

MC/15/3760

Date Received: 23 October, 2015

Location: Sectors 10,11/15 And 13 Island Way West, St Marys Island, Chatham Maritime, Chatham, Kent

Proposal: Construction of 54 residential units, change of use of the office floor space (Class B1) to a Nursery (Class D1) and the use of the ground floor of the Basin Head and Marina apartments as residential floor space, together with associated car parking spaces and infrastructure works.

Applicant: Countryside Properties (UK) Ltd

Agent: Miss C Williams Savills 33 Margaret Street London London W1D 0JG

Ward River

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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 9 March, 2016.**

**Recommendation - Approval with Conditions Subject to;**

- A) The applicant entering into an agreement under the terms of S106 of the Town and Country Planning Act 1990 to secure:
- i) £12,073.32 towards the interim measures required by Natural England to secure the Category A measures identified in the Thames, Medway & Swale Estuaries Strategic Access Management and Monitoring Strategy (SAMM), produced by Footprint Ecology in July 2014, including any associated costs in anticipation of:
- An administrative body being identified to manage the strategic tariff collected by the local authorities;
  - A memorandum of understanding or legal agreement between the local authorities and administrative body to underpin the strategic approach;
  - Ensure that a delivery mechanism for the agreed SAMM measures is secured and the SAMM strategy is being implemented from the first occupation of the dwellings, proportionate to the level of the housing development; and
- B) The imposition of conditions, as set out below:

- 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:

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Drawing Number: 1211\_PL\_001 Rev K; 1211\_PL\_002\_U; 1211\_PL\_003 Rev B; 1211\_PL\_005 U Rev A; 1211\_PL\_120\_U; 1211\_PL\_121\_U; 1211\_PL\_122\_U; 1211\_PL\_123\_U; 1211\_PL\_130U Rev A; 1211\_PL\_131U Rev A; 1211\_PL\_132U Rev A; 1211\_PL\_133U Rev A; 1211\_PL\_140\_U Rev B; 1211\_PL\_141\_U; 1211\_PL\_142\_U; 1211\_PL\_143\_U; 1211\_PL\_150\_U; 1211\_PL\_200 Rev C; 1211\_PL\_201 Rev C; 1211\_PL\_220\_U; 1211\_PL\_230 Rev E; 1211\_PL\_231 Rev D; 1211\_PL\_240\_U; 1211\_PL\_241\_U; 1211\_PL\_250 Rev A; 1211\_PL\_270\_U; and 1211\_PL\_271\_U;

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

- 3 No development (or such other date or stage in development as may be agreed in writing with the Local Planning Authority), shall take place until a scheme that includes the following components to deal with the risks associated with contamination of the site has been submitted to and approved, in writing, by the local planning authority:

- 1) A preliminary risk assessment which has identified:
  - a) all previous uses
  - b) potential contaminants associated with those uses
  - c) a conceptual model of the site indicating sources, pathways and receptors
  - d) potentially unacceptable risks arising from contamination at the site.
- 2) A site investigation scheme, based on (1) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.
- 3) The results of the site investigation and detailed risk assessment referred to in (2) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.
- 4) A verification plan providing details of the data that will be collected in contingency action. Any changes to these components require the express written consent of the local planning authority. The scheme shall be implemented as approved.

Reasons: To protect the controlled waters from the risk of pollution and in

accordance with the requirements of the National Planning Policy Framework (NPPF).

- 4 No occupation of any part of the development shall take place until a verification report demonstrating completion of works set out in the approved remediation strategy and the effectiveness of the remediation of that particular part of the development has been submitted to and approved, in writing, by the local planning authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met. It shall also include any plan (a "long-term monitoring and maintenance plan") for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action, as identified in the verification plan. The long-term monitoring and maintenance plan shall be implemented as approved.

Reasons: To protect the controlled waters from the risk of pollution and in accordance with the requirements- of the National Planning Policy Framework (NPPF).

- 5 If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the local planning authority) shall be carried out until the developer has submitted a remediation strategy to the local planning authority detailing how this unsuspected contamination shall be dealt with and obtained written approval from the local planning authority. The remediation strategy shall be implemented as approved.

Reasons: To protect the controlled waters from the risk of pollution and in accordance with the requirements of the National Planning Policy Framework (NPPF).

- 6 No infiltration of surface water drainage into the ground is permitted other than with the express written consent of the local planning authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to controlled waters. The development shall be carried out in accordance with the approval details.

Reasons: To protect the controlled waters from the risk of pollution and in accordance with the requirements of the National Planning Policy Framework (NPPF).

- 7 Prior to commencement of any piling or penetrative foundation methods on site full details of the method for piling foundations or any other foundation designs using penetrative methods and any other proposals involving below ground excavation shall be submitted to and approved in writing by the Local Planning Authority. The piling works / foundation designs using penetrative methods / any other proposals involving below ground excavation as approved pursuant to this condition shall only be implemented in accordance with the approved details.

