

MC/15/2332

Date Received: 1 July, 2015

Location: Medway Bridge Marina, Manor Lane, Borstal, Rochester Kent  
ME1 3HS

Proposal: Outline planning application for residential development comprising 36 residential flats (32x 2 bed flats and 4 numbered x 3 bed flats) with all matters reserved for future consideration, except access (Resubmission of MC/14/3680).

Applicant: c/o agent Kent Planning Ltd

Agent: Mrs White Kent Planning Ltd 18 Sene Park Hythe Kent CT21  
5XB

Ward Rochester West

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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 29 June 2016.**

**Recommendation** - Approval subject to:

A) The prior completion of a legal agreement, under Section 106 of the Town and Country Planning Act 1990 (as amended) securing:

- i) £70,387.20, as requested by the Council's Children's Services (Schools) section, towards Nursery, Primary, Secondary and Sixth Form education on the basis of the lack of sufficient nursery, primary and secondary school places in the area;
- ii) £68,251.68, as requested by the Council's Greenspace Services Section towards a new changing pavilion at Borstal recreation Ground and / or additional play facilities at The Esplanade;
- iii) £16,846.20, as requested by NHS Property related to the improvement of General Practitioners facilities within a 1 mile radius of the development;
- iv) Affordable Housing provision at 25% of the total units proposed, in accordance with the housing / tenure mix, to be agreed with the Council's Housing Section;
- v) £4,921.56, as requested by the Council's Community Centres and Neighbourhood Facilities Section, to be used in relation to the Woodside Community Centre, Strood;
- vi) £4,498.20 towards the Great Lines Heritage Park, for the repair and

maintenance of footpaths adjoining Chatham Naval Memorial.

B) and the following conditions:-

- 1 Approval of the details of the layout, scale and appearance of the buildings 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 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:

Drawing Number: BKE15987-01 received on 2 July 2015

Drawing Number: 202/13/04 Revision C; and un-numbered drawing of a cross-section through the site prepared by the Omega Partnership received 5 November 2015.

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

- 5 No development approved by this permission shall be commenced until a scheme for the disposal of foul and surface waters have been submitted to and approved in writing by the Local Planning Authority following consultation with both the Environment Agency and Southern Water. Thereafter the development shall only be implemented in accordance with the details approved pursuant to this condition, to the reasonable satisfaction of the Local Planning Authority.

Reason: Required prior to commencement as there is currently inadequate capacity in the local foul and surface water system and that without adequate capacity being secured the proposal would increase flows to the public

sewage system, and existing properties / land together with the proposed development may be subject to greater risk of flooding as a result. Additionally, adequate capacity needs to be secured to prevent pollution of the adjoining water environment, which are controlled waters.

- 6 Notwithstanding the submitted plans and documentation, surface water drainage from the development site shall not be discharged to soakaways.

Reason: To prevent pollution of groundwater.

- 7 No development approved by this permission shall be commenced until full details of the measures to be undertaken in the diversion of the public sewers have been submitted to and approved in writing by the Local Planning Authority following consultation with Southern Water. Thereafter the development shall only be implemented in accordance with the details approved pursuant to this condition, to the reasonable satisfaction of the Local Planning Authority.

Reason: Required prior to commencement of development to ensure the sewer diversion is undertaken in an appropriate manner without risk to the adjoining water environment, which are controlled waters.

- 8 No development shall commence until:

- a) A desktop study has been carried out which shall include the identification of previous site uses, potential contaminants that might reasonably be expected given those uses and other relevant information. And using this information a diagrammatical representation (Conceptual Model) for the site of all potential contaminant sources, pathways and receptors has been produced.
- b) A site investigation has been designed for the site using the information obtained from the desktop study and any diagrammatical representations (Conceptual Model).

This shall be submitted to, and approved in writing by the Local Planning Authority (LPA) prior to that investigation being carried out on the site. The investigation must be comprehensive enough to enable:

- a risk assessment to be undertaken relating to groundwater and surface waters associated on and off the site that may be affected; and
  - refinement of the Conceptual Model; and
  - The development of a Method Statement detailing the remediation requirements.
- c) The site investigation has been undertaken in accordance with details approved by the LPA and a risk assessment has been undertaken.
- d) A Method Statement detailing the remediation requirements, including measures to minimise the impact on ground and surface waters, using the

information obtained from the Site Investigation has been submitted to the LPA. This should be approved in writing by the LPA prior to that remediation being carried out on the site.

