace comprising four 3 bed townhouses fronting the River Medway; and
 - c) The erection of a terrace of four 2 bed dwellings to a central section of this portion of the site; and
- The provision of car parking spaces for the prospective residents and employees and visitor and disabled parking for Upnor Castle.

The proposals additionally includes:

- A woodland management and landscaping plan for the undeveloped slopes of the site
- Car and coach parking made available to the public; and
- Improved cycle and footpath linkages with the riverside walk increasing the riverside leisure experience and fostering a greater sense of accessibility to the site.

Site Area/Density

Site Area: 3.84 hectares (9.5 acres)

Site Density: 5.21 dph (12.87 dpa)

Relevant Planning History

MC/13/1805	Conservation Area Consent for the demolition of 3 detached buildings (Locomotive shed, and No2 and No3 Shell Store) On this agenda
MC/13/1750	Town and Country Planning Act (Environmental Impact Assessment) (England and Wales) Regulations 2011 - request for a screening opinion as to whether EIA is necessary for conversion of a number of existing buildings to Class B1 light industrial use; the demolition of a building and its replacement with a parking area; demolition and replacement of a new 400sqm Class B1 workshop at the north; erection of one block of 12 town houses and 2 blocks of four x two storey houses including car parking, landscaping and management of the open space EIA not required 7 August, 2013
MC/00/0305	Listed Building Consent for external and internal alterations to the outbuilding to facilitate its conversion into a residential annex. Approved 18 April 2000
MC/00/0302	Conversion of outbuilding into a residential annex to the main dwelling. Approved 18 April 2000

Representations

The application has been advertised on site and in the press and by individual neighbour notification to the owners and occupiers of neighbouring properties.

The Ancient Monuments Society, The Chatham World Heritage Steering Group, The Council for British Archaeology, EDF Energy, English Heritage, Environment Agency, The Georgian Group, Kent County Council (KCC) Archaeology, KCC Ecology, Kent Police, Medway Fire Service, Medway Ports Authority, Natural England, The Society for the Protection of Ancient Buildings, Southern Gas Networks, Southern Water Services Ltd, the Twentieth Century Society, The Victoria Society have also been consulted

The **Chatham World Heritage Steering Group** have advised that they do not consider the proposals to be harmful, but that the quality must be kept high. The group is pleased that the application provides plenty of opportunity to enhance the potential World Heritage Site, in particular via attention to hard and soft landscaping.

The **Environment Agency** has written advising that they have no objection to this proposed development, but have request conditions be imposed and informatives attached to any approval in relation to the following matters:

- Flood Risk, flood proofing and flood warning and evacuation;
- The requirements of Flood Defence Consent adjoining a main river;
- Groundwater and contamination; and
- Egress and access

English Heritage have advised that they have had substantial pre-application involvement with this site, first to help determine a disposal brief with the MOD and then to help the applicants to shape their proposals. They advise that the statutory designations on the site were also considered as part of this process and these appropriately reflect the significance of the heritage assets.

English Heritage considers this site to be of the highest significance to the military heritage of Medway and represents the facilities needed to safely store explosive material over a 300 year period. They advise that this significance is reflected in a number of historic environment designations, the conservation area, a grade II* listed magazine and three other grade II listed structures. They also advise that:

- There are significant undesignated buried archaeological remains;
- The majority of the depot is within the proposed World Heritage Site; and
- How a sustainable future for it outside of military ownership is secured will be an important factor in the future of that project.

English Heritage advises that the northern end of the site contains later 19th century ordnance buildings that are undesignated but important to the conservation area. Most will be re-used but two are proposed for demolition. They advise that the harm that this will cause needs to be substantiated in terms of necessity and the public benefits to be provided. In the original submission details English Heritage advised

that such a case in relation to Shell Store No. 2 was weak.

In terms of the southern and older end of the site, English Heritage noted that this area contained a large brick built magazines of which Magazine B, is grade II* listed and is the best surviving example of a building of this nature. They advise that its re-use for light industrial purposes is acceptable in principle but needs to be controlled by a listed building consent application. Furthermore, they advise that the new housing on the site of demolished ordnance buildings is acceptable in principle to them but should only be permitted in the context of minimising the harm that this will cause to remaining evidence of the ordnance uses and conditions to control design and materials. English Heritage advises that good contextual architecture that does not mimic the historic buildings should be encouraged.

Furthermore, English Heritage considers that this development opportunity would allow visitors to see this once secretive place and considers that this should be welcomed, as should the potential to open up enhanced access to Upnor castle, which historically formed part of the depot activities. English Heritage advise that the site requires consistent management as a whole and not just for its parts and that this will mean that management of hard landscaping (including car parking) in the developed areas and of the green area that historically formed part of the depot's function should be secured as part of this proposal.

In terms of specific comments on the proposed developments English Heritage have supplied detailed comments and these have been incorporated into the Officer Appraisal below. However, in conclusion they advise that the proposed development has the potential to secure a sustainable future for the depot site and that this should be possible without causing substantial harm to its significance. The proposal is not as highly detailed as might be expected for such a major programme of works and before deciding this application the council should ensure that it has a sufficient understanding of the harm to the historic environment that would be caused in order that this can be weighed against the public benefits that would be delivered. This is of specific relevance to the future of Magazine B for which a listed building consent application has not yet been made but also relates to other elements of the proposal. Harm to the historic environment should not be accepted unless this is demonstrated to be necessary and the council should seek to improve proposals so that they avoid or minimise harm. The proposed demolition of unlisted buildings within the conservation area, and specifically No 2 Shell Store (building no 4), requires further consideration. The principle of new build housing within part of the site is acceptable but further consideration of the design of this could reduce harm to the significance of undesignated heritage assets and might enhance the conservation area by better revealing its significance.

English Heritage consider that if Medway Council is minded to approve the proposal in its current form there are a number of important matters that should be addressed both in the context of listed building consent applications and by condition under any planning permission granted. These conditions should include the following.

- Building recording of structures proposed for demolition, but also for conversion to a new use, is necessary and should be carried out in accordance with a written scheme agreed by your council that is proportionate to the significance of the

structures in question.

- Archaeological evaluation, investigation and reporting will be necessary for undesignated buried archaeological remains affected by the proposals. A programme of archaeological works should be agreed to cover the entire site and specific elements within it.
- Construction of new houses and specifically those on the site of Magazine A has the potential to harm buried elements of the ordnance buildings and your council should approve the detail of the foundation design and services in order to ensure that preservation in situ of archaeological evidence is maximised.
- More detail is required for many elements of the proposal. Works to Magazine B should be controlled under a listed building consent application but as other proposed works have the potential to be harmful to the significance of the conservation area their detail should be controlled. This should include any alterations to the main entrance to the site and the new access stairs in the northernmost blast bay of the shell filling rooms.
- The new buildings should be appropriately controlled in terms of detailed design and materials by conditions.
- The future treatment of the spaces between buildings should be controlled, both in terms of the green landscaped areas on the west of the site and the hard landscaping (including parking) in the developed eastern part. Detailed proposals should be agreed now or under conditions and this should include proposals for interpretation of the former role of the ordnance depot and a management plan, particularly for the green area.

A site meeting was subsequently held, which was attended by Officers from the Local Planning Authority, English Heritage and the Applicants to discuss the comments made by English Heritage above. Following this meeting additional plans and amended documentation was submitted, by the applicants, with a view to addressing English Heritage's previous comments. Following reconsultation on these additional / amended plans and documents English Heritage have made the following summarised comments, as set out below:

English Heritage advise that the additional information and drawings now provided by the applicant sets out a more credible justification for the levels of harm that their proposals will require. There remain a number of detailed matters that should be resolved but taken as a whole the package of proposed works provides an acceptable solution to the future of the site. The level of harm to historic significance for individual assets and for the site as whole is in our view less than substantial and capable of being favourably weighed against the public benefits that these would also deliver. Important amongst those benefits is securing an appropriate future use for the site so that the assets do not fall into risk and such that the public can enjoy a site that has until now been closed to them. There are issues that will benefit from further discussion and chief among these is probably that of forming a new and safe vehicular access through the historic boundary wall by widening the existing entrance. Listed building consent will also need to be obtained for much of the work to historic buildings and this is a further means by which to control the detail of works. It is recommended that any approval should include detailed planning conditions to cover the issues set previously and as modified by the additional advice provided.

English Heritage have provided further advice in relation to the repair and conversion of the grade II * (Magazine B), the demolition of the Empty Case Store, the demolition of unlisted buildings within the conservation area including the Locomotive Shed, Building 4 - 1862 store, the new build housing, the widening of the main entrance to the site, hard and soft landscaping and these elements are considered in the Planning Appraisal below.

Finally English Heritage have considered planning conditions and have advised that, should planning consent be forthcoming, conditions covering, in particular, a written scheme of archaeological investigation and a programme of building recording for A) historic buildings that might be lost; and B) those that will be retained but significantly altered. They also consider limiting harm to buried archaeological in the form of a condition that requires foundation designs, services and other significant forms of below ground disturbance to be agreed in advance of any such works as well as a conditions requiring details of the how the applicant intend to enable new residents, users and visitors to be able to interpret the history of the site to be provided. This can be in a number of ways including, but not limited to, the use of materials and the provision of interpretation panels.

In conclusion English Heritage have confirmed that they consider that planning permission could be granted for the proposed development subject to a number of important conditions identified above which are required to control and mitigate the unavoidable harm to heritage significance that this proposal must cause and that listed building consent for several elements should be referenced in any planning approval.

Finally in the light of the advise received from both English Heritages and the Councils own Design and Conservation Team the applicants have further amended their proposal by reducing the amount of the original wall proposed to be demolished to create the access into and out of the site from the Upnor Road. The Council has forwarded these revised details to English Heritage and no adverse comment has been received in relation to this revision.

Frindsbury Extra Parish Council has advised that they have no objection to this application and that their Members fully support the use of the car parks for visitors to the village, as well as occupiers of the business units. However, they have requested that should there be a S.106 agreement on the site, then the Parish Council would requests that some funding be agreed towards the Lower Upnor Riverside Project, which is a partnership project aimed at an environmental enhancement of the riverside in Lower Upnor.

Medway Ports Authority has written on behalf of the Port of Sheerness Ltd advising that it has no objections to this application. However, they point out that if it is intended to discharge surface water into the River Medway then under the Medway Port Authority Act, 1973 consent of the Port of Sheerness will be required for which a licence will be required.

Officer comment: This information will be forwarded in the form of an informative should planning consent be forthcoming.

Natural England has written advising that this proposed development site is located in close proximity to Cockham Wood and Medway Estuary and Marshes Site of Special Scientific Interest (SSSI). They advise that this SSSI forms part of the Medway Estuary and Marshes Wetland of International Importance under the RAMSAR Convention (a RAMSAR site) and Special Protection Area. Natural England have stated that it is satisfied that the proposed development, if carried out in strict accordance with the details of the application, as submitted, will not damage or destroy the interest features for which the SSSI was notified. This being the case Natural England has advised that they have no objections in terms of the statutory nature conservation sites.

In terms of protected species Natural England refer to their standing advice and that the Council should seek the advice of its own retained ecologists. Turning to local wildlife sites Natural England points out that the site lies within or adjoining a Site of Nature Conservation Interest (SNCI) or Local Nature Reserve (LNR) and the Council must be satisfied that it has adequate information to fully understand the impact of the development on local wildlife sites prior to determining the application.

Finally, Natural England draws the Council's attention to the potential for biodiversity and landscape enhancements in relation to the development. They advise that biodiversity enhancements would accord with paragraph 118 of the National Planning Policy Statement (NPPF) and the Council's obligations under section 40 of the Natural Environment and Rural Communities Act, 2006.

South East Regional Design Panel reviewed this development on the 5 November 2013 and has made the following summarised comments in relation to this proposal:

The design panel commended the principles underpinning this project, namely the rescue and reuse of a nationally important heritage asset, the integration of new development and the retention of maritime activity as part of the mix. However, the special nature of the Lower Upnor Site calls for an exceptional, highly distinctive response and much more needs to be done if the scheme is to meet its potential. The panel considered that there were three areas where the design could be improved. Firstly, Magazine B is of exceptional interest and the conversion to business use is ideal and the introduction of mezzanine floors is a practical solution. However there is no reason why the drama of the full length view down each of the centenary vaults needs to be blocked by a partition mid way. The Design Panel suggested that a lighter touch is needed. Secondly, the new housing is well sited but the rear most units could be more ambitious in their architectural intent, capitalizing on views from their top floors and making the most of their surroundings. Finally the landscape and public realm needs to be given more attention, ensuring that the wooded escarpment above the depot, the treatment of the hard surfaces and the way they are used are fully integrated into the design.

The Design Panel recognises that the objective of the project to achieve a permanent and sustainable new use for the site, with enabling development that sustains the special interest of the heritage assets and their setting is sound and the mix of residential, commercial and industrial uses is an appealing and sustainable prospect. They advise that the general scale and disposition of the new development seems well considered, but that an analysis of the views to and from the river, if only

to show how massing and the use of colour and materials in the development respects their surroundings, should be considered.

Additionally the Design Panel supports the ambition to improve access to Upnor Castle and enhance its interpretation. In terms of Magazine B the Design Panel note that the proposed use is sound and that the exterior is to be treated with respect, retaining existing doors and windows, whilst preserving the roof profile. However, they advise that they are less persuaded by the proposal to divide the space laterally with a full height screen in all but one of the bays, which will block the fine long view down each vault, which could attract prospective users. The Design Panel recommended that this aspect be reviewed and suggested a looser layout with communal areas shared by two or more tenants. They suggest that division in such innovative ways should be sought to create the required separation whilst maintaining visual continuity.

In relation to the housing element, the Design Panel considers the new housing to be well suited on the footprint of the former Magazine A and slotted in pairs between the concrete traverses (the blast walls) of the former shell filling stores. They consider that this arrangement respects the historic fabric, but so far has not generated the quality of architecture that they would hope to see inspired by such a unique setting. For example, the spacing of the bays seems to have dictated a roof pitch and profile that is at odds with those of the houses in front at Magazine A, and does not sit entirely comfortably with Magazine B. The Design Panel suggest that there are a number of ways that these matters could be resolved, but recommend further analysis of the special qualities of the site to see if they could generate an original and truly distinctive form for the whole of the development that would be a major selling point for prospective residents.

In term of the public realm the Design Panel advise that the site is not large and there are some complex relationships between the offices, homes and marine operations that need to be reconciled to create a safe, welcoming and visually satisfying environment. They advise that they see more scope for strengthening the connections with the wider area, including footpaths to the village and Upnor Castle.

The Design Panel support the proposition that the former Ordnance Yard should be treated simply and economically, but this still leaves scope for imaginative design of the surfaces and reconciling the servicing needs of the employment buildings with safe pedestrian access. The large wooded area rising above the depot is an important asset for the new homes and potentially also for visitors to Upnor Castle where more consideration could be given.

Southern Gas Networks (SGN) has written advising of the presence of low/medium/intermediate pressure gas main in the proximity of the application site. No mechanical excavations are to take place above or within 0.5 metres of the low pressure, 2 metres of the medium pressure systems and 3 metres of the intermediate pressure systems. SGN have advised that they the applicant will need to ensure that they confirm the position of mains using hand dug trial holes and of the need to undertake safe digging practices. Additionally they have advised that other gas transporters/private owners may have separate gas infrastructure in the area and that it is for the applicant/developer to ensure that they are fully aware of all

gas infrastructure within the area. Finally SGN have provided a copy of the Health and Safety Executive document entitled "HSG47 – Avoiding Dangers from Underground Services" and advised about the risks of direct or consequential damage to gas plant and the fact that SGN will charge for any damage resulting to their gas plant.

Officer Comment – The above letter and HSE document have been brought to the attention of the applicant's planning agent, for their information.

Southern Water have provided a plan of the water main records showing the approximate position of a public water distribution main in the immediate vicinity of the site. They advise that the exact position of the public water main must be determined on site by the applicant before the layout of the proposed development is finalised. Additionally they advise that all existing infrastructure, including protective coatings and cathodic protection, should be protected during the course of construction works and no excavation, mounding or tree planting should be carried out within 3 metres of the public water main without consent from Southern Water.

Furthermore, they advise that due to changes in legislation that came in to force on 1st October 2011 regarding the future ownership of sewers it is possible that a sewer now deemed to be public could be crossing the above property. Therefore, should any sewer be found during construction works, an investigation of the sewer will be required to ascertain its condition, the number of properties served and potential means of access before any further works commence on site.

They advise the applicant to discuss the matter further with them.

Finally they advise that there are private abandoned communication lines crossing the site.

Officer comment: This information will be forwarded in the form of an affirmative should planning consent be forthcoming.

The **Upnor Residents Association** has written advising that a pre-consultation meeting was held in advance of formal submission, where it was suggested by the MOD representative that the wooded area encompasses by the boundary of Upnor Road, Upchat Road and Frog Island could be made available as a park area as a concession. They also state that it was also put forward that the development should include a resident's hall or access to space that could be used by residents of the village

Neighbour Representations

One letter has been received which comments that the writer is pleased with the principle of the development and welcomes B1 (Office / Light Industrial Use) for business, employment and the resultant activity it will bring to the village. The writer also comments that the residential element seems well located and appropriate in term of its positioning. However, the writer raised concern in regard to the proposed A3 (Restaurant) use and states that they object on the following summerised grounds:

- The restaurant will have no river view and will be located next to a industrial building that could potentially be used for a heavy industrial use;
- There appears to be limited parking to serve the various uses; and
- The development will potentially result in the closure of one or more of the public houses located in Lower and Upper Upnor, which are vital community facilities

One further letter of objection has been received, which raises the following summarised concerns:

- Concern about the proposed new Rope House and its location, which is in close proximity to adjoining properties that overlook the site;
- Loss of the locomotive shed, especially as it is to be replaced with a much taller, larger and uglier new build factory over two floors;
- Loss of outlook;
- Factory building will be out of keeping with the current buildings on the site and the character of the site will be ruined. The development will spoil an important spot on Upnors landscape;
- Potential nuisance created by the proposed rope factory building which will result in loss of peace, quiet, attractive views;
- The view from Upnor Road will be changes as a result of the rope factory building;
- Increase in traffic movements on quiet roads; and
- Adverse impact on the enjoyment of adjoining properties

One resident has written claiming to represent the interest of the Admiral Place Resident Association has written objecting to the development on the following summarised grounds:

- The proposed housing is too tightly packed with ground floor views obscured by the river wall. The writer suggests 30/40 luxury high rise apartments with parking at ground level should be built;
- The industrial building to the east side of the site is ugly and not fit for heritage purposes. It should be demolished and a proposed built building for a café / bistro use, military museum, local art gallery and river ferry ticket / waiting room should be erected in its place; and
- Inadequate visitor parking during weekday business hours is being proposed.

Members should note that one of the other writers, detailed in this section, has written stating that the comment purporting to be on behalf of Admiral Place do not represent his views. He stresses that no approval has been sought from him, or anyone he knows from Galleons Way, as to these comments and that no contact or literature from the Admiral Place Residents Association has been received for several years and neither has it been reported on at the Parish Council. The writer considers that the Admiral Place Residents Association can reasonably be regarded as defunct. The writer advises that he has neither been informed, contacted or consulted by the writer purporting to represent Admiral Place and stresses that the views expressed in the Admiral Place letter are the views of that writer and do not / cannot represent the views of all those within the Admiral Place estate as it purports.

One local resident has written in **support** of the proposal and makes the following summarised comments:

- The developer should be applauded for being able to come up with such a well thought out development that is sensitive to both this historic military site and Upnor village;
- The extra parking proposed is welcomed and will reduce the current traffic levels within the village itself;
- Other schemes proposed which have suggested a much greater density of housing and/or high rise apartments on the site would be totally out of keeping for Upnor, ruin the site and never be approved by English Heritage. This scheme is well thought out and balances the sites heritage, the character of Upnor and the commercial necessities of the development;

In order to support the community the writer considers that the developer should work with the Council to ensure:

- That internet connectivity to the village is upgraded to a much faster proposition;
- The area of ground in front of the site wall bordering Upnor Road is used sometimes for parking and although not part of this site, the council should work with the owner to bring it back into use as part of this development, thus removing an unwelcome boundary to the site and an unappealing entry to the village;
- If the locomotive shed is demolished before it is destroyed it should be offered to the heritage/preserved railways in this country. It would be a shame for railway history to be lost. A planning condition should be added that this building may only be demolished where every effort to find an alternative site has been made;

Furthermore, the writer considers that contributions through Section 106 of the Town and Country Planning Act 1990 (as amended) should be secured in regard to the following matters:

- The repair and upgrading of the long steps immediately behind the site wall to the rear of the site on the path between Lower and Upper Upnor;
- The Lower Upnor Riverside Project; and
- Information signs on site detail the history of the site and the specific buildings/elements of interest.

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. Also of relevance is the Medway Housing Design Standards (interim) November 2011, the Upnor Conservation Area Appraisal (adopted) October 2004, the Medway Waterfront Renaissance Strategy 2004, the Medway Regeneration Framework 2006-2016, Medway Strategic Flood Risk Assessment 2006, the Chatham World Heritage Planning Policy Consultation Draft September 2013 and the related Technical Evaluation dated October 2013.

Planning Appraisal

Background and the significance and history of the site

The Lower Depot covers an area of approximately 3.84 ha. It is located on the northern shore of the River Medway, immediately to the north of Upnor Castle, and south of Lower Upnor village, within the Upnor Conservation Area. The built development currently on the site is a consequence of its former use for, initially the storage of gunpowder, and later the filling and storage of munitions shells. More recently, the former ordnance buildings have been used by the Royal School of Military Engineers (RSME) to provide training and maintenance facilities. However, the MOD has now ceased to operate from the site and it has remained empty for the last 3 / 4 years with the occasional unauthorised intervening use.

In terms of the history and significance of the site as Members will be aware Chatham was a base for the Royal Navy for over 400 years and required the services of the Ordnance Board for the manufacture and storage of guns and projectiles and of the powder to fire these. To avoid an unacceptable risk to the dockyard from accidental explosions such uses were placed apart from that site, with gun manufacture and storage at the Gun Wharf and storage of the explosive elements at Upnor. To understand Chatham as a major industrial military complex of the British imperial period all the components of the military infrastructure need to be considered. Upnor represented the essential need to safely store explosive material. This need increased substantially in the 19th and 20th centuries and the Upnor site alone could not then meet demands and thus further extensive ordnance buildings were provided at Chattenden and Lodge Hill. The application site was linked to these by railway.

Upnor castle was first used for the storage of explosives in the late 17th century, which began a use for the Lower Upnor site that continued until very recently. Additional land was acquired and new buildings erected in successive phases to the north of the castle, as the nature and quantity of the powder and munitions to be stored changed in response to technological advances and the political circumstances of the times. The ordnance uses first outgrew the castle during the Napoleonic wars, when a large new magazine (A) was constructed c 1812. Only a fragment of this building now remains as part of Magazine B. That magazine dates from the Crimean war period (1856) but repeats the form of the earlier magazine. The late 19th century saw additional land taken within the ordnance depot for new shell stores. This land contained non-military buildings and some of these were retained for military use and not demolished until after World War (WW) 2. In the early 20th century a large shell store was added at the extreme north end of the site. The shell stores contrast with the solidly built earlier magazines and reflect changes in ordnance from the storage of black powder in barrels to the filling of shells that were inherently safer to store and which therefore did not require buildings capable of containing an explosion. The Lower Upnor site contains a range of designated and undesignated structures that illustrate the history of the development of naval munitions and the buildings required to manufacture and store these over a 300 year period. The site is relatively complete but not entirely so, as historic photos and plans show. A 20th century pier remains but the older powder piers have been lost. A

range of shell filling structures have also been demolished but the blast walls for these remain.

The site is now amongst the most complete examples of its kind and the historic significance of the depot is recognised by a large number of statutory heritage designations. Magazine B is a grade II * listed building and the riverside wall with its distinctive warning to ships not to moor is grade II. Although not mentioned in the Heritage Statement, there are also the grade II listed brick traverse wall (1811) from a now demolished shifting house complex and the grade II concrete sentry post of WW 1 date. The application site is wholly within the Upnor conservation area and the ordnance depot is an important component within this, for which many of the unlisted late 19th century buildings make a positive contribution to its functional military character. In addition to the unlisted buildings there are also buried archaeological remains that are undesignated heritage assets. The presence and significance of these have been confirmed by evaluation and there is a high potential for other remains to exist. Upnor castle is a scheduled monument and although it is not within the application site, it is the earliest part of what was a single ordnance complex and the application site lies within its setting. As an indication of the significance of Upnor to the Chatham military complex the majority of the ordnance site is included within the core area of the bid of World Heritage Site nomination, whilst the remainder lies within the proposed buffer zone.

As the site was last officially used as a military depot it has a Sui-Generis use (i.e. a use with no specific use class.) This being the case planning permission is required for the uses now sought as part of this application

Main issues

The Development has to be considered in the light of the Government's advice contained in the National Planning Policy Framework (NPPF) and the Medway Local Plan (the Local Plan) Policies so far as they are consistent with the NPPF. The NPPF definition of sustainable development is set out at Paragraph 7 (NPPF 7) and includes the environmental role and achieving economic, social and environmental gains "jointly and simultaneously" (NPPF 8) with "positive improvements in the quality of the built, natural and historic environment (NPPF 9). These criteria are all considered to be critical factors in finding a sustainable future for this now redundant military site.

The proposals map of the Local Plan shows the site lying in the open countryside and adjoining an Area of Local Landscape Importance (ALLI) and a Site of Special Scientific Interest (SSSI). Additionally, the site lies immediately adjoining a Scheduled Ancient Monument (SAM) and a number of listed buildings/structures are located within and adjoining the site. The development site lies within the Upnor Conservation Area. Bearing the above in mind and the potential mixed nature of the proposed development of this site, it is clear that there will be a number of considerations applicable to this development. These include whether the development complies with the Council's strategic policies and principles as set out in the Local Plan in relation to:

- The principle of the different aspects of the development, being located on a

former military site located in open countryside where the Council's rural restraint policy applies

- The demolition of various buildings within the site to enable the development to take place (subject of the separate Conservation Area Consent application);
- General principles for built development including design and impact on amenities;
- Impact of the development on setting and the character and appearance of the: conservation area within which it is located; the listed buildings / structures located within and adjoining the site; and the adjoining SAMs;
- Provision of open space within new residential developments / employment areas;
- Impact on ALLI and the SSSI;
- Impact on ecology / biodiversity and trees;
- Highways policies including those related to traffic impact, access creation, and vehicle parking standards; and
- Development within the tidal floodplain.

Additionally other matters to be considered relate to archaeology, land contamination / air quality, planning obligations and community provision.

Principle of the development

In terms of the principle of redevelopment of this site, whilst it is located in the open countryside, as defined by the Local Plan it must be recognised that it is a brownfield site that was formally used by the MOD as a military Depot. NPPF Paragraph 17 sets out the twelve core principles. A number of these core principles are considered to be relevant to this development and some of these are listed below:

- encourage the effective use of land by reusing land that has been previously developed (brownfield land), provided that it is not of high environmental value;
- promote mixed use developments, and encourage multiple benefits from the use of land in urban and rural areas, recognising that some open land can perform many functions (such as for wildlife, recreation, flood risk mitigation, carbon storage, or food production);
- always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings; and
- conserve heritage assets in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of this and future generations.

In terms of the Local Plan the Governments core principles are broadly reflected in Councils Development Strategy (Policy S1) and Strategic Principles (Policy S2). In the Pre-amble to Policy S1 the Council has made it clear that “...*derelict, damaged and previous developed land will be the first choice for new development, in preference to the release of fresh land*”, whilst Policy S2 seeks to the implementation of the development strategy by focusing on, amongst other things, a sustainable approach to the location and mix of new development, to provide local communities with a range of local facilities and maintaining and improving environmental quality and design standards. This site is clearly previously developed land, but is located

within the open countryside. So in addition to Policies S1 and S2 of the Local Plan, the Council's countryside restraint policy BNE 25 needs to be considered. This policy advises that:

"Development in the countryside will only be permitted if:

- (i) it maintains, and wherever possible enhances, the character, amenity and functioning of the countryside, including the river environment of the Medway and Thames, it offers a realistic chance of access by a range of transport modes; and is either;*
- (ii) on a site allocated for that use; or*
- (iii) development essentially demanding a countryside location (such as agriculture, forestry, outdoor or informal recreation); or*
- (iv) a re-use or adaptation of an existing building that is, and would continue to be, in keeping with its surroundings in accordance with Policy BNE27; or*
- (v) a re-use or redevelopment of the existing built-up area of a redundant institutional complex or other developed land in lawful use; or*
- (vi) a rebuilding of, or modest extension or annex to, a dwelling; or*
- (vii) a public or institutional use for which the countryside location is justified and which does not result in volumes of traffic that would damage rural amenity.*

In this instance it is clear that the last lawful planning use of the site was a Military Depot and a brown field site as defined by the NPPF. This being the case the redevelopment of the site would comply with one of the core principles of the NPPF and the exception test as set out in Policy BNE25(v). Therefore, subject to the proposed development complying with the remaining guidance set out in the NPPF and other material planning considerations, including compliance with Policy BNE25(i) the development is considered to be acceptable in terms of general principle. As the development meets this exception criteria there is no need for the proposal to be assessed against any of the remaining exceptions listed at policy BNE25 (ii) – (iv), (vi) or (vii).

Commercial/employment

In terms of the commercial / employment element of the development the former use of the site was as a military depot is a sui-generis use. This proposal seeks B1(c)(Light Industrial) use, Therefore as a former working military site, whilst not an employment use, the only employment related criteria within the Local Plan relevant is Policy ED3 "Other Employment Sites". This policy states:

"...proposals for the alteration, extension or replacement of existing premises will be permitted where they are not detrimental to local amenity. Redevelopment will be restricted to business (Class B1) uses except where it can be demonstrated that other types of employment use can be accommodated without detriment to

residential amenity.

Within the rural area, extensions to, or alterations to, premises on existing employment sites will not be permitted where:

(i) There would be an addition of 10% or more to the built footprint; and/or

(ii) Visual amenity is not improved; and/or

(iii) Traffic volumes would increase on nearby roads".

In terms of the above criteria, the proposal seeks the demolition of approximately 923.5 Sq.M of existing floorspace whilst converting the remaining buildings and erecting a new B1 (Light Industrial) unit of some 510.3 Sq.M. This being the case the development is clearly acceptable when assessed against Policy ED3(i). In terms of the criteria set out in Policy ED3(ii) and (iii) these are assessed further below.

Retail

Turning to the proposed A3 (Restaurant) element of the development, this should be assessed against policy R18 of the Local Plan which states that such uses outside the defined retail core areas will be permitted provided:

- (i) There is no significant detrimental impact on neighbouring land uses or to residential amenity; and
- (ii) The presence of any similar uses in the locality, and the combined effect that any such concentration would have, would be acceptable in terms of environmental impact and highway safety; and
- (iii) The proposed hours of opening are acceptable in relation to the amenities of the area; and
- (iv) Suitable refuse storage, disposal and collection facilities are provided; and
- (v) The proposal pays particular attention to meeting the provision of policies BNE2, BNE3, T1, T13 and T22 in respect of the mitigation of noise and general disturbance, for the proper extraction and treatment of fumes and smells, and arrangements for parking, servicing and access for people with disabilities.

These criteria are assessed in detail further below, but in terms of R18(ii) regarding similar uses in the locality, and the combined effect that any such concentration would have, it is clear that there are a limited number of similar uses within both Lower and Upper Upnor and it is not considered that by permitting this additional use that the combined effect would have an adverse environmental impact or unacceptable impact on highways safety. Clearly the other criteria still need to be applied but in general principle terms the development is considered to be acceptable when assessed against policy R18(ii) of the Local Plan.

Housing

In terms of the principle related to the housing element of this development, Policy H11 of the Local Plan advises that unless the site is allocated for housing development in the local plan, or an exceptional justification can be made, housing development in the rural area will be restricted to minor development within the confines of the villages and settlements listed. In this instance the site lies outside of the rural settlements of Lower and Upper Upnor, as defined by the Policy H11, and is not a housing allocation identified in the Local Plan. This being the case, for the housing element to be acceptable, the Council needs to be satisfied that an exceptional justification can be made in relation to the proposal.

As stated above, this is a former brown field site used by the military up until recently. The site has significant historical interest and is considered to be a heritage asset. Magazine 'B' located centrally within the site is Grade II* listed and considered by English Heritage to be the best example of a building of this type in the Country. The site is unique in terms of its heritage value and it is importance to ensure that the site is retained as reasonably intact as possible bearing in mind the development constraints relevant to it. This being the case it is considered that there is an exceptional justification in this instance to warrant the proposed residential element of this development. Without the residential element it is extremely unlikely that the remaining elements of the development including the conversion works to the remaining buildings on the site will take place and for the reasons set out above it is considered that the proposal meets the exceptional justification required by Policy H11 to enable housing development in the open countryside.

Bearing in mind all of the above, the proposed development is considered to be acceptable in principle when assessed against policies S1, S2, BNE25(v), ED3(i), R18(ii) and H11 of the Local Plan.

Access

In terms of the site access arrangements and proposed car parking provision, two of the parking areas will be in the location of two of the buildings proposed to be demolished (See application MC/13/1805 also on this agenda), whilst another area is proposed adjoining the traverse wall and ramp leading towards Upnor Castle. The last car parking area is proposed adjoining the site entrance with Upnor Road and is centrally placed between the proposed rope company building and the A3 (Restaurant) building. The site access is to be achieved by removing a proportion of the boundary wall thus enabling access by the different type of vehicle that will need to access this mixed use site. Concern was raised by both English Heritage and the Council in regard to the width of the proposed access and the potential damage that would result to the heritage asset that is the wider site. As a result of these concerns the applicants have amended the vehicular and pedestrian access arrangements so as to ensure that the access is safe in pedestrian and highway safety terms and in terms of protection of the heritage asset. This is considered to be an acceptable compromise by both English Heritage and the Council. Bearing in mind the above, these aspect of the development (the access and the car park areas) are considered to be acceptable in general principle and appropriately designed and located. These aspects of the development are considered to be acceptable when considered

against policies S1 and S2 of the Local Plan.

Demolition in the Conservation Area / Demolition of part of a Listed Building and impact of the Demolition on the adjoining Scheduled Ancient Monument and Heritage Assets within the site.

This matter is the subject Conservation Area Consent application MC/13/1805 which is also being considered by Members on this agenda. To avoid duplication consideration of this matter is not duplicated in this report other than recognising that the demolition of three of the buildings within the site (the Locomotive Shed (Shed 7), former shell store number 2 (building number 4) and the Empty Case Store (Building Number 2) will result in the preservation and enhancement of the character and appearance of the Conservation Area as a result of their removal (BNE12 and BNE13). The comprehensive redevelopment and reuse of this site will be prejudiced if the empty case store (building No. 2) is not removed. This being the case the demolition of these three buildings, especially the empty case store (building No. 2) will result in an improvement to the listed building and its setting and is considered to be acceptable when assessed against Local Plan policies BNE16 and BNE18. Finally the demolition of these three buildings are not considered to damage or destroy the Scheduled Ancient Monument or its setting and this being the case their removal is considered to be acceptable when assessed against Local Plan policies BNE20.

Having reached the above conclusions it is important to ensure that the buildings are appropriately recorded and an advance understanding of the heritage asset and what fabric, especially in regard to Magazine A is retained and how this would be repaired in order to protect it in future, must be established. Similar conditions relate to the south wall of Magazine B, which would then again become an external wall must also be imposed. Both English Heritage and the County Archaeologist consider this to be important and have requested condition be imposed to ensure that this is undertaken. Indeed NPPF 141 advises that “...developers [are required] to record and advance understanding of the significance of any heritage assets to be lost (wholly or in part) in a manner proportionate to their importance and the impact, and to make this evidence (and any archive generated) publicly accessible...” The fact that the County Archaeologist is not raising an objection and is also requesting such a condition confirms that the proposed demolition of these three buildings is considered to be acceptable when assessed against policy BNE21 of the Local Plan. These conditions are recommended to be imposed on the Conservation Area Consent application to avoid duplication. The applicant will also be advised that Listed Building Consent will be required for the demolition of the empty case store (building No. 2) and the partial demolition of the wall at the site access onto Upnor Road.

Design and impact on the character and appearance of the surrounding area, including the Conservation Area, Listed Buildings and other heritage assets, including archaeology, and the adjoining Scheduled Ancient Monument

The various elements of this development have been carefully thought through and are considered to maintain and enhance the character, amenity and function of the countryside, the adjoining river environment. Furthermore, whilst the site is located in

the open countryside, it lies close to Lower and Upper Upnor and can be accessed in the day time by other modes of transport other than the car. The site is located within the Conservation Area and needs to be considered in terms of its impact on the character, appearance and setting of the conservation area, the listed buildings within and adjoining the site and the adjoining Scheduled Ancient Monument.

The design and positioning of the proposed rope works office and storage building is considered to be acceptable and is appropriate in relation to the character, appearance and function of the surrounding built and natural environment and its impact on the character, appearance and setting of the conservation area, the listed buildings within and adjoining the site, archaeology and the adjoining Scheduled Ancient Monument. This aspect of the development is considered to be acceptable in terms of its use (B1(c) light industrial), scale, mass, proportions, layout and siting. Materials are indicated as 'to be agreed' and it is considered reasonable to condition these in any event, bearing in mind the fact that the site is located within the prospective world heritage site, a conservation area and adjoins listed buildings, scheduled ancient monuments, etc. It would also be appropriate to condition the material bearing in mind the proximity of the development to the adjoining public highway and nearby residential properties.

The proposed building is considered to respect the scale, appearance and location of buildings, spaces and the visual amenities of the surrounding area in general and the details submitted show reasonable well structured and practical areas of open space. However, once again the detailing related to materials and the attractiveness of the open space are vague and can in my opinion be conditioned so as to ensure that they are appropriate to their setting. With such conditions this will ensure that visual amenity is improved and in this regard this aspect of the development is considered to be acceptable when considered against the guidance in the NPPF and policies S4, BNE1, BNE6, BNE9, BNE12, BNE14, BNE17 and BNE18, BNE21, BNE22, BNE25(i), ED3(ii) and R18(i) of the Local Plan.

In terms of the conversion of the five existing buildings to Class B1(c) (Light Industry) and the existing building next to the site entrance to a restaurant (Class A3) are all considered to be acceptable in terms of their impact on the character and appearance of the surrounding area. English Heritage advise that though none of buildings 3-9 are designated in their own right they make a positive contribution to understanding the significance of this part of the conservation area and also to its character and appearance. They state that they welcome the proposed retention and conversion to new uses of buildings 3, 5, 6, 8 and 9. These uses will involve some changes to the buildings, which are not detailed in the application and a condition to secure prior recording of the buildings in their present state is recommended so that information about their original use that might be lost or harmed as a result of conversion can be recorded.

No external works are proposed to any of these buildings, with the exception of the insertion of four small holes, to provide ventilation, within the roof slopes of each of the units within Magazine 'B' a Grade II* Listed Building. No other works are detailed to the exteriors of any of the other remaining unlisted buildings proposed to be converted to Class B1(c). This being the case, this aspect of the development is considered to be acceptable in terms of its impact on the character, appearance and

function of the surrounding built and natural environment and is also considered to be acceptable in terms of its impact on the character, appearance and setting of the conservation area, the listed buildings within and adjoining the site and the adjoining Scheduled Ancient Monument. Clearly Listed Building Consent is required in relation to the proposed works to Magazine B and the applicant will be advised accordingly should planning permission be forthcoming.

The conversion of the five existing buildings and the exiting building next to the site entrance to a restaurant (Class A3) are all considered to be acceptable in terms of their proposed use, scale, mass, proportions, layout and siting. No external changes are detailed and the existing materials are acceptable and bearing in mind the former use of the site as a military depot, the prospective conversion of these units would have no impact on the world heritage site, the conservation area, any of the adjoins listed buildings, archaeology or the scheduled ancient monuments. The proposed uses respect the scale, appearance and location of buildings, spaces and the visual amenities of the surrounding area in general and the submitted details show reasonable well structured and practical areas of open space. However, once again the detailing related to the open space will need to be conditions so as to ensure that they are appropriate to their setting.

In terms of the proposed mezzanine floor and central dividing wall within the Grade II* Magazine 'B'. Following the submission of further details both English Heritage and the Council's Design and Conservation Manager have confirmed that they are satisfied in regard to the free standing mezzanine floor in that no harm to the integrity of this Grade II* listed building will occur. Furthermore, agreement has been reached with English Heritage that the all but one of the magazines unit can be subdivided. The remaining magazine unit will be retained at its original full length. English Heritage have not objected to the manner of the subdivision and whilst the comments of the Design Review Panel are noted the applicant has advised he is not prepared to entertain a central communal space to maintain the long view down each vault. This being the case, especially in the light of the comments from English Heritage and the Council's Design and Conservation Manager, this aspect of the development is considered to be acceptable.

Bearing in mind all of the above, this aspect of the development is considered to be acceptable when considered against the guidance in the NPPF and policies S4, BNE1, BNE6, BNE9, BNE12, BNE14, BNE17, BNE18, BNE20, BNE21, BNE22, BNE25(i), and ED3 and R18of the Local Plan.

In terms of the proposed Housing element of this development, this has been carefully considered and this element of the proposal is considered to be appropriate in relation to its character, appearance and function of the surrounding built and natural environment as well as its impact on the character, appearance and setting of the conservation area, the listed buildings within and adjoining the site, archaeology and the adjoining Scheduled Ancient Monument.

English Heritage have noted the applicant's case that some residential elements are necessary at the site in order to create value with which to help secure a sustainable solution for the depot as a whole and support a comprehensive agreed outcome for the entire site. However English Heritage consider that these new build elements

introduce a range of considerations, especially as they are an addition to the conservation area and within the settings of the listed Magazine B and river wall and of Upnor Castle as a scheduled monument. English Heritage note that as eight terraced units occupy the sites of the demolished Magazine A and the Shell Filling Rooms they have the potential to affect undesignated heritage assets. The substantial foundations of the magazine are still in places visible beneath the tarmac. Furthermore, the housing units within the substantial blast walls are a very visible element but English Heritage are certain that buried remains are likely to exist where the now demolished structures within the blast bays once stood.

A paper prepared by Torcal Structural Engineers, included with the planning application, reflects discussions English Heritages discussions with the applicants about how the new houses are to be constructed without unacceptable harm to the surviving parts of the magazine (chiefly its foundations). Whilst undesignated, these remains are of high significance and English Heritage consider that these heritage assets must be preservation in situ should consent be forthcoming. This being the case any permission must include a condition requiring a solution for foundations and services associated with any new housing units

In addition to the above, the twelve houses proposed in pairs between the blast walls of the Shell Filling Rooms have the potential to harm any archaeological evidence for the buildings in which the shells were filled and also for the small railway connections by which material was moved around the site. Archaeological recording of this evidence in advance of works will need to be secured by condition should planning permission be granted.

The new residential buildings will be visible from the river and also its eastern bank and from within Upnor castle. Of particular note should be the view from the water bastion of the castle, the blue crane on St. Marys Island and the downstream view from Thunderbolt Pier. The demolished buildings do not provide a model that new architecture should seek to repeat, but they do provide a good guide as to the locations and scales of new development that are likely to be acceptable without risk of major harm to the conservation area. NPPF 137 requires the Council to look for opportunities for new development to enhance or better reveal the significance of the conservation area as a designated heritage asset and to treat favourably a proposal that does this. Other NPPF advice, such as that at NPPF 58 related to the quality of development, though not specific to the historic environment is also of relevance. Planning decisions should ensure that development will function well and add to the overall quality of an area: by establish a strong sense of place, using streetscapes and buildings to create attractive and comfortable places; to respond to local character and history and to reflect the identity of local surroundings and materials. The expected outcome of the proposed residential element of this development is considered to be a visually attractive one with good architecture and appropriate landscaping.

The housing element of this development is considered to be acceptable in terms of its use, scale, mass, proportions, layout and siting. Material are indicated as to be agreed and it is considered reasonable to condition these in this instance especially bearing in mind the proximity of the houses to heritage assess, both above and below ground, the fact that the site is located within a the prospective world heritage

site, the conservation area, archaeology and adjoins a number of listed structures / buildings, a scheduled ancient monuments and adjoins an ALLI, Etc. The proposed housing element of the development is considered to respect the scale, appearance and location of adjoining buildings and spaces, as well as the visual amenities of the surrounding area in general. The details submitted show reasonably well structured and practical areas of open space, but the detailing related to materials and the attractiveness of the open space are vague and will need conditioning so as to ensure that they are appropriate to their setting.

The residential units proposed as part of this development are considered complement the setting of the adjoining listed buildings and are not considered to be detrimental to or have the potential to damage or destroy, the adjoining scheduled ancient monument or its setting. The proposed housing is considered to be of a high quality of design that will preserve and enhance the area's historic or architectural character and appearance. The development respects the traditional patterns, building lines, open spaces and urban spaces within this former military depot and the scale, height, mass, roofscape, materials, detailing, fenestration, plot width and depth, and visual appearance of new development are all considered to be of modern, but sympathetic design bearing in mind the existing buildings and their settings. Conditions are required in relation to: materials; features and details of buildings; paving and roadway materials; boundary treatments; street furniture; and hard and soft landscape elements, including proposed tree planting and other planting. However, subject to such conditions the housing element of this proposal would constitute acceptable development in the conservation area

With such a conditions, visual amenity will be improved and in this regards this aspect of the proposal the development is considered to be acceptable when assessed against the guidance in the NPPF and policies S4, BNE1, BNE6, BNE12, BNE14, BNE17, BNE18, BNE20, BNE21, BNE22, BNE25(i), H10 and H11 of the Local Plan.

In terms of the site access arrangements, the proposed car parking provision within the site and the other elements of ancillary development including the proposed stairs to the upper amenity area (the secondary means of escape required for developments in the tidal floodplain) these are all considered to be acceptable and appropriate in relation to the character, appearance and function of the surrounding built and natural environment and its impact on the character, appearance and setting of the conservation area, the listed buildings within and adjoining the site, archaeology and the adjoining Scheduled Ancient Monument. These aspects of the development are all considered to be acceptable in terms of there scale, mass, proportions, layout and siting, although it is considered reasonable to impose conditions related to the detailing of various parts of these elements, bearing in mind the fact that the site is located within the prospective world heritage site, a conservation area and adjoins listed buildings, scheduled ancient monuments, Etc. Bearing in mind the above, these aspect of the development are considered to be acceptable when considered against the guidance in the NPPF and policies S4, BNE1, BNE6, BNE9, BNE12, BNE14, BNE17, BNE18, BNE20, BNE21, BNE22 and BNE25(i) of the Local Plan.

Amenity

In terms of amenity, this forms two parts. Firstly, the impact of the development on adjoining occupiers and secondly the impact of the development on future occupiers / users of the site.

The mixed use of the site includes proposed uses falling within Class B1(c)(Light Industry) and A3 (Restaurant). In this regard it is important to bear in mind the compatibility of land uses both within and adjoining the site. Residential properties immediately adjoin the development site and within the mixed use development proposed residential properties are located in close proximity to the B1(c) business units.

Initially, the Council raised concern related to how the employment element of the development would relate to the other elements of the scheme. With the exception of the applicants proposed office and related ancillary storage related to their rope business the other end users of these B1(c) business units is unknown. In relation to the applicants rope business the Council initially challenged the applicant's in regard to their assumption that the nature and proposed use of that building, within the employment element of this development, was B1(c)(Light Industrial). The applicant's planning agent responded by advising *"I spent time with the applicants understanding the rope business and am personally satisfied that the Class B1 classification of the use is correct given the degree of processing that occurs to the imported rope, which is distinct from Class B8 storage."*

As Members will be aware uses that fall within a Class B1 use class, are office / research and development / industrial process uses that can be carried out in any residential area without detriment to the amenity of that area by reason of noise, vibration, smell, fumes, smoke, soot, ash, dust or grit. In the light of the planning agents clarification, the B1 employment uses would not adversely impact on adjoining residential properties, existing or proposed, or their occupiers.

In terms of the B1(c) Light Industrial, A3 (Restaurant), proposed car parking areas and site access it is not considered that these elements of the development will lead to any increase impact on amenity over and above that which would have occurred when the site was in active military use. It is not considered that these aspects of the development will result in the loss of any day/sunlight or privacy to adjoining occupiers and due to the nature of the site, the activity level associated with the development and any traffic it generates are unlikely to result in a loss of amenity. These aspects of the development are unlikely to result in any increase in noise or disturbance to adjoining occupiers and in terms of the A3 restaurant use, subject to conditions related to any kitchen extraction systems, hours of operation, hours of delivery and the transmission of noise the development is not considered to result in any harm to the amenities of adjoining occupiers. In terms of impact on amenities resulting from the B1 (light Industrial) users hours of use and delivery have not been specified and this being the case it is considered appropriate to conditions these matters to enable some control, bearing in mind the proximity of the uses to adjoining residential users. Conditions related to kitchen extraction and transmission of noise would not be reasonable for the reasons set out in the preceding paragraph. Any impact on the adjoining units within the development site will be limited bearing in mind the location of the A3 use and the nature of the B1(c) light industrial use. On

this basis no objection is raised in regard to these elements of the proposed development when assessing it against policy BNE2, ED3 and R18 of the Local Plan

In terms of the amenities of the future occupiers of the new development it is considered that the design and layout of the different aspect of this development would maintain an acceptable relationship between the properties involved and not result in any loss of outlook, privacy or light. The layout through clever design and use of window positions does not result in any issues concerning overlooking, poor outlook or noise or disturbance within the submitted scheme that could justify or warrant a refusal.

In terms of adjoining properties, the positioning of the proposed uses, including the commercial, retail and housing elements of the site is such together that due the topography of the land and the design and siting of the buildings means that no loss of amenity will result from any of these units. They all provide adequate layouts and their relationship to each other and the adjoining properties is such that no loss of amenity will occur.

In terms of Medway Council's Housing Design Standards (Interim 2011) all of the units meet the dwelling space standards with adequate living, circulation, storage, etc. as can be seen from the table below:

House Type	Number of Units	Percentage Of units	Gross Internal Floor Area (GIFA) (Sq.m)	Medway Housing Design Standards (GIFA) (Sq.m)
3 bed / 3 storey / 5 person unit	12	60%	130.38	102
3 bed / 2 storey / 5 person unit	4	20%	121.28	96
2 bed / 2 storey / 4 person unit	4	20%	88.04	83

However, due to the confined nature of the site the separation distance of 20 metres between the rear facades cannot be provided. To address this, the applicant has designed the development so that the residential units that have rear elevations facing each other have no habitable room windows in those rear elevation. This is acceptable in planning terms and this being the case, this development is considered to be acceptable in this regard. In addition to this the single bedroom of the 3 bed / 3 storey / 5 person unit falls 0.2 metres below the baseline width of 2 metres and the private garden space related to the 2 bed / 2 storey / 4 person comprises of 2 decked areas (front and rear) and a balcony to the front first floor bedroom. The garden provision related to these 4 units falls below the recommended 7 metres minimum sought in relation to houses.

Inevitably, there will have to be trade-offs in order for any viable redevelopment scheme to proceed. However, the views of the English Heritage and the Councils Urban Design and Conservation Manager are pivotal to this decision in that due unique circumstances of this site, where the developer is seeking to bring a redundant site with a complex set of issues related to bringing it back into reuse whilst improve connectivity with Upnor Castle, the River Medway and bring about

improvements to community car parking provision, which are badly needed in Upnor. In the light of these factors it is considered that the concerns related to the above deficiencies should be waved in this instance.

The proposal raises no other concerns in respect of light, privacy and outlook and accordingly, for the reasons set out above, no objection is raised under the provisions of Policy BNE2 of the Local Plan

Provision of Open Space within the Development

Policy L3 of the Local Plan states that "*where there is a proven deficiency, residential development proposals shall make open space provision...*" In terms of development where the level of occupancy is likely to be between 50 and 100 people this policy seeks "*...well located local open space for children's play and casual recreation on-site at a standard equivalent to 0.7 hectares per 1,000 population.*" In terms of open space in employment areas policy L5 of the Local Plan states "*areas of landscaped amenity open space will be sought from major employment developments, either within, or adjacent to, the development.*" The Local Plan at Appendix 3 identified a short fall of open space provision as 2.72 hectares.

In this instance the applicant proposes a shared amenity space of approximately 1.2 hectares on the upper level of the development site. This area will be available for use by occupiers of the site and will be accessed via the slope from the traverse wall on the southern side of the site and the proposed stair located within the northern most blast bay. This stair acts as the secondary escape required by the Environment Agency in the event of flooding. Direct access to this area will also be available to the occupiers of the 12 residential units located within the blast bays. The Local Plan advises that in terms of open space provision 2.4 hectares should be sought per 1,000 population. This being the case the shared amenity space provision would more than adequately achieve this requirement. As suitable onsite provision can be achieved in relation to both the residential and employment / commercial element of the development no contributions in this regard can be sought.

Trees

The application site is within the Upnor Conservation area and the trees within the site are effectively protected. This planning application was submitted with a tree survey which identified 65 individual trees in 5 groups. Shrub, Elm regeneration and areas of young natural regeneration were not included in the survey. No trees of high value were identified in the survey, which 14 individual trees were identified as having moderate value, 41 trees (in 5 groups) were of low value and 10 individual trees were of poor condition and limited potential. A total of fifteen individual trees, two groups and a single tree from another group will require removal to accommodate the proposal. All but two of the trees being lost are of low value or poor condition / limited potential. The other two trees being removed are of moderate value but are required to be removed to either enable the construction of the residential units and garden or to suit the site context and provide practical garden space for a residential unit. Many of the trees are self seeded and causing damage to the blast and traverse wall walls and require removal in any event. Bearing this in mind no objection to the removal of the trees is raised. However, a Planning

Condition is required to ensure that the tree protection measures identified in the submitted tree report are put in place during the development. In the light of the above no objection is raised to this proposal under Policy BNE43 of the Local Plan.

Ecology and Biodiversity

Members will be aware that under the Natural Environment and Rural Communities Act (2006), “*Every public authority must, in exercising its functions, have regard, so far as is consistent with the proper exercise of those functions, to the purpose of conserving biodiversity*”. In order to comply with this ‘Biodiversity Duty’, planning decisions must ensure that they adequately consider the potential ecological impacts of a proposed development.

The National Planning Policy Framework states “*the planning system should contribute to and enhance the natural and local environment by...minimising impacts on biodiversity and delivering net gains in biodiversity where possible.*”

Furthermore Paragraph 99 of Government Circular (ODPM 06/2005) Biodiversity and Geological Conservation - Statutory Obligations & Their Impact Within the Planning System states that “It is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted otherwise all relevant material considerations may not have been addressed in making the decision.”

A suite of documents related to the ecology were submitted with the application or during the consideration of the proposal. They include an extended ecological scoping survey, a preliminary bat survey and a reptile survey all prepared by Bramley Associates dated October 2012. In addition to these documents a bat roost survey by Bramley Associates dated February 2013 has also been submitted.

The extended ecological scoping survey (October 2012) noted an earlier ecological survey prepared by WSP in 2010 and the fact that it noted that several ecological surveys may be required for this site prior to development. The preliminary bat survey (October 2012) identified four species of bats that were recorded using the habitats around the proposed development site north of the Upnor Castle and that activity was particular centred around the Torpedo Sheds and along the woodland edge to the west of these sheds. This report stated that “*to ascertain bat usage of the site it is recommended that a full series of emergence / return activities are carried out from Spring of 2013...*”

The bat roost survey (February 2013) found that one building (Building 61) is a bat roost, two buildings (Building 66 and the garage) are at least bat perching sites and two of the four underground shelters on the proposed development site are currently used as hibernation places by bats. The bat roost survey advises that “*to ascertain how and in what number bats utilize the various roosts and perching places found on the development site it is recommended that the bat activity survey started in 2012 is completed in 2013.*”

In terms of the reptile survey (October 2012) this document identified two species of

reptile on the development site. The report noted that no works are propose to the grass / herblands within or adjoining the existing woodland and scrub and states that *"...no further reptile survey work is considered to be required."* However, the reptile survey also advises *"if development plans change to include road access across the woodland, or landscaping of this area is proposed then a full 20 visit Reptile Population Estimate Survey would be required..."*

Bearing in mind the above, it should be noted that the 12 No. proposed residential units located within the blast bays proposes to create an amenity area related to each of the units by cutting into the existing escarpment. This can be clearly seen in section on drawing number 628:P12.

The Council's Consultant Ecologist having reviewed the ecological information submitted advised that whilst they were generally satisfied with the information, they require additional information to be submitted. This was due to the fact that the bat and reptile survey work was inadequate, as they fails to assess what the impact of the development will be and has failed to identify what mitigation was required. Additionally it was considered that a detailed management plan was required.

The applicant's agent responded to this request stating:

"the development proposal comprises the conversion of existing structures and the erection of new buildings on the existing brownfield area of the site, with a small amount of demolition. This point is relevant because paragraphs 109 and 111 of the National Planning Policy framework (NPPF) states that one of the ways the planning system should contribute to and enhance the natural and local environment is by "remediating and mitigating despoiled, degraded, derelict, contaminated and unstable land, where appropriate." In this way by focusing on brownfield opportunities, the undeveloped sites that are likely to have more ecological interest will be better safeguarded. This central objective of the NPPF is satisfied by the proposed scheme which also seeks to restore a nationally important heritage asset. Paragraph 111 states that planning decisions should encourage the effective use of land by reusing land that has been previously developed (brownfield land) provided that it is not of high environmental value. " The ecological reports and surveys undertaken as part of the application package sufficiently demonstrate that the site is not of high environmental value.

By focusing development on the brownfield area of the site only the proposed scheme can also offer significant biodiversity improvements... to the undeveloped portion of the site... It is therefore requested that a proportionate response (para 113) is taken which would result in any additional survey work being carried out as a condition of planning, once the planning principles of this site have been established."

Whilst noting these comments the Councils Ecologist have maintained their position in relation to the need for this additional survey work. Indeed, the applicant agent has recently submitted direct to the Council's Consultant Ecologist an Ecological Mitigation and Enhancement Plan. In response to this our ecologist advises that having reviewed the ecological information submitted and the additional Ecological Mitigation/Enhancement Plan Jan 2014 by Arbttec that whilst they are satisfied with

the information they still require additional information to be submitted.

Their concerns related to the need to provide additional information prior to the determination of the planning application. The Council's Consultant Ecologist advised in regard to bats, a European Protected Species, that insufficient survey work has been carried out to assess what the impact will be and what mitigation is required. The Consultant Ecologist advised that a detailed bat mitigation strategy must be produced detailing all the bat mitigation which is required for the whole site which has been informed by the recommended bat emergence surveys.

In addition to this it was advised that reptiles have been recorded within the grassland/scrub area to the south and west of the site and that this area on the site plan has been classed as an amenity space. However, no landscape plan has been provided detailing how it will be managed if planning permission is granted. As such further information should be provided detailing how this area will be managed and how the proposed works will impact the reptile population present within the site.

In addition suitable habitat for badgers and dormice has been recorded and our ecologist noted that the ecological scoping survey, submitted with the application, detailed that a survey may be required for both species if woodland area is to be directly impact by the proposed works.

In the light of this our ecologist has advised that as it is unconfirmed why / how the amenity area will be impacted by the proposed development all surveys and details of required mitigation must be submitted prior to determination of the planning application. The Council's Consultant Ecologists *stress that* one of the principles of the National Planning Policy Framework is that "*opportunities to incorporate biodiversity in and around developments should be encouraged*". The proposed amenity area must be managed to benefit biodiversity and a detailed management plan must be produced for the site. The management plan must take in to account the protected species issues detailed above.

It is clear that there is a lack of important information regarding ecology. Furthermore it is clear from the applicant's own reports in October 2012 and latter in February 2013 recommended, in regard to bats that further survey work be carried out. These recommendations were made prior last years survey window starting and could have been acted on prior to the submission of the current application, as these recommendations were clearly made in the applicant's own ecological reports by their consultants.

Current Government advice set out at NPPF 118 advises "*when determining planning applications, local planning authorities should aim to conserve and enhance biodiversity by applying the following principles:*

- *if significant harm resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused..."*

Furthermore Government Circular 06/2005 "Biodiversity and Geological

Conservation – Statutory Obligations and their Impact within The Planning System" advises at Paragraph 99 that "it is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision..."

Whilst this paragraph also allows for exceptions to this stance, it states "*...the need to ensure ecological surveys are carried out should therefore only be left to coverage under planning conditions in exceptional circumstances, with the result that the surveys are carried out after planning permission has been granted.*"

In this instance, it is clear that the applicant was aware as far back as 2012 that additional bat survey work was required. Indeed the applicant's own extended ecological scoping survey (October 2012) quotes an earlier ecological survey from 2010, prepared by WSP, where it noted that several ecological surveys may be required for this site prior to development.

It is true to say that the development presents a unique opportunity in that it comprises the conversion of existing structures and the erection of new buildings on an existing brownfield site and that this would have the potential to contribute to and enhance the natural / local environment and significant heritage assets by regenerating existing buildings, whilst remediating and mitigating despoiled, degraded, derelict and potentially contaminated land. However, the applicant's own reports indicate the ecological interest of the site and the need to undertake further survey work. Whilst the proposed scheme seeks to restore a nationally important heritage asset this has to be weighed carefully against the potential harm it may cause to ecology. Paragraph 109 of the NPPF states "The planning system should contribute to and enhance the natural and local environment by... minimising impacts on biodiversity and providing net gains in biodiversity where possible, contributing to the Government's commitment to halt the overall decline in biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures. Paragraph 118 of the NPPF is quoted above, but it is clear that where significant harm resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused. In this instance in the absence of the additional survey work sought the Council is unable to reach a positive conclusion in this regard.

Finally, as Members will be aware, as bats are a European protected species a mitigation licence from Natural England will be required to derogate from potential offences under the Conservation of Habitats and Species Regulations 2010 (as amended). As such, Medway Council must consider the likelihood of a licence being granted as part of these considerations. In order to obtain a licence 'three tests' need to be addressed. These are:

- The development activity must be for imperative reasons of overriding public interest or for public health and safety;
- There must be no satisfactory alternative; and
- Favourable conservation status of the species must be maintained.

Until the further information requested is provided it is not considered that the Local Planning Authority is able to confirm that the implementation of the proposed mitigation will ensure that the favourable conservation status of the bat species will be maintained. This being the case, it is not possible to be certain at this time that a European protected species mitigation licence will be granted by Natural England.

Bearing all of the above in mind, it is not considered that “*exceptional circumstances*” exist as highlighted in Paragraph 99 of Government Circular 06/2005 and that to permitted the development in the absence of the required further ecological survey work required would be harmful to the interests of biodiversity and ecology contrary to the advise in the National Planning Policy Framework, Government Circular 06/2005, and policies BNE37 and BNE39 of the Medway Local Plan 2003.

Highways

Trip Generation and Access

The Transport Statement uses the trip generation database to estimate the vehicle movements likely to arise from the development proposals. It is predicted that the residential and commercial proposals will generate around 139 and 116 trips during the morning and evening peak periods respectively.

Vehicle tracking diagrams have been used to determine the length of existing boundary wall that needs to be demolished in order to facilitate access for articulated lorries, and to provide a footway that segregates pedestrian movements from vehicular traffic. As a result, the existing bellmouth is proposed to be widened from 6.5 metres to 12 metres. Upnor Road in the vicinity of the site is relatively lightly trafficked: the applicants survey recorded around 140 two-way movements during each peak period. The Transport Statement contains a capacity assessment of the amended access, which demonstrates that the development traffic will not cause significant delays or disruption to the free-flow of traffic on Upnor Road.

Recorded vehicle speeds of 32.8 mph from the west and 27 mph from the east require visibility sightlines of 48 metres and 34 metres to be provided, and these are shown on the submitted plan. A previous planning consent for the 'Sandacres' residential development contained an obligation on the developer to provide a traffic calming build-out on Upnor Road in the vicinity of the access, and this will be carried forward to any future applications on this site. The build-out will reduce the speed of traffic approaching the access from the west, and thereby ensure that the visibility sightlines proposed are likely to exceed the recommended provision.

Within the site, the access is proposed to be around 8 metres wide to serve the commercial sector and between 4.8 and 6 metres within the residential zone. Vehicle tracking diagrams have been submitted to demonstrate how service vehicles will circulate within the site. It should be noted, however, that the refuse truck used in the tracking diagram for the residential area of the site is smaller than those operated in Medway. It is therefore recommended that the applicant consider the vehicle specification shown on the attached plan.