Reason: To protect the controlled waters from the risk of pollution in accordance with Policy BNE23 of the Medway Local Plan 2003.

- 8 Prior to first occupation of any of the dwellings hereby permitted full details of sound attenuating slot ventilators to the living room and bedroom windows, including details of the manufacturers technical data relating to noise attenuation of the slot ventilators that demonstrate that a sound reduction of 41dB when closed and 38dB when open is achieved, shall be submitted to and approved in writing by the Local Planning Authority. The details of sound attenuating slot ventilators, as approved pursuant to this condition, shall be fitted to living room and bedroom windows of the dwellings hereby permitted prior to the occupation of the dwellings and thereafter the development shall be maintained in accordance with the approved details.

Reason: To ensure the future occupiers of the unit achieve maximum sound attenuation in accordance with Policy BNE2 of the Medway Local Plan 2003.

- 9 No part of the development hereby approved shall be occupied until the parking area to serve the relevant part of the development has been provided, surfaced and drained in accordance with details to be submitted to and approved in writing by the Local Planning Authority. 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 2015 (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.

Reason: To ensure that the development does not prejudice conditions of amenity and highway safety and accord with policy BNE2 of the Medway Local Plan 2003.

- 10 The finished floor levels of the development hereby permitted shall be no lower than:
- Living accommodation (with the exception of kitchen and dining rooms which can be located at lower levels) should be set no lower than 4.9m AOD
  - Sleeping accommodation should be set no lower than 6.05m AOD

Reason: To reduce the risk of flooding to the proposed development and future occupiers in accordance with policy CF13 of the Medway Local Plan 2003.

- 11 Prior to first occupation of the development hereby permitted, full details of the local information leaflet highlighting leisure sites and attractions in the area, as also required by reserved matters application MC/13/2210, shall be submitted to and approved in writing by the Local Planning Authority. The leaflet shall be provided to future occupants of the development prior to first occupation.

Reason: To mitigate the impact of recreational disturbance on the surrounding Special Protection Areas and Sites of Special Scientific Interest in accordance

with polices BNE35 and BNE36 of the Medway Local Plan 2003.

- 12 No development shall take place until a scheme showing details of the disposal of surface water, based on sustainable drainage principles, including details of the design, implementation, maintenance and management of the surface water drainage scheme have been submitted to and approved in writing by the Local Planning Authority,

Those details shall include:

- a timetable for its implementation, and
- a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public body or statutory undertaker, or any other arrangements to secure the operation of the sustainable drainage scheme throughout its lifetime.

Reason: To manage the risks of flooding during and post construction and for the lifetime of the development.

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

### *Proposal*

This application is a fully detailed planning application for the development of 54 residential units, the use of the approved commercial building (ground floor) as a Nursery (Class D1) and the utilisation of space at ground floor level of the Basin Head and Marina apartments to provide additional residential space creating duplex residential units with ground floor living accommodation thus providing an active frontage to the Marina and Basin Head. This proposal seeks amendments to the layout of the consented reserved matters scheme (MC/13/2210). The additional residential units proposed in this application are in excess of the number of units set by the outline planning permission.

In addition to the use of the ground floor level of the Basin Head and Marina apartment buildings as residential units, the remaining additional residential units will be created by incorporating one additional floor on the Basin Mews Apartments (18 Residential units comprising 1 x one bedroom and 17 x two bedroom apartments), resulting in four storey blocks, and two additional storeys on the Marina apartments (36 Residential units comprising 12 x one and 24 x two bedroom apartments). This will increase the height of the buildings to part five and part seven storeys.

The proposed change to the consented use of the office floorspace within the Basin Head and Marina apartment building to a Nursery (Class B1) would create around 230sqm (GEA) of Nursery space and accommodate between 55 and 60 children, with approximately 13 staff. It is proposed to utilise the approved access to the building but there will be some elevational changes as a result of the change of use. Moreover, it is proposed to reduce the size of the balconies to the flats on the first floor and to provide balconies to those on the second floor.

Additional car parking is to be provided, in total 581 private parking spaces will be provided across the sectors, an increase of 30 spaces over those previously approved as part of the reserved matters consent and this remains in excess of the standards. In addition, there will be an increase in public visitor parking of 36 spaces.

Materials proposed are similar to those previously approved on the Waterfront Apartment and Basin Quarter under planning reference MC/13/2210, being a dark multi-stock brick plinth at ground level with Wienerberger Bromley bricks or similar. The brick plinth runs continually throughout the ground floor level forming a robust street frontage. Above this will be Metal Cladding and the balconies are proposed to be framed with box features clad in the metal system with glazed balconies inset. Additionally there will be light brick infill panels and timber inset panels fixed to facade and balconies and Render/Horizontal Cladding (First to Second) being Marley Eternit Cedral or Marley Eternit Natura or similar and roofing being man-made dark grey slate (Eternit Garsdale or Eternit Rivendale or similar).

The paving remains as previously approved on MC/13/2210.

### **Site Area/Density**

Site area: 10.5ha / 25.9 acres

Site density: 37.2 d.p.h /15.1 d.p.a.

### **Relevant Planning History**

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|-------------|--|
| MC/16/0260  | Application for non-material amendment to planning permission MC/13/2210 to amend the external appearance of house type V5<br><b>Decision Approval</b><br>Decided 16 February, 2016  |
| :MC/15/4364 | Application under section 106BA of the Town and Country Planning Act 1990 (as amended) and the Growth and Infrastructure Act 2013 to modify the affordable housing requirement of Planning permission MC/13/2210<br>Also on this agenda  |
| MC/15/1756  | Application for non-material amendment to planning permission MC/13/2210 for amendments to the fenestration of the extra care building to facilitate some internal changes and reduction in height of the building<br>Decision Approval With Conditions<br>Decided 16 June, 2015 |
| MC/15/0420  | Application for non-material amendment to planning permission MC/13/2210 for substitution of one house type and amendments to remaining house types; addition of substation to North East of site; revised footprint for cafe and amended car parking layout                     |

Decision Approval With Conditions  
Decided 10 March, 2015

MC/13/2210

Application for approval of reserved matters being access, appearance, landscaping, layout and scale pursuant to GL93/10730 and MC/2004/1207 for the construction of 339 dwellings comprising detached, semi-detached and terraced Houses, flats and 'extra care' sheltered housing building (Class C3) and associated garages; Construction of, office building (Class B1), and cafe/coffee shop (Class A3), lay out parking spaces; Public and private amenity areas, drainage infrastructure, estate roads, footpaths and landscaping, including earth amenity bund, surface water outfall, detention ponds with viewing platform and children's play areas and equipment.

Decision Approval With Conditions  
Decided 17 July, 2014

MC/12/3017

Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 2011 - request for a screening opinion for the reserved matters application for residential development for 339 dwellings, open space, landscaping and a drainage outfall

**Decision** EIA not required

Decided 10/01/2013

MC/04/1207

Variation of condition No. 1(B) of application reference 93/0730GL to extend the time allowed for the submission of reserved matters by a further eight years

Decision Approval with Conditions

Decided 22 December, 2005

MC/02/2072

Application for approval of reserved matters (siting, design external appearance and means of access) (pursuant to planning consent 93/0730GL) for construction of thirty three 2/3 storey 2-4 bedroomed houses and two 2-bedroomed maisonettes with associated roads, garages, parking and landscaping

**Decision** Approved

**Decided** 14 04/2003

GL/93/0730

Outline application for the erection of up to 1700 dwellings together with community, educational and commercial areas and associated open spaces, highways and service infrastructure

**Decision** Approved

Decided 03/07/1996

## Representations

The application was advertised on site, by site notice, in the press and neighbour notification letters were sent to the owner/occupiers of neighbouring properties.

Chatham Maritime Trust, EDF Energy, Environment Agency, English Heritage, Kent County Constabulary, Kent and Medway Fire Service, Medway (Chatham) Dock Company, Medway Ports Authority, Southern Gas Networks, Southern Water and St Mary's Island Residents Association.

**The Environment Agency (EA)** have advised that they consider that planning permission could be granted, as submitted, if planning conditions are imposed related to:

- Contamination, including submission of verification reports and unexpected contamination finds;
- No infiltration of surface water drainage into the ground; and
- Details of foundation designs, including piling, that use penetrative methods being agreed prior to the commencement of the development.

They advise that without such conditions, the proposed development on this site may pose an unacceptable risk to the environment and that they would object to the application.

**Historic England** has written advising that they do not wish to comment on this occasion and that the Council should determine the application on the basis of national and local policy guidance, and on the basis of our own specialist conservation advice.

**Kent Police** have written advising that they had considered this planning application with regards to Crime Prevention Through Environmental Design (CPTED) matters, in accordance with the National Planning Policy Framework 2012 and the DCLG Planning Practice Guidance March 2014 (Paras 10 & 11) and the Crime Prevention and the Kent Design Initiative (KDI) - Design For Crime Prevention document dated April 2013. In the light of these documents they have advised that whilst they have no immediate concerns regarding the additional storeys for the blocks proposed that the applicant be required to meet with them at Kent Police Headquarters in order to discuss the security provision for the proposed new nursery and to discuss the activation of the ground floor area to basin and marina duplex apartments.

**Natural England (NE)** advice that the application site is within or in close proximity to a European designated site afforded protection under the Conservation of Habitats and Species Regulations 2010, as amended (the 'Habitats Regulations').

The application site is in close proximity to the Medway Estuary and Marshes Special Protection Area (SPA) which is a European site. The site is also listed as the Medway Estuary and Marshes Ramsar site and also notified at a national level as the Medway Estuary and Marshes Site of Special Scientific Interest (SSSI).

As the application would increase the number of dwellings to be delivered at this site,



above those which are already consented, NE consider that the development has potential to result in a higher level of recreational disturbance to the coastal designated sites within North Kent. As detailed within NE's letter of the 6 January 2015, increased recreational pressure from new residential developments within close proximity to the coastal designated sites has the potential to result in a likely significant effect upon the Special Protection Areas and Ramsar Sites if no avoidance or mitigation measures are to be provided by the applicant.

NE consider that clarity on how the increased recreational disturbance to coastal designated sites in North Kent will be avoided and/or mitigated as a result of the increased number of dwellings to be delivered at this site. NE state that this could, for example, be via the appropriate financial contribution to the Thames, Medway and Swale Estuaries Strategic Access Management and Monitoring Strategy.

Where no such contribution is secured NE advise that an Appropriate Assessment will need to be undertaken, by the Council, as the competent authority, under the provisions of the Habitats Regulations.

**Southern Gas Networks** (SGN) has written advising of the presence of low/medium/intermediate pressure gas main in the proximity of the application site. They give further advice in this respect regarding construction and this has been brought to the attention of the applicants.

**Southern Water** (SW) has responded advising of the approximate position of a public water distribution main within the site. This has been brought to the attention of the applicants

**St Mary's Island Residents Association** (SMIRA) has written with the following summarised comments:

SMIRA had no objection to the previous application and were included in the consultation process leading up to that application. SMIRA have no fundamental objection to this application, but would like to draw particular attention to the increasing effect that this application, combined with the recent change in the arrangements for delivery and trades vehicles servicing the site, has on pedestrians of all ages accessing the community facilities with all vehicular access to the site is via Island Way West and not via the bascule bridge on Leviathan Way as previously understood.

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SMIRA also comment that a safe and permanent means of crossing Island Way West, both opposite the community centre near Partridge Drive and further round Island Way West, opposite the school is necessary. SMIRA advise that the developer has offered to make a contribution to the cost of this.

**Cllr Mackness** has written advising that he fully supports SMIRA's suggestions and they should be conditioned as part of any planning approval.

### **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.

## **Planning Appraisal**

### *Background*

To date 1,700 properties have been granted detailed planning permission at SMI of which over 1,300 have been built and occupied. This leaves 339 dwellings, which have reserved matters consent under planning reference MC/13/2210, to be built on the remaining Sectors 10, 11/15 and 13.

This application seeks full planning permission for an addition 54 residential units over and above the 1,700 secured under the original outline planning permission, as well as the change in use of the approved commercial building (ground floor) from an office (a B1 use) to a childrens nursery use (a use falling within Class D1). Additionally, permission is also sought to change the use of the space at ground floor level of the Basin Head and Marina apartments to enable it to be utilised as additional residential living space to existing approved apartments, thus creating duplex residential units with ground floor living accommodation and providing an active frontage to the Marina and Basin Head.

Finally, this proposal seeks amendments to the layout of the consented reserved matters scheme (MC/13/2210), which results in an additional 66 parking spaces. This will bring the total number of private parking spaces provided across these sectors to 581. In addition, there will be an increase in public visitor parking of 36 spaces, resulting from the amended layout.

### *Main Issues*

The main issues for consideration in this matter are:

- Principle
- Design Constraints and Opportunities and Street Scene and Design;
- Neighbour Amenities;
- Noise;
- Refuse;
- Soft Landscaping, surface water drainage and recreational facilities;
- Flood Risk and drainage;
- Contamination and Land Gas;
- Ecology;
- Impact on the Highways;
- Section 106, including Affordable Housing.

### *Principle of the development*

The application site already has the benefit of planning permission for a predominantly residential development and the proposed units are in addition to those already

approved. The principle of residential development is therefore accepted.

Turning to the employment element of the development. (i.e. the replacement of the permitted B1 office use with Class D1 nursery). Class B1 offices formed part of the original reserved matters consent granted under planning reference MC/13/2210 and are one of the uses identified within Policy S8 of the Local Plan for mixed use in this location. The strategy area related to Policy S8 of the Local Plan covers the larger Chatham Maritime, where further B1 office uses have already been developed. The proposed replacement of the permitted B1 Office Use to Class D1 Nursery does not undermine this policy objective given the B1 Office provision elsewhere in the area. It is also considered that a nursery use can be accepted as according with the principles for sustainable development in so much as it provides a facility to support the new development as well as the existing community, even though D1 use class nursery uses are not explicitly provided for in Policy S8.

Local Plan policy CF2 states that new community facilities will be permitted subject to:

- I. The size and scale being appropriate to the site; and
- II. The development having no detrimental impact on the countryside, residential amenity, landscape or ecology; and
- III. Accessibility of the local population by a variety of means of transport, including public transport, cycling and walking.

Paragraph 17 of the NPPF adds that planning should take account of and support local strategies to improve health, social and cultural wellbeing for all, and deliver sufficient community and cultural facilities and services to meet local needs.

Bearing all of the above in mind the general principle of the proposed development is considered to be acceptable in planning terms and the development is considered to be compliant with the NPPF and the policies S8, and CF2 of the Local Plan

#### *Design Constraints and Opportunities and Street Scene and Design*

The layout of the proposed development has already been granted under reserved matters consent MC/13/2210) and the housing has been designed around a number of constraints and opportunities, including:

- The landscape bund was included within the original SMI Masterplan and so has been brought forward within this scheme and has allowed for the creation of viewing platforms, surface water attenuation ponds, public access and play space.
- A main surface water sewer runs through the northern part of the site in a generally westward direction and carries water from Sector 9 to a temporary pumping station on the land and discharges it over the river wall. There had been a design requirement in the development of the application site to provide a permanent solution to this issue via a new surface water outfall (Outfall 15) through the river wall. The area around this cannot be built over which has informed the design process.
- Condition 10(a) of the outline consent requires that a secondary means of access

is provided. This access is shown at the end of Leviathan Way in the form of a bascule bridge and lock gates at the western end of Basin 1. This access has therefore been incorporated into the design of the application site.

- Due to the difference in levels across the site, with ground levels generally higher at the northern end and lower towards the south, buildings across the southern section of the site are therefore higher to ensure that habitable room floor levels are elevated due to the risk of tidal flooding.
- A maintenance strip some 7.6m wide, measured from the inside face of the river wall has been set aside along the river defence wall to facilitate for future repair and/or replacement operations to be undertaken. The dwellings in this area are set in runs of no more than 6 dwellings to allow for frequent vehicular access to the maintenance strip. The provision of a 7.6 metre no-build maintenance zone is similar to that provided on neighbouring Sectors 7/8 and 9.
- Design opportunities exist to the west of the site to have outward facing development towards the River and attractive views of Upnor Castle, to face the development onto the new landscape bund and onto Island Way West and Sapphire Way to create active frontages. The cluster of community buildings across the roundabout and principle access to the site has allowed for an opportunity to set the office building and extra care block to create a sense of community.

In terms of the design changes created by this development, an additional two storeys will be constructed above the consented scheme for the *Marina Apartment Blocks* (facing over Marina at Basin 1 with a consented maximum height of five storeys) and an additional single additional story to the *Basin Apartments* (facing over a subsidiary basin and with a consented height of three storeys).

It is also proposed to change the use of the small amount of consented B1 floor space to a nursery and to provide ground floor residential accommodation to the basin head apartment blocks and additional car parking is to be provided.

In principle there is no objection to the increase in heights of the Basin or Marina Apartments. The addition of a fourth storey to the basin apartments will create an urban scale which is compatible with the wide space of the basin and with the rest of the scheme. The increase in height of the Marina Apartments will increase the height to seven storeys. These apartments are not in an area where we would seek to protect views and in addition the particular geometry of the basins is such that these taller apartments will be a natural focal point.

The Marina Apartment block does however fall into the category of 'tall buildings' as defined by the building heights policy and the effect of the proposed building on wind and on overshadowing/ sunlight has been tested with the submission of a Daylight Assessment Report (Ref: 70017286-001 dated 19 January 2016) and a Wind Assessment (Ref: 70017286-101 dated February 2016).

This report shows that with the proposed amendments in place the ratio of impact of the Vertical Sky Component (VSC) on the surrounding buildings was identified to be

above 0.8 and as such the report concluded that all 220 windows reviewed will be above the Building Research Establishment (BRE) recommendation, inline with the criteria. The results therefore indicate that this proposal will not have any negative impact of skylight on the windows of the surroundings properties.

Furthermore, the results of the sunlight assessment showed that taking into account both the annual and winter assessments, in line with the criteria, 100% of the windows assessed were identified to be above the BRE criteria. The results therefore indicate that the proposed development does not have a negative impact on the amount of sunlight on the windows of the existing properties.

In summary, the proposed development is likely to have a negligible impact on the surrounding properties on the basis that all the windows of neighbouring properties are unaffected or marginally affected.

In terms of the additional car parking, a plan has been submitted showing the location of these spaces and it is clear that there will only be a limited but acceptable impact on the character or appearance of the surrounding streetscene or wider area in general.

Although the proposed development might be judged as tall for suburban development, the photomontage shows that the setting will still be perceived as relatively open and as such the scale and form are considered to be acceptable. In terms of the impact on the appearance of the street scene and the overall appearance of the area, the proposal is considered an improvement and in accordance with the objectives of the NPPF and Policies S8, BNE1, and BNE6 of the Medway Local Plan 2003.

### *Neighbour Amenities*

The submitted scheme when combined with the reserved matters consent will increase the density of the development from 33.9 dwellings per hectare (dph) to 37.2dph. This is not dissimilar to the density of development on other sectors of St Mary's Island. As such there is a close relationship between many of the proposed properties. However it is considered that the scheme has been designed so as to maintain an acceptable relationship between the proposed properties and also proposed and existing properties, as well as achieving acceptable levels of privacy. The privacy distances are similar to other areas of St Mary's Island. The scheme has also been designed so that it will not result in a significant impact upon existing or proposed properties in terms of loss of sunlight/daylight.

The proposed dwellings are considered to be 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>Governments Technical Housing Standards - Minimum gross internal floor area</b>	<b>Gross internal floor area (minimum)</b>
<b>Flats</b>	<b>1b2p</b>	<b>50sqm</b>	<b>53.5sqm</b>
	<b>2b3p</b>	<b>61sqm</b>	<b>68.65sqm</b>
	<b>2b4p</b>	<b>70sqm</b>	<b>81.5sqm</b>
	<b>3b5p</b>	<b>86sqm</b>	<b>95.9sqm</b>

The development is considered to be in accordance with policy BNE2 of the Medway Local Plan 2003.

#### *Noise*

The noise readings obtained and conclusions drawn within the acoustic report submitted with the reserved matters submission in 2013 (MC/13/2210) were accepted by the Council, subject to the imposition of a condition seeking to achieve maximum sound attenuation for residents in properties directly overlooking the Marina and those areas of the River Medway where there are yacht moorings. The condition imposed on MC/13/2210 required sound attenuating slot ventilators to be provided to living room and bedroom windows, which give a sound reduction of 41dB when closed, and 38dB when open. An additional noise survey was undertaken in 2015 which confirmed that the noise climate on the site has not changed significantly since the 2013 survey. Subject to the same planning condition this application is also considered to be acceptable and in accordance with Paragraph 123 of the NPPF, the National Planning Practice Guidance related to Noise, DEFRA's Noise Standards for England 2010 and policy BNE2 of the Medway Local Plan 2003.

#### *Refuse*

Bin storage locations remain as previously granted under MC/13/2210 and no concerns have been raised with regard to the size of the refuse storage areas or their location. This being the case, no objections are raised with regard to refuse. However, it is considered appropriate to impose a condition requiring the bins related to the Marina Apartments to be placed within 10 metres of the refuse vehicle collection point as previously imposed under MC/13/2210. Subject to this condition in regard to this matter no objection is raised in relation to the refuse arrangements.

#### *Soft Landscaping*

The proposed landscaping remains as previously granted and controlled under MC/13/2210.

## *Flood Risk and drainage*

The Environment Agency (EA) website flood risk zone map shows the site is situated within Flood Risk Zones 1, 2 and 3 of the River Medway, relying on land that benefits from localised flood defences. Existing flood defences protect the site from tidal flooding up to the 0.1% annual probability event (1 in 1000 year). The 1 in 200 year flood level; including an allowance for climate change is 5.70m AOD (2110 climate change scenario). The site is part of a larger development and benefits from outline planning permission and therefore the principle of the development and sequential testing are not relevant.

The application was accompanied by a letter from WYG, the applicant's consultants in regard to floodrisk. The letter confirms that this proposal had been considered in the context of the current 2014 Flood Risk Assessment (FRA) and concluded that the ground level of the duplex apartment will incorporate kitchen, dining and living space with a minimum floor level of 4.9m above Ordnance Datum Newlyn (aODN) with sleeping accommodation only being provided at first floor level which will be a minimum of 6.05m aODN. In terms of the nursery provision the applicant's consultant has noted the existing consent for B1 office space and that no expansion of the building footprint will occur. They conclude that there will be no increase in the developments impermeable area and that the previously consented attenuation storage agreed, as part of MC/13/2210 and recommended in the FRA related to that application, remains appropriate.

The original reserved matters consent, ME/13/2210, approved a design of the drainage system based upon a network of gravity sewers that discharge to a tidal section of the River Medway via a new 1200mm diameter outfall (Outfall 15). The outfall through the river wall (flood defence) will be fitted with a tidal flap valve to prevent water from the River Medway entering the proposed development site during high tide levels, as such the site may on occasion be tide-locked or 'surcharged' at the confluence of certain rainfall and tide conditions because the new outfall would be submerged beneath river water at those times. On-site storage or 'detention' of surface water was deemed necessary and this was controlled by planning condition.

In terms of this additional 54 additional units, the changes to the ground floor level of both the Bason Head and Marina Apartments, and the change in use of the B1 office floorspace approved to a nursery, it is noted that the new residential units will be located above the buildings previously consented and therefore there will be minimal changes to the surface water requirements, as outlined in the Drainage Strategy which accompanied the application.

However, since that planning consent was granted, there have been changes to planning policy with respect to the provision of Sustainable Drainage Systems (SuDs) and the maintenance of those systems. In the light of this a condition is recommended seeking details of the disposal of surface water, based on sustainable drainage principles, including details of the design, implementation, maintenance and management of the surface water drainage scheme.

Modelling undertaken by the applicant's drainage consultant related to MC/13/2210,

suggests that this volume of storage is sufficient to prevent surface water flooding to properties within the development.

Bearing all of the above factors in mind, subject to the imposition of appropriate conditions, the application is considered to be acceptable in terms of floodrisk and drainage and in accordance with policy CF13 of the Medway Local Plan 2003.

### *Contamination*

A remediation strategy has been received which deals with contamination issues on the site. The Environment Agency (the EA) have requested appropriately worded contaminated land conditions be imposed on any consent granted. The EA have advised that whilst they acknowledge that the current submissions have included relevant details to fulfil a preliminary risk assessment and site investigation scheme, for the sake of completeness and a full understanding of outstanding requirements they do not consider that imposing the full wording of their contaminated land conditions are onerous. Subject to these conditions the application is considered to be in accordance with paragraph 121 of the NPPF and policy BNE23 of the Medway Local Plan 2003.

### *Ecology and Bird Mitigation*

The Medway Estuary and Marshes Ramsar Site and Special Protection Area (SPA) is located to the north east of the site, with constituent parts located to the north and south of the River Medway.

The closest section of the SPA to the site on the northern bank of the River Medway is situated 790m to the north east of the site and on the southern side 2.1km.

In addition, other statutory designations in proximity to the site comprise:

- Medway Estuary and Marshes Site of Special Scientific Interest (SSSI). Constituent parts of the SSSI within the search radius comprises of Unit 100 and Unit 30. Unit 100 is located on the north eastern coast of St Mary's Island, approximately 800m east of the site, whilst Unit 30 is located on the northern bank of the River, approximately 1km north east of the site.
- Tower Hill to Cockham Wood. Constituent units are situated on the northern side of the River, with the closest sections approximately 500m distance from the site, on the opposing side of the Medway.

The proposed development does not result in an increased development footprint to that approved under MC/13/2210. The site conditions remain as concluded following the 2013/14 surveys and as such no further survey work is necessary at this time. There are recommendations to avoid impacts to breeding birds and to foxes known to be present on the site and these recommendations must be secured and implemented via a planning condition.

The site is located within 6km of the North Kent Marshes SPA/Ramsar Sites and that the proposed development is likely to have a significant effect, either alone or in-combination, on the coastal North Kent Special Protection Areas (SPAs)/Ramsar



sites from recreational disturbance on the over-wintering bird interest.

Natural England has raised concerns with regard to such impacts and has previously advised that an appropriate tariff of £223.58 per dwelling (excluding legal and monitoring officer's costs) should be collected to fund strategic measures across the Thames, Medway and Swale Estuaries. The strategic measures are in the process of being developed, but are likely to be in accordance with the Category A measures identified in the Thames, Medway & Swale Estuaries Strategic Access Management and Monitoring Strategy (SAMM) produced by Footprint Ecology in July 2014.

The interim tariff stated above should be collected for new dwellings in anticipation of:

- An administrative body being identified to manage the strategic tariff collected by the local authorities;
- A memorandum of understanding or legal agreement between the local authorities and administrative body to underpin the strategic approach;
- Ensure that a delivery mechanism for the agreed SAMM measures is secured and the SAMM strategy is being implemented from the first occupation of the dwellings, proportionate to the level of the housing development.

The applicants have agreed to pay this tariff and that it be secured by a Section 106 Agreement. No objection is therefore raised under Paragraph 118 of the NPPF and Policies S6, BNE35 and BNE36 of the Medway Local Plan 2003.

#### *Impact on the Highway*

The Transport Statement submitted with the application uses the TRICS trip generation database to estimate that the additional 54 dwellings proposed would generate up to 36 vehicle trips during the peak periods on the local network and a total of 276 trips per day. It is estimated that up to around 34 trips during each peak period would be undertaken by other modes (walking, cycling and public transport). The Statement uses local Census Data to demonstrate that the actual trip generation may be lower than this. Given the diverse nature of River Ward, from which the data is obtained, it is considered that the TRICS estimate should be used for evaluating the impact of the development.

The Transport Statement uses Census data to estimate the distribution of traffic on to the local highway network. This data provides information on the origins of trips to work and the destination of work trips from home. The quickest routes between the site and work-place destinations were then determined using route-planning software. This methodology leads the Transport Statement to conclude that up to 11 vehicle trips during each peak period would use Leviathan Way and the bascule bridge, with up to 25 vehicle trips routing via Maritime Way and the A289. The Transport Statement calculates that the additional traffic over the approved scheme for 340 units would represent an increase of less than 1% by 2021. This would have a negligible impact of traffic flows on Maritime Way and local junctions in the vicinity of the site. On this basis, the proposed development would not materially impact upon conditions of highway safety and capacity and no objection is raised in respect of Policy T1 of the Medway Local Plan.

The Council's Parking Standard car parking standards require 577 car parking spaces and 83 visitor spaces for the residential development, and up to 6 spaces for staff and 15 spaces for drop-off to serve the nursery. The proposed development provides 581 spaces and 131 visitor spaces across the three sectors. Four spaces to the rear of the nursery are proposed for staff and there are two rows of visitor parking within walking distance, which will provide adequate parking and drop off spaces. Overall, it is considered that sufficient car parking is provided to meet the demand generated by the development, and no objection is raised in respect of Policy T13 of the Local Plan.

*Planning Obligations / Section 106, including affordable housing*

In terms of other planning obligations it is recognised that new residential development can create additional demand for local services, such as for health and refuse services. Policy S6 of the Medway Local Plan 2003 says that conditions and/or legal agreements should be used to make provision for such needs.

The Community Infrastructure Levy Regulations 2010 provides that in relation to any decision on whether or not to grant planning permission to be made after 6 April 2010, a planning obligation (a s106 agreement) may only be taken in to account if the obligation is:

- Necessary to make the development acceptable in planning terms;
- Directly related to the development; and
- Fairly and reasonably related in scale and kind to the development.

The obligations/contributions requested in this case are considered to comply with these tests because they have been calculated based on the quantum and location of the development.

The following contributions requests have been received:

- A contribution of £64,050.56 towards open space provision for improvements to open space facilities in close proximity to the development site;
- A contribution of £6,747.30 towards the Great Lines Heritage Park towards the maintenance of footpaths at Fort Amherst – Belvedere area
- A contribution of £27,433.42 in relation to heritage and museum provision for the fabric upkeep, maintenance and opportunity costs as local population increases; and
- A contribution of £25,269.30 towards improvements to towards improving at the General Practitioner facilities at St. Mary's Island Surgery and / or within 1 mile of the development site

No other planning Developer contribution requests have been received.

Irrespective of the above requests the developer submitted a financial viability appraisal, which argues that the development is unviable in relation to the provision of any S.106 contributions, with the exception of the recreational bird disturbance tariff set by Natural England. The financial viability appraisal has been examined by a suitable independent expert and they have concluded that the proposed development is unviable with the developer contributions sought and would remain unviable in

terms of any Section 106 contributions unless current market conditions significantly improve and the density of the development significantly increased. (i.e. more residential units on the same site area).

Paragraph 205 of the NPPF states: "Where obligations are being sought or revised, local planning authorities should take account of changes in market conditions over time and, wherever appropriate, be sufficiently flexible to prevent planned development being stalled." The Council recognises the Government's position in this regard at paragraphs 4.5 and 4.6 of the Council's Guide to Developer Contributions 2014:

In the light of the above the development is considered acceptable subject to the prior completion of a Section 106 agreement securing £12,073.32 towards the interim measures required by Natural England to secure the Category A measures identified in the Thames, Medway & Swale Estuaries Strategic Access Management and Monitoring Strategy (SAMM)

#### *Local Finance Considerations*

Not relevant.

#### **Conclusions and Reasons for approval**

This application is a fully detailed planning application for the development of 54 residential units, the use of the approved commercial building (ground floor) as a Nursery (Class D1) and the utilisation of space at ground floor level of the Basin Head and Marina apartments to provide additional residential space creating duplex residential units.

Whilst these additional residential units will be in excess of the number of units approved by the outline planning permission, the principle of development on site is considered to be acceptable. The layout and scale and proposed mix of the development will allow for the creation of a sustainable development of high quality and will create a desirable place to live, work and visit, to the benefit of current and future occupiers of St Mary's Island and the benefit of the wider area in general. The proposal is also considered to be acceptable in terms of highway and pedestrian safety issues and is considered to comply with provisions of the National Planning Policy Framework 2012, the National Planning Practice Guidance, the Government's Technical Housing Standards and the outdoor space amenity space standards set out in the Medway Local Plan 2003 and the Medway Housing Design Standards (interim) 2011 and policies S8, BNE1, BNE2, BNE5, BNE6, BNE7, BNE8, BNE23, CF5, CF13, H10, L4, T1, T2, T3, T4, and T13 of Medway Local Plan 2003. The application is accordingly recommended for approval.

This application would normally fall to be determined under delegated powers, but is being reported for Members' consideration due to the scale of the application proposal and the fact that the Planning Committee determined the 2013 application that this proposal seeks to amend.

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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://publicaccess.medway.gov.uk/online-applications/>