The development of the site shall be carried out in accordance with the approved Method Statement.

Reason: Required prior to commencement to prevent irreversible pollution, to ensure that the proposed site investigations and remediation will not cause pollution of Controlled Waters and to protect underlying shallow groundwater and nearby surface water quality.

- 9 No occupation of any part of the development of each phase of 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 shall be 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 underlying shallow groundwater and nearby surface water quality. National Planning Policy Framework (NPPF) paragraph 109 states that the planning system should contribute to and enhance the natural and local environment by preventing both new and existing development from contributing to or being put at unacceptable risk from, or being adversely affected by unacceptable levels of water pollution. Government policy also states that planning policies and decisions should ensure that adequate site investigation information, prepared by a competent person, is presented (NPPF, paragraph 121).

- 10 Prior to the commencement of the development, full details of the gas monitoring results that were omitted from the Contaminated Land – Desk Study Report undertaken by Geo-Environmental Services Ltd (Report Reference GE9823/DSR/APR14 – Final) received on 2 July 2016, shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall only be implemented in accordance with the details approved pursuant to this condition and thereafter maintained.

Reason: To ensure that the development complies with approved details in the interests of protection of the environment and harm to human health in accordance with Paragraph 121 of the National Planning Policy Framework, the National Planning Practice Guidance, especially the guidance related to Land Affected by Contamination and Policy BNE23 of the Medway Local Plan 2003.

- 11 Prior to the commencement of the development, further gas monitoring shall be undertaken in accordance with the recommendations set out in the

Contaminated Land – Desk Study Report undertaken by Geo-Environmental Services Ltd (Report Reference GE9823/DSR/APR14 – Final) (see Bullet point 5, Table 2, paragraph 2.11) received 2 July 2016. The results of that gas monitoring, together with any remediation measures required as a result of the findings shall be submitted to and approved in writing by the Local Planning Authority prior to any element of this development, as approved, commencing on site. The gas monitoring and remediation measures report, referred to above shall take into account and includes references to the CIRIA guidance ‘Assessing risks posed by hazardous gases to buildings’. Thereafter the development, as approved, shall only be implemented in accordance with the details approved pursuant to this condition and thereafter maintained.

Reason: Required prior to commencement to prevent irreversible harm to amenity, to ensure that the development complies with approved details in the interests of protection of the environment and harm to human health in accordance with Paragraph 121 of the National Planning Policy Framework, the National Planning Practice Guidance, especially the guidance related to Land Affected by Contamination and Policy BNE23 of the Medway Local Plan 2003.

- 12 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 LPA) shall be carried out until the developer has submitted, and obtained written approval from the LPA, for an addendum to the Method Statement. This addendum to the Method Statement must detail how this unsuspected contamination shall be dealt with and from the date of approval the addendum(s) shall form part of the Method Statement.

Reasons: To ensure that the development complies with approved details in the interests of protection of the environment and harm to human health.

- 13 Notwithstanding the submitted plans and documentation, prior to the commencement of the development hereby permitted, an Acoustic Assessment shall be undertaken to determine the impact of noise from transport-related sources and shall be made in accordance with BS8233 2014: Guidance on Sound Insulation and Noise Reduction for Buildings. The results of the assessment and details of a scheme of acoustic protection shall be submitted and approved in writing by the Local Planning Authority. The scheme shall include details of acoustic protection sufficient to ensure internal noise levels (LAeq,T) no greater than 30dB in bedrooms and 35dB in living rooms with windows closed and a maximum noise level (LAm<sub>ax</sub>) of no more than 45dB(A) with windows closed. Where the internal noise levels will be exceeded with windows open, the scheme shall incorporate appropriate acoustically screened mechanical ventilation. The scheme shall include details of acoustic protection sufficient to ensure amenity/garden noise levels of not more than 55dB (LAeq,T). All works, which form part of the approved scheme, shall be completed before any part of the development is occupied and shall thereafter be maintained in accordance with the approved details.

