

MC/14/1695

Date Received: 16 June, 2014

Location: Land at 35 Powlett Road, Strood, Rochester, Kent ME2 4RD

Proposal: Construction of a detached 4 bedroomed house to rear with off road parking, accessed via Basi Close, along with the creation of additional off road parking to the front accessed from Powletts Road (resubmission of MC/14/0161)

Applicant: Grandis Homes Ltd

Agent: Mr Les Simmons LRD, Simmons, RIBA 46 Downsview Chatham ME5 0AL

Ward Strood North

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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 10 September 2014.**

**Recommendation - Approval with Conditions**

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: To comply with Section 91 of the Town and Country Planning Act 1990 (as amended).

- 2 The development hereby permitted shall be carried out in accordance with the following approved plans: Drawing Numbers 1515/PRS/07, 1515/PRS/08 and 1515/PRS/09 received 16 June 2014.

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

- 3 No development shall commence on site until the access from Basi Close, as shown on drawing number 1515/PRS/07, has been constructed and is available for use.

Reason: Failure to provide vehicular access from Basi Close would result in a development without adequate vehicular access. With no alternative vehicular access available the proposal would result in an unacceptable form of backland development detrimental to occupier amenity of both the adjoining residential properties and the future occupiers of the development. The development would be contrary to Policy BNE2 and H9 of the adopted Medway Local Plan 2003.

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

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

- 5 If, during development, contamination not previously identified is found to be present at the site then no further development shall be carried out until the developer has submitted a method statement, and obtained written approval from the Local Planning Authority, The method statement must detail how this unsuspected contamination shall be dealt with.

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.

- 6 Prior to the commencement of the development hereby permitted, a construction code of practice covering noise, dust, air quality and lighting for the construction phase of the development shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in strict accordance with the approved construction code of practice.

Reason: In the interests of the amenities of nearby properties in accordance with Policy BNE2 of the Medway Local Plan 2003.

- 7 The building shall not be occupied, until the area shown on drawing number 1515/PRS/07 as vehicle parking space has been provided, surfaced and drained. Thereafter it shall be kept available for such use and no permanent development, whether or not permitted by the Town and Country Planning (General Permitted Development) Order 1995 (or any order amending, revoking or re-enacting that Order) shall be carried out on the land so shown or in such a position as to preclude vehicular access to this reserved parking space and garaging.

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

- 8 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order amending, revoking and re-enacting that Order with or without modification) no development shall be carried out within Class A-H (Inclusive) of Part 1 or Class A of Part 2 of Schedule 2 of that Order unless planning permission has been granted on an application relating thereto.

Reason: To enable the Local Planning Authority to control such

development in the interests of amenity, in accordance with Policies BNE1 and BNE2 of the Medway Local Plan 2003.

## **Recommendation**

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

## **Proposal**

This application seeks planning permission for the construction of a detached 4 bedroomed house to rear no 35 Powlett Road with off road parking proposed to be accessed via Basi Close. Additional off road parking is also proposed to the front of no. 35 Powlett Road. This application is a resubmission of MC/14/0161.

The proposed house is two storeys with a Gross Internal Floor Area (GIFA) of approximately 140.62 square metres (sqm). The two-storey eaves height of the dwelling will be approximately 5 metres with the ridge height being approximately 7.3 metres. The width of the proposed house will be approximately 11.2 metres with the depth being approximately 9 metres at its widest point.

With regards to the proposed additional parking to the front of no. 35 Powlett Road it is proposed replace the existing hardstanding area to the front and East of that property with a block paved replacement to provide 5 no. off road car parking spaces.

## **Site Area**

Site Area: 0.08 ha (0.198 Acres) (as stated on the submitted application form)  
Density: 12.5 dph / 5 dpa

## **Relevant Planning History**

MC/14/0161	Demolition of an existing garage attached to no 35 Powlett Road; construction of 2 no 3 bedroomed detached houses in the rear garden of that property ; construction of alternative off road car parking facilities in the front garden of no 35 Powlett Road to serve all 3 no properties of the final development together with the undertaking of hard and soft landscaping Decision Refusal Decided 17 March 2014
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## **Representations**

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

10 letters / e-mails, from 9 separate residential addresses, raising objection to the proposed development have been received. The planning objections are

summarised below:

- Overdevelopment of the site
- Overlooking;
- Noise and disturbance resulting from development, including during construction, and adverse impact on the amenities of the adjoining property;
- Loss of light. The proposed development is too close to adjoining properties;
- Loss of privacy;
- Lack of parking. Basi Close is extremely tight and congested. If approved the development would cause further traffic congestion and potentially cause blocking to emergency vehicles;
- Impact on the infrastructure; and effect of the development on the standards of living of nearby residents and their right to enjoy a safe environment;

All other objections raised are not material planning issues and they cannot be considered in the determination of this application

In addition to the above two letters of concern have been received (One of these letter is from an address which has also objected to the proposed development). These concerns are summarised below:

- Traffic congestion and impact on on-street parking;

All other concerns raised are not material planning issues and they cannot be considered in the determination of this application.

## **Development Plan**

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

## **Planning Appraisal**

### *Background*

Members will have noted from the history section above that a previous scheme on this site for construction of 2 no 3 bedroomed detached houses (MC/14/0161) was refused on the following grounds:

*“The proposal constitutes an inappropriate form of tandem development which, by virtue of the access to the units and position of the shared vehicular access would result in a development of the plot that would fail to respect the amenities afforded to future occupiers. The proposed development would also create an unacceptable degree of overlooking from house "B" into no. 35 Powlett Road. With this being the case, the proposed development would be contrary to the provisions of policy BNE2 and the pre-amble to policy H9 of the Medway Local Plan 2003.”*

This application has been submitted in an attempt to overcome the above-mentioned

grounds of refusal.

### *Principle*

The application site lies within the urban area, as defined in the Local Plan. As such new residential development is permitted 'in principle' in line with the guidance set out in Policy H4 of the adopted Medway Local Plan. Policy H4 states that: Within the urban area, as defined on the proposals map, residential development will be permitted consisting of: (i) The reuse of vacant or derelict land or change of use; or (ii) the redevelopment of existing residential areas and infilling in such areas (providing that a clear improvement in the local environment will result); or (iii) Mixed commercial and residential uses in proximity to town centres; or (iv) the use of upper floors above commercial premises.

In this case, it is considered that Policy H4(ii) applies as this proposal is infilling in existing residential areas. In terms of whether the proposal would result in a clear improvement in the local environment, this is further discussed below.

### *Design and impact on the character and appearance of the streetscene*

In terms of design the proposed dwelling is a 2 storey detached property and whilst this is no overly common, Basi Close is mainly semi-detached houses and Powlett Road and Bill Street Road are mainly terraced houses, No. 35 Powlett Road is a stand alone detached house. When measured from ground level, the ridge height of the proposed dwelling is approximately the same as the houses on Basi Close. However, due to a slight difference in land levels the proposed house will appear slightly taller than the dwellings in Basi Close.

The proposed dwelling is respectful of the character and appearance of the area by virtue of its design, scale, mass proportions, detailing, layout and siting provided that the vehicular access is secured (see Other Matters below). The design of the proposed dwelling is similar to the nature of others in the area, albeit detached as opposed to semi-detached or terraced, and once complete will fill the gap in the streetscene. The proposed development is considered to respect the scale, appearance and location of its location and the visual amenities of the surrounding area in general. This being the case, the design of development is considered to be appropriate in relation to the character, appearance and functioning of the built and natural environment. A clear improvement in the local environment is considered to result and the development is considered to comply with policies H4(ii) and BNE1 of the adopted Local Plan.

### *Amenity*

The proposed development has been design to ensure that no loss of amenity to the adjoining occupiers will occur. The layout and orientation of the development means that no unacceptable direct overlooking will occur. Furthermore more no loss of privacy or general amenity will result. Whilst the proposed dwelling is located close to the side elevation of 12 Basi Close, it is not considered that there will be any adverse impact resulting from loss of light (day or sunlight) or outlook to habitable rooms of that property or any other immediately adjoining property. All windows of

the proposed dwelling face either to the front or rear of the property with no windows proposed to either side elevation.

In terms of the dwellings to the West (no.71 - 75 (odds) Bill Street Road) these are sited approximately 10 metres from the boundary with the new dwelling and approximately 16 metres from the rear elevation of the proposed dwelling. Whilst this distance does not conform to the Medway Housing Design Standards it is considered an acceptable distance in this instance, as it is similar to the distance at the rear elevation from No. 12 Basi Close to No 67-69 (odds) Bill Street Road. Due to boundary treatments it is considered that overlooking would only occur from the rear bedrooms at first floor level and this would be considered to be no more than everyday overlooking that results from similar such developments in the vicinity.

The proposed dwelling consists of a lounge, dining room, WC, study, kitchen and a utility room at ground floor level, with four bedrooms (one with en-suite) and bathroom at first floor level. As stated above the proposed dwelling has a GIFA of approximately 140.62sqm. The Council's Housing Design Standards that a 2 storey 4b6p dwelling should be 107sqm. This proposed development more than adequately conforms to this requirement. In terms of the amenities for future occupiers the proposed dwelling more than surpasses minimum room size standards as set out in the Medway Housing Design Standards as can be seen from the table below:

Number of Bedrooms	MDHS Min Gross Internal Floor Area	Gross Internal Floor Area (Approx)	MHDS Living/Dining/Kitchen good practice minimum	Living/Dining/Kitchen floor space proposed	MHDS Bedroom good practice minimum floor space (12sqm per Double Bedroom, 8sqm for a single bedroom)	Bedroom Floor Space Proposed
4	107sqm	140.62	33sqm	48.18sqm	44sqm	55.99sqm

In terms of private amenity space, the proposed development will have a garden, which is approximately 10.8 metres in length with a depth of 3 metres. Whilst this does not meet the requirements of the Medway Housing Design Standards, the garden does wrap around the Northern elevation meaning that the garden would be bigger than it originally appears. Bearing this in mind, the proposed garden size is considered to be acceptable in this instance.

In the light of the above, it is considered that the proposed development conforms to the objectives of Policy BNE2 of the Medway Local Plan 2003.

### *Highways*

In terms of the proposed dwelling 3 off street parking spaces are proposed, with cars being parked behind the garage, which serves No 35 Powlett Road. Access to these parking spaces is provided by a new access to be created via Basi Close. The new access is acceptable in terms of pedestrian and vehicular safety and the number of off road spaces proposed conforms to the Council's adopted interim standards. The concern raised by the local residents in this regard are not considered sufficient to

justify a refusal of planning consent in this instance. On this basis, this aspect of the development is considered to conform to the objectives of Policies T1, T2 and T13 of the Medway Local Plan 2003.

In terms of the proposed parking to the front of 35 Powlett Road, this currently takes the form of a hardstanding, which has been left to disintegrate. The hardsurfaced area will provide 5 additional parking spaces for No.35 Powlett Road. It should be noted that the provision of this parking area within the curtilage of a dwellinghouse is Permitted Development (PD), subject to certain provisos, under Class F, Part 1, Schedule 2, Article 3 of the Town and Country Planning (General Permitted Development) Order 1995 (as amended). The level of parking provided in relation to No.35 Powlett Road more than conforms to the Council's parking standards and bearing in mind the fall back PD rights, it is considered that the proposed hardsurfaced area at No. 35 Powlett Road is acceptable. This aspect of the development conforms to Policies T1, T2 and T13 of the Medway Local Plan 2003.

Should Members be minded to grant planning permission a condition is recommended in regard to securing the parking provision. In terms of planning conditions related to the access from Basi Close, this is discussed further below.

#### *Other Matters*

#### Trees and Landscaping

Both soft and hard landscaping is proposed for this development. Soft landscaping retains some trees on site. Due to the retaining wall that fronts on to Bill Street Road being so high it is proposed that boundary treatment along the wall be a 1.5 metre high hedgerow. This hedgerow will allow for the future occupiers to remain safe, whilst retaining privacy and ensuring that there is no amenity or safety concerns arising from people using the garden.

#### Civil Matters

As part of the objections received, it is clearly that there is a land ownership issue in regard to the proposed vehicular access. Members will recall that land ownership is a civil issue and not a material planning consideration. However, there is an issue in relation to Planning Enforcement, whereby where there is doubt about whether the person carrying out the development may not be able to comply with that consent should they not be able to secure the land in question.

Where such a situation occurs enforcement action is likely to fail on the ground that what is required cannot reasonably be enforced. One type of case where this might happen is where a condition is imposed requiring the carrying out of works for the construction of means of access were the access is on land within the application site but not, at the time of the grant of planning permission, under the control of the applicant. If the applicant fails to acquire an interest in that land, and carried out the development without complying with the conditions, the Local Planning Authority could enforce the condition only by taking action against the third party who owned the land to which the condition applied, and who had gained no benefit from the development.

Advice on such situations is given by the Government in their National Planning Policy Guidance (NPPG) document in regard to the "Use of Planning Conditions" (See NPPG Paragraphs 21a-007-20140306 and 21a-009-20140306). Such difficulties can be avoided by imposing a condition so as to prevent the development commencing until the access has been constructed. A condition of this nature is referred to as a Grampian Condition and is recommended in this instant.

### **Conclusions and Reasons for Recommendation**

The proposed dwelling is well designed and there will be no detrimental impact on the visual impact of the area, residential amenity, parking provision or highway safety. Overall, no objections are raised in respect of policies H4, BNE1, BNE2, T1, T2, and T13 of the Medway Local Plan 2003 and the granting of Planning Permission is recommended, subject to the imposition of appropriate planning conditions.

This application would normally fall to be considered under officers' delegated powers but has been reported to Planning Committee for determination due to the number of representations received which express 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>