Policy T3 of the Local Plan requires development proposals to provide attractive and

safe pedestrian access. Whilst the internal layout makes satisfactory provision - comprising footpaths, shared spaces and raised tables - no facilities are proposed at the main site access to link the development with the footway on the northern side of Upnor Road. This is of particular concern given the 38 pedestrian trips likely to be generated by the development at peak times, and the on-site car parking provision that will generate movements on foot between the site and the various leisure facilities in the village to the east. Such a link should take the form of an informal crossing point on the east or west side of the vehicular access, subject to safety considerations. It is therefore recommended this be addressed by the applicant, in order to comply with the policy.

Subject to the proposed amendments to the access outlined above, and the applicant providing pedestrian facilities in the vicinity of the junction bellmouth, the traffic generated by the development can be satisfactorily accommodated without detrimentally impacting upon highway safety and capacity.

Parking

The application proposes 43 parking spaces to serve the 20 residential dwellings, which accords with the minimum requirement. A total of 99 spaces for the B1 uses also complies with the Council's Parking Standards, which indicate that a maximum of 116 spaces should be provided. An arrival and departure profile for the B1 development, based on the trip generation data supplied, indicates that up to around 95 parking spaces will be required at any one time. Whilst the A3 use would nationally require the provision of up to 26 parking spaces, if the cafe proposed is mainly used primarily by employees and residents based on the site a dedicated parking provision is unlikely to be required.

The application proposes parking in accordance with the Council's Standards, and it is considered that demand for parking generated by the development can be accommodated within the site. On this basis, no objection is raised in respect of Policy T13 of the Local Plan.

Contaminated Land / Air Quality.

The Environment Agency and Council's Environmental Protection team were consulted in relation to this development. The previous uses of the site are noted and due the fact that it has formally been used for military purposes it is considered that the site has the potential to be contaminated. This being the case, it is recommended that the standard suite of contaminated land condition be imposed should consent be forthcoming. This would be in conformity to the request made by the Environment Agency and policy BNE23 of the Medway Local Plan 2003.

In terms of air quality no concerns have been received in this regard. The nature of uses proposed are such that any airborne emissions will not result. The only emissions likely are from the kitchens related to the restaurant and a planning condition is recommended ensuring this is appropriately controlled by way of an extraction system. No impact on health, amenity or natural environment of the surrounding area will result from the development in relation to air quality issues either cumulatively or individually. This being the case the development is considered to be acceptable in terms of Local Plan policy BNE24

Community Provision

The applicants proposed that the car parking area located adjoining to the site access with Upnor Road and to the rear of the main boundary wall will be open to the public when it is not in use by the adjoining light industrial uses. This is a much needed facility in this location and its provision is seen as a welcome community provision. In addition to this the applicant's are offering an area to the south of the site to be used as a drop off location or parking for disabled users visiting Upnor Castle. This again would be a welcome community provision. In terms of the disabled parking related to Upnor Castle this has potential logistical issues that would need to be resolved if this was to be pursued by the Council. This includes issues such as the stairs at the point of access into the castle from this adjoining disabled parking area and how disabled users would be able to gain access at this point. This matter is under consideration by the relevant section of the Council.

The size and scale of these community provisions are considered to be appropriate to the site and will not have any detrimental impact on the countryside, residential amenity, landscape or ecology. This being the case this aspect of the development is considered to be acceptable when assessed against policy CF2 of the Local Plan.

Developer Contributions / S.106

Developer contributions and affordable housing provision would ordinarily be secured as part of this development in relation to affordable housing provision, educational contributions, contributions to the Great lines heritage park. Indeed in terms of affordable housing provision, Policy H3 of the Local Plan would normally seek to secure five of the proposed residential units as affordable housing provision. Such Contributions would be secured under Section 106 of the Town and Country Planning Act 1990 (as amended). However, the applicant has stated that no such contributions can be delivered in relation to this scheme due to the unique nature of the development site and abnormal costs related to the development of a site such as this.

In accordance with Medway Council's Developer Contributions guide, the developer has submitted a viability appraisal, which has been reviewed by Medway Council's Estates and Valuation Section. That section of the Council have advised that the developers estimated house sale prices are optimistic and their build costs look to be on the light side. Given the historic use of the site, the need for remediation is highly likely and this will be significant additional cost that may not be adequately covered by the proposed contingency sum. Bearing in mind the developer's stated intention is to apply profit generated from the residential development to subsidise the conversion of the retained buildings for commercial use the Council's Estates and Valuation Section consider that the costs of the development leaves nothing for affordable housing or developer contributions and if these were to be pursued the development would be unviable.

The NPPF at paragraph 173 advises that: "Pursuing sustainable development requires careful attention to viability and costs in plan-making and decision-taking. Plans should be deliverable. Therefore, the sites and the scale of development

identified in the plan should not be subject to such a scale of obligations and policy burdens that their ability to be developed viably is threatened. To ensure viability, the costs of any requirements likely to be applied to development, such as requirements for affordable housing, standards, infrastructure contributions or other requirements should, when taking account of the normal cost of development and mitigation, provide competitive returns to a willing land owner and willing developer to enable the development to be deliverable.” This is reflected in Medway Council’s developer contributions guide.

It is considered that to pursue any S.106 contributions will result in the development not coming forward and the site remaining undeveloped. Consequently, it is not recommended that Medway Council pursue any S.106 contributions in regard to this development. In light of the above, the development is considered to accord with policy S6 of the Local Plan and Medway Council’s Developers Contribution Guide.

Other Matters

Flood-risk

Part of the site is within the area shown on the Local Plan as being at risk from tidal flooding, as identified under Policy CF13 of the Local Plan. A Flood Risk Assessment (FRA) was submitted with the application in accordance with the NPPF guidance and its accompanying Technical Guidance, in line with best practice. The FRA was necessary because of the riverside location of the site and the site lying partly within Flood Zones 2 and 3. The report concluded the assumptions that the requirements of the sequential test will be met given the priority for use and development at this important brownfield site which could not be located in a lower risk area. FRA modelling was also carried out with regard to the Exception Test.

The existing masonry wall which is part of the original yard construction ranges in height from 6.81 to 7.45 above Ordinance Datum Newlyn (aDN), which would represent a 1 in 1000 year standard of protection. The FRA recommends that a Management and Maintenance Plan is developed for this wall and this has previously been discussed with English Heritage due to the Grade II listed status of the wall. Taking climate change into account the FRA modelling concluded that the height of the existing riverside wall would defend the site but because the wall is not contiguous the modelling showed there would be flow routes into the site via the access road. As a result, the following flood mitigation measures are required:

- The access road is proposed to be raised to the 5.2m aODN level to achieve the 1 in 200 current day flood level using a shallow gradient ramp. The height would be 1 metre in height and would act as a floodgate achieving the 1 in 1000 year current day flood level;
- The minimum flood levels to be 5.42 aODN and the minimum floor level of sleeping accommodation 6.72 aODN, which is achieved by the design proposals;
- Surface water will discharge into the river. The FRA recommends that the sewers are surveyed before the development takes place;
- A separate access route to Upchart Road during extreme flood events from the residential dwellings is provided; and
- A formal flood warning and operations plan be developed.

The Environment Agency has been consulted and not raised any objection with regard to flood risk on this site. The development complies with the criteria set out at Policy CF13 of the Local Plan and consequently, for the reasons set out above no objection is raised to the development in this regard.

Waste Services

The submitted details demonstrate that adequate provision for refuse storage have been provided within each plot and that consideration has been given to how it is presented to the front of properties on the day of refuse collection. Medway Council's Waste Service section has advised that it has no objections to this proposed development as all properties will be presenting their waste to the front. The Integrated Transport Officer has confirmed that the site access, roadways and turning heads are capable of taking the Council's refuse vehicles

Planning application drawings e.g. 628:P07 suggest that the openings to the riverside wall, for now demolished powder piers, might be treated in such a way as to permit views to the river. The riverside wall, at this point which runs in front of both A and B magazines, is grade II listed. No listed building consent application has been made for these works and clearly Listed Building consent will be required. The applicant will be advised of this fact by informative, should planning permission be forthcoming.

Local Finance Considerations

None Relevant

Conclusions and Reasons for Refusal

The majority of considerations related to this development are considered to be acceptable. However, the application fails in one vital area, biodiversity / ecology. Insufficient ecological survey work has been carried out to assess the impact of the proposed development on biodiversity / ecology, especially protected species known to be present on the site, and what mitigation, if any, would be required. Furthermore, no adequate ecological management plan has been provided that detailing how the amenity area will be managed or how the proposed management will impact the reptile population known to be present within the site. In the absence of such ecological survey work the potential impact on protected species cannot be ascertained and the proposal is considered to be contrary to paragraphs 109 and 118 of the National Planning Policy Framework, paragraph 99 of the Government Circular 06/2005 "Biodiversity and Geological Conservation – Statutory Obligations and their Impact within The Planning System" and Policies BNE37 and BNE39 of the Medway Local Plan 2003.

This application would normally fall to be determined under Officers delegated powers but is being reported to Planning Committee due to the fact that this site is a sensitive and prominent location which has a significant number of heritage assets, not least Upnor Castle that immediately adjoins the site, magazine 'B' and the Upnor Conservation Area. The site is an important historic site located close to the Chatham historic dockyard and is considered to be potentially contentious. This

being the case the Development Manager has referred this Planning Application to Planning Committee for Members Consideration

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://planning.medway.gov.uk/donline/AcolNetCGI.gov>