Reason: Required prior to commencement of development to prevent

irreversible harm to future occupants from the layout of the scheme, and to ensure that adequate measures are in place to prevent unacceptable harm from noise.

- 14 No development shall take place until the applicant, or their agents or successors in title, has secured the implementation of a programme of archaeological work in accordance with a Written Specification and timetable which has been submitted to and approved by the Local Planning Authority. Works shall be carried out in accordance with the approved Specification and timetable.

Reason: Required prior to commencement of development to ensure that features of archaeological interest are properly examined and recorded.

- 15 Details to be submitted pursuant to conditions 1 and 2 for the approval of reserved matters for a phase or sub-phase of the development shall include full details of the method for piling foundations, foundations designs and any other proposals involving below ground excavation within that phase or sub-phase. These details shall demonstrate that there is no resultant unacceptable risk to groundwater and should be in accordance with Environment Agency guidance; Piling and Penetrative Ground Improvement Methods on Land Affected by Contamination: Guidance on Pollution Prevention and Piling into Contaminated Sites. The development within any phase or sub-phase shall only be carried out in accordance with the details approved in writing pursuant to the reserved matters submission, in relation to the method for piling foundations, foundations designs and any other proposals involving below ground excavation for the relevant phase or sub-phase to which it relates. No piling or other below ground excavation shall take place other, than as approved pursuant to the method for piling foundations, foundations designs and any other proposals involving below ground excavation agreed pursuant to the reserved matters approval for that phase or sub-phase of the development.

Reason: The site is contaminated/potentially contaminated and piling could lead to the contamination of groundwater and pollution of the adjoining river, which are controlled waters, in accordance with Paragraph 121 of the National Planning Policy Framework, the National Planning Practice Guidance, especially the guidance related to Land Affected by Contamination and Policy BNE23 of the Medway Local Plan 2003.

- 16 The details submitted pursuant to condition 01 shall include existing and proposed site levels, including cross sections of the proposed development through the site of that phase or sub-phase of the development. The development shall be undertaken in accordance with the approved details and maintained thereafter.

Reason: In the interests of visual amenity in accordance with policy BNE1 of the Medway Local Plan 2003.

- 17 No development shall be commenced until such time a Site

Management/Clearance Plan has been submitted to and approved in writing by the Local Planning Authority. The Site Management/Clearance Plan shall incorporate measure to avoid any demolition, re-development or new development within the bird nesting/bird-breeding season. The details as approved must be implemented and maintained for the duration of the construction phase of the development.

Reason: To avoid the main and most sensitive periods of bird passage and bird wintering season and in the interests of biodiversity, in accordance with policies BNE35, BNE37, BNE38 and BNE39 of the Medway Local Plan 2003.

18 Prior to commencement of development for each phase or sub-phase of the development, a Construction Code of Practice (CoCP) shall be submitted and approved in writing by the Local Planning Authority. The CoCP for each phase or sub-phase of the development shall include:

- a) Details of the sustainability of the construction process including recycling and re-use of construction and demolition waste;
- b) Details of measures to mitigate the impact of the construction process on ecology, biodiversity and the wider landscape;
- c) Details of hours of working, noise controls and dust suppression;
- d) Details of construction traffic routing and other measures to minimise the impact of the construction process on the local highway network;
- e) Details of mitigation measures for any other significant impact likely to arise as part of the construction process;
- f) Measures to protect highway network from mud and debris from construction; and
- g) Traffic routing of construction vehicles.

For the sake of clarity the CoCP shall include the demolition aspects of the development.

The development shall thereafter be undertaken in accordance with the approved Code of Practice.

Reason: Required prior to commencement of development to safeguard conditions of amenity for neighbouring properties, to safeguard the biodiversity interest on and adjoining the site and to promote sustainable forms of development, in accordance with Paragraph 118 of the National Planning Policy Framework, the National Planning Practice Guidance, especially the guidance related to the Natural Environment and Policy BNE23 of the Medway Local Plan 2003.

19 The Reserved Matters application for details of layout shall be supported by a full Flood Risk Assessment, which shall provide details and confirmation of:

- The layout and scale of the development;
- Finished ground floor levels, which must be above the modelled

tidal flood levels provided;

- