

MC/13/2484

Date Received: 1 October, 2013

Location: 142 -144 Napier Road, Gillingham, Kent ME7 4HG

Proposal: Outline application with all matters reserved for demolition of existing warehouse and construction of a new development of 9 dwellings

Applicant: Mr R Gill

Agent: Mr M Phillips Architecture Design Limited The Joiners Shop The Historic Dockyard Chatham Kent ME4 4TZ

Ward Gillingham South

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**Recommendation of Officers to the Planning Committee, to be considered and determined by the Planning Committee at a meeting to be held on 12 March, 2014.**

**Recommendation - Approval with Conditions**

- 1 Approval of the details of the layout, scale and appearance of the buildings, the means of access thereto and the landscaping (hereinafter called "the reserved matters") shall be obtained from the Local Planning Authority in writing before any development is commenced.

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

- 2 Plans and particulars of the reserved matters referred to in Condition 1 above shall be submitted in writing to the Local Planning Authority for approval. Such application for approval shall be made to the Local Planning Authority before the expiration of three years from the date of this permission and the reserved matters shall be carried out in accordance with the approved details.

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

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

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

1990.

- 4 The development hereby permitted shall be carried out in accordance with the following approved plans: 1201/0102, 03 (indicative layouts) and 03 (proposed), 04, TSP-01, TOPO\_03.DRG received 30 December 2013, Napier\_site\_OPT2 received 19 December 2013.

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

- 5 The details to be submitted in pursuance of Condition 1 shall show adequate land, reserved for the parking or garaging of vehicles for both the existing (136, 142 and 144 Napier Road) and proposed dwellings and upon approval of the details, no permanent development, whether or not permitted by the Town and Country Planning (General Permitted Development) Order 1995, (or any Order revoking and re-enacting that Order), shall be carried out on the land so shown (other than the erection of a private garage or garages) or in such a position as to preclude vehicular access to the reserved vehicle parking area.

Reason: To ensure that the development permitted does not prejudice conditions of highway safety or efficiency, in accordance with Policies T1 and T13

- 6 Unless otherwise agreed in writing by the Local Planning Authority, development other than that required to be carried out as part of an approved scheme of remediation must not commence until conditions 7 to 10 have been complied with. If unexpected contamination is found after development has begun, development must be halted on that part of the site affected by the unexpected contamination to the extent specified in writing by the Local Planning Authority until condition 10 has been complied with in relation to that contamination.

Reason: To ensure that the development is undertaken in a manner which acknowledges interests of amenity and safety in accordance with Policy BNE23 of the Medway Local Plan 2003.

- 7 A desk top study, investigation and risk assessment, in addition to any assessment provided with the planning application, must be completed in accordance with a scheme to assess the nature and extent of any contamination on the site, including risks to groundwater, whether or not it originates on the site. The scheme shall be submitted to and approved in writing by the Local Planning Authority prior to commencement of the development. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report shall be submitted to and approved by the Local Planning Authority prior to the commencement of development. The report of the findings must include:

(i) a survey of the extent, scale and nature of contamination;

(ii) an assessment of the potential risks to:

- human health
- property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes.
- adjoining land,
- groundwaters and surface waters,
- ecological systems,
- archaeological sites and ancient monuments;

(iii) an appraisal of remedial options, and proposal of the preferred option(s).

This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'.

Reason: To ensure that the development is undertaken in a manner which acknowledges interests of amenity and safety in accordance with Policy BNE23 of the Medway Local Plan 2003.

- 8 A detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment must be prepared, and submitted to and approved in writing by the Local Planning Authority prior to commencement of the development. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

Reason: To ensure that the development is undertaken in a manner which acknowledges interests of amenity and safety in accordance with Policy BNE23 of the Medway Local Plan 2003.

- 9 The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of any development (other than development required to enable the remediation process to be implemented) unless otherwise agreed in writing by the Local Planning Authority. The Local Planning Authority must be given not less than two weeks' written notification prior to the commencement of the remediation scheme works.

Following completion of the measures identified in the approved remediation scheme, a verification report that demonstrates the effectiveness of the remediation carried out must be produced, and submitted to and approved in writing by the Local Planning Authority prior to bringing the development into use.

Reason: To ensure that the development is undertaken in a manner which acknowledges interests of amenity and safety in accordance with Policy

BNE23 of the Medway Local Plan 2003.

- 10 In the event that contamination that was not previously identified is found at any time when carrying out the approved development it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of condition 7, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 8, which is subject to the approval in writing of the Local Planning Authority.

Following completion of the measures identified in the approved remediation scheme a verification report providing details of the data that will be collected in order to demonstrate that the works set out in condition 8 are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with condition 9.

Reason: To ensure that the development is undertaken in a manner which acknowledges interests of amenity and safety in accordance with Policy BNE23 of the Medway Local Plan 2003.

- 11 The plans and particulars submitted in accordance with Condition 1 above shall include:

A plan showing the location of and allocating a reference number to each existing tree within the site which has a stem diameter of 75mm or more, measured at 1.5 metres above the highest adjacent ground level and each tree with an estimated stem diameter of 75mm or more that overhang the site or are located beyond the site boundaries within a distance of up to 12 times their estimated stem diameter. For individual trees the crown spread shall be shown and for groups of trees the overall extent of the canopy shall be shown, and for all trees it shall be clear as to which are identified for retention or removal:

For all existing trees within the site with a stem diameter of 75mm or more, measured at 1.5m above the highest adjacent ground level and each tree with an estimated stem diameter of 75mm or more that overhang the site or are located beyond the site boundaries within a distance of up to 12 times their estimated stem diameter:

- a) a tree survey
- b) a tree constraints plan
- c) an arboricultural impact assessment
- d) a tree protection plan
- e) arboricultural method statements

All of the above plans and particulars shall accord with the recommendations contained in British Standard 5837:2012 *Trees in relation to design, demolition and construction – Recommendations*, or any revision thereof.

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

- 12 The plans and particulars submitted in accordance with Condition 1 above shall include:

A plan showing the location of and allocating a reference number to each existing tree within the site with a stem diameter of 75mm or more, measured at 1.5m above the highest adjacent ground level and each tree with an estimated stem diameter of 75mm or more that overhang the site or are located beyond the site boundaries within a distance of up to 12 times their estimated stem diameter. For individual trees the crown spread shall be shown and for groups of trees the overall extent of the canopy shall be shown, and for all trees it shall be clear as to which are identified for retention or removal;

For all existing trees within the site with a stem diameter of 75mm or more, measured at 1.5m above the highest adjacent ground level and each tree with an estimated stem diameter of 75mm or more that overhang the site or are located beyond the site boundaries within a distance of up to 12 times their estimated stem diameter:

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

**For the reasons for this recommendation for approval please see planning appraisal section and conclusion at the end of this report.**

### **Proposal**

This is an outline application with all matters reserved (scale, appearance, means of

access, layout and landscaping) for the demolition of the existing warehouse and construction of a new development of 9 dwellings.

The application proposes the demolition of the warehouse to the rear of No.142 Napier Road and turn this area into garden for the existing house.

The indicative layout shows a terrace of 6 house to the south of the site to the rear of 156-166 Napier Road with parking to the front and a second terrace of 3 houses in the centre of the site to the rear of 100-106 Nelson Road.

Further parking is shown on the indicative plans between the existing house at No 142 Napier Road and the terrace of 3 houses and along the access road. In total 33 parking spaces are shown.

The indicative plans show rear gardens of approx. 16m in depth with plot widths typically 4.5m.

Indicative plans show three bedroom houses set over two floors with accommodation in the roof space.

### **Site Area/Density**

Site area: 0.45 hectares (1.11 acres)

Site density: 24.44 dph(8dpa) (including the existing houses on the site at 142 and 144 Napier Road)

### *Relevant Planning History*

MC/13/1393	Outline application with some matters reserved (scale, appearance and landscaping) for demolition of existing warehouse and 2 residential houses to be replaced with a new development of 20 houses with associated access and parking Withdrawn 21 August 2013
GL/97/0638/62/0083	Proposed outline application for the erection of a 36 bedroom residential home and 8No assisted living units together with the demolition of existing bungalow and factory Refused 17 February 1998
GL/97/0474/62/0083	Proposed outline application for the erection of a residential home and assisted living units together with demolition of existing bungalow and factory Refused 6 October 1997

## Representations

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

**Eleven letters** have been received raising the following concerns:

- Change in the character of gardens backing onto the site
- Concerns about security to property if a car park is built adjacent to their boundary
- Question on whether the houses would be let or sold
- Houses are town houses set over three floors and would be significantly taller than houses in the surrounding area
- Question whether the large house will be demolished at a later date
- Could the road be gated to provide more security
- Impact on sewerage and drainage
- Concern about loss of trees
- Question what policies Medway Council have to safeguard diminishing wildlife
- Question who will be responsible for maintaining fences and tree surgery
- Question what will happen to the undeveloped land adjacent to the site
- Question what the timeline is for the completion of the works and how they will be managed
- Concern that their tree may be damaged as overhanging branches are to be removed
- Concern that wildlife should be taken into account as habitats are becoming fewer and fewer
- Seeks clarification as to what the large green area to the rear of 134 Napier Road is and that it may be built on at a later stage
- Concern about traffic entering Napier Road given the close proximity of the primary school
- Access should be from Borough Road only as shown in the Local Plan
- Site allocated in the local plan is for 25 units across the site not a partial independent development of 9 or more higher density almost identical houses
- Unsuitable driveway from the busy overcrowded Napier Road with dangerous restricted vision likely to cause conflict as well as increase chances of extra accidents
- No protection to No138 Napier Road from vehicles crashing into the lounge, dining room or garden wall
- Potential of damp and damage due to poorly surfaced driveway
- Overlooking by those using the driveway
- Not up to Kent Fire and Rescue service minimum access requirements
- Refuse lorries would be unable to service the properties
- No provision of space allocated for storage of bins
- Noise and disturbance to habitable rooms that face onto the access track
- Security reduced
- Litter and dumping
- Who would be responsible for maintenance

- Parking spaces appear too small for most vehicles, which would mean that people will park in Napier Road, which is already overloaded with residents' cars and commercial vehicles from surrounding roads
- Why is parking being proposed for 136 and 142 Napier Road bringing extra unnecessary traffic movements, noise and pollution onto the site
- Access not sufficient quality for road traffic
- Concern about speeding on the access
- No amenities for children on site
- Loss of wildlife on site
- Previous refusal by Secretary of State for access from Napier Road, insisting on Borough Road access only
- Not in accordance with policies H9, BNE1, BNE2, BNE4, BNE6, T1 of the Local Plan
- Character of the whole area would alter dramatically
- Dwellings would have small rear gardens
- Cramped and more intensive than Napier and Nelson Roads
- Trees would be removed
- Backland development
- Seek that committee make a site visit
- More dangerous for school children
- Concern about the effect on the drainage system in the area
- Noise and disruption associated with building the houses
- Loss of light
- Concerned that more units will be put on there in the future
- Concern about the boundary treatment and security

**Kent Police** have written to advise:

- No objections to make on the principle of the proposal in regard to crime prevention and Crime prevention through environmental design (CPTED) matters.
- Proposal indicates that the western boundary of the site is to be secured with a 1.8m close boarded fencing, recommend that a 300mm trellis topping be added to this
- Arris rails should be on the inside of residential fencing so that they cannot be used as climbing aids
- Anti-ball netting should be considered along the boundary with the school
- Blank gable end elevations should be avoided in the interests of general and informal surveillance
- Service paths to the rear of houses should be kept to a minimum and be fully gated
- Recommend that lighting is incorporated into the final design for the parking areas
- Unclear what the open space in the north western corner of the site will be used for
- Encourage the applicants to talk to them about the designs and seeks a suitably worded condition

**Southern Gas Networks** have written to advise: You will note the presence of our Low/Medium/Intermediate Pressure gas main in the proximity to your site. There should be no mechanical excavations taking place above or within 0.5m of the low pressure system, 0.5m of the medium pressure system and 3m of the intermediate pressure system. You should where required confirm the position of mains using hand dug trial holes.

## **Development Plan**

The Development Plan for the area comprises the Medway Local Plan 2003. The policies referred to within these documents and used in the processing of this application have been assessed against the National Planning Policy Framework, 2012 and are considered to conform. The Medway Housing Design Standards 2011 are also a material consideration.

## **Planning Appraisal**

### *Principle of Development*

The site along with the area to the south that connects with Borough Road (approximately 0.6 hectare) is designated as a housing allocation in the Medway Local Plan 2003. This proposal puts forward development on 3/4 of the allocated site, approx. 0.4513 hectares. The remainder of the allocated area comprises an area of mature trees and recently demolished buildings fronting Borough Road.

The Medway Local Plan gives a nominal capacity for this site in its entirety of 25 dwelling units; however, this is only a nominal figure. This application proposes 9 new dwelling units on the site in addition to the 2 existing properties at 142 and 144 Napier Road, achieving a density on this part of the site of 24.44 dwellings per hectare which is lower than that put forward in the Local Plan for this specific allocation (41.66 across the whole site). Policy H1 of the Local Plan stipulates that access should only be taken from Borough Road. This application proposes development on part of the site but not including the part that fronts Borough Road. As a result, it is proposed that access be taken from Napier Road rather than Borough Road. While that is not strictly in accordance with the allocation it does not mean that the proposal would be contrary to the Policy if the proposed access is acceptable in amenity and highway safety terms..

As such the principle of developing the site for housing is considered acceptable subject to design, neighbour amenity, highways and trees. In addition to this the indicative layout shows that at a future date access could be gained through the development onto the parcel of land to the south and so an access at the Borough Road end could be achieved.

The policy also states that relocation/re-siting of the existing commercial business is required. It is unclear to which business that this statement relates, it could relate to the commercial premises on Borough Road (which have recently been demolished under application reference MC/13/1748) or to the warehouse at 142a Napier Road, which forms part of this proposal and will be demolished. Policy 1, paragraph 19 of

the NPPF states that the Government is committed to ensuring that the planning system does all it can to support sustainable economic growth. The agent has confirmed that the business at 142a Napier Road is relocating to a unit in Medway City Estate and as such is in conformity with both the NPPF and policy H1 of the Medway Local Plan.

### *Street Scene, Design and Character of the Area*

The application is for the demolition of the warehouse building and the redevelopment of the site for 9 houses. Plans have been received that show two-storey houses with a pitch roof dormer in the roof. All matters have been reserved for future consideration and so these plans can only be dealt with as indicative.

As set out above, the application site is part of a wider site allocated in policy H1 for residential development. The indicative layout shows a parking area with a gap between to show how an access to the southern part of the site could be achieved (although this would require the removal of vegetation), and the plans indicate that this development could be achieved so as to not preclude the development of the southernmost part of the allocated site as envisaged in the Local Plan and as such is not deemed to be piecemeal development.

The proposal is for 9 houses retaining the 2 existing houses so that there will be 11 on the site as a whole. This would allow for the site to be developed in such a way so as to create good size rear gardens and the potential for soft landscaping to soften the appearance of the development, subject to the adopted parking standards being met. The site will not alter in appearance as viewed from Napier Road due to the retention of the large house at 142 Napier Road set at the end of the drive.

It is considered that 9 dwellings could comfortably fit on this site and would not represent an overdevelopment and as such the development is considered to be in accordance with policies BNE1 and H1 of the Medway Local Plan.

### *Amenity Considerations*

In parts of Medway it is possible to find landlocked, vacant or neglected sites to the rear of existing residential properties. In some cases it may be acceptable to develop such "backland" sites for housing subject to a number of criteria. There will be a need to provide a proper means of access, suitable provision for parking and sufficient space between the existing and proposed buildings to preserve the amenity of the area and avoid overlooking. Sensitive design and landscaping will also be required, including the retention of any valuable existing natural features (such as trees).

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

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

Taking point (i) the indicative layout shows that the houses could be set out to achieve an acceptable outlook, privacy, daylight and sunlight, with houses set in excess of 45m from the rear of the existing houses in both Napier Road and Nelson Road.

Point (ii) will be discussed below in the section headed highways. Turning to point (iii), there is a long history on this site dating back to 1997 where the erection of a residential home and assisted living units was refused by the Council and dismissed on appeal, one of the reasons relates to the intensification in use of the access road onto Napier Road to the detriment of the residential amenities that occupiers of adjacent properties might reasonably enjoy. This application differs from that refused through the nature of the proposed use. 12 properties would use the access (9 new properties and No 136, 142, and 144 Napier Road). When this is compared with the existing situation where 3 existing residential houses use the access together with the warehouse unit which employs 6 full time staff including visitors to the unit, the comings and goings and noise and disturbance to the adjacent properties from the proposed development is unlikely to be significantly different to the existing use.

In addition to this it is considered that removing the non-conforming use of the warehouse from this urban residential area would be a benefit to the surrounding houses.

Point (iv) will be considered below in the section headed '*Trees*'.

The indicative plans show the houses are of a size that is in accordance with the minimum standards set out in the Medway Housing Design Standards as set out in the table below:

<b>Number of bedrooms</b>	<b>MHDS Min gross internal floor area</b>	<b>Gross internal floor area</b>
<b>3b5p</b>	<b>86sqm</b>	<b>86sqm</b>

As set out in point (v) it is considered that there is adequate amenity space for the proposed dwellings with rear gardens typically around 10m in depth which accords with the Medway Housing Design Standards.

Point (vi) has been discussed above as part of the Street Scene, Design and Character of the Area section.

For the reasons set out above the proposed scheme is considered to be in accordance with policies H9 and BNE2 of the MLP 2003.

### *Contamination*

The former use of the site could have given rise to contamination. Policy BNE23 of the Local Plan requires that proposals for development of land likely to be contaminated be accompanied by the findings of a site examination, which identifies contaminants. In order for this proposal to be judged against Policy BNE23 it will be necessary for the applicant to undertake the necessary site examination. Although this application is for a Brownfield site, the proposed development is for a residential end use. However, in this case a desk top study at the application stage is considered to be less critical and in these circumstances it is considered that contamination issues can be adequately controlled by way of an appropriately worded condition.

### *Trees*

All trees and hedgerows on the south side of the access road leading from Napier Road may be lost as a result of modifications to the road and parking arrangements. However, as this is an outline application with all matters reserved this may not be the case when the detailed plans come forward. These trees and hedges serve to screen the development site from properties on Napier Road; however the hedges cannot be protected and trees T2 and T3 are not worthy of protection through the tree preservation order legislation.

The Leyland Cypress hedge, which forms the boundary of the site (beyond the access road) to the north (part), south, east (part) and west is not suited to its location in the context of this development. It should ideally be removed and replaced to prevent issues that may otherwise need to be addressed through the high hedge legislation. The tree report submitted with the planning application states that these hedges have overgrown the location and their size is excessive for the location.

Trees T8 – T11 which run through the centre of the site are Leyland Cypress and are identified for removal and there is no objection to the loss of these trees which have limited amenity value and would otherwise hamper development of this site. It is considered that Tree T12 (another Leyland Cypress) should also be removed.

Trees forming G7 which are growing in the rear gardens of 132 and 134 Napier Road appear to have been overlooked and are missing from drawing 1201/03. This should be addressed within any reserved matters application.

There are no details of the means by which other trees growing on and adjacent to the site will be protected and as such a suitably worded condition is recommended. Subject to this condition the application is considered to be in accordance with policy BNE43 of the Medway Local Plan 2003.

### *Highways*

Whilst this application is in outline with all matters reserved, the details submitted indicate that the existing access from Napier Road will serve the proposed development. This access currently serves off-street residential parking and a commercial building that operates as a vehicle repair business. The TRICS database estimates that the existing uses on the site could generate in the region of 81 vehicle trips per day, of which around 9 trips would take place during each peak hour (6 trips during the afternoon school peak). The proposed development is likely to generate up to 6 vehicle movements during each peak period (5 trips during the afternoon school peak) and a total of approximately 55 vehicle trips per day (including those associated with existing dwellings).

The access driveway is 6 metres wide, which allows two vehicles to pass each other and is suitable for shared use with pedestrians. A vehicle emerging from the access will have visibility of least 43 metres along Napier Road in each direction, which accords with guidance, and there is acceptable visibility of pedestrians approaching on the footway. The majority of dwellings to the north and south of the access have vehicle crossovers and therefore it is not considered necessary for the proposed development to provide waiting restrictions along this section of Napier Road. Crashmap indicates that there were no Personal Injury Accidents on Napier Road in the vicinity of the site - including the school frontage - in the past 5 years.

A basic tracking overlay for a 12 metre long vehicle (the Council's refuse vehicles are just over 11 metres in length) shows that the turn-in from Napier Road is tight, but can just be achieved if the over-hanging tree in the garden of number 138 is cut back and does not encroach on to the access. Notwithstanding this, as the access will remain private, it would be preferable if a refuse vehicle was not required to enter the site. A refuse collection point close to Napier Road could therefore be considered at the reserved matters stage. The indicative on-site layout appears to provide sufficient turning space for large vehicles at the northern end of the site, and car parking can be provided in accordance with Medway Council's Standards.

The proposed development is unlikely to intensify the use of the site, given the existing commercial activity taking place, and the access driveway can accommodate the traffic generated by 9 new residential dwellings. Subject to the provision of acceptable on-site turning facilities and off-street parking, details which will be submitted at the reserved matters stage, no objection is raised in respect of the Policies T1, T2, T3 and T13 of the Local Plan.

### *Local Finance Considerations*

None relevant to this application

## **Conclusions and Reasons for Approval**

The proposal is considered acceptable in terms of design, amenity and highway aspects and with regard to all other material planning considerations. The proposal accords with the provisions of policies BNE1, BNE2, T1, T2, T3, T13, H1, H4 and H9 of the Medway Local Plan and the application is accordingly recommended for approval.

The application would normally be determined under delegated powers but is being referred for Committee determination due to the extent of the representations received expressing a view contrary to the recommendation.

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## **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/dconline/AcolNetCGI.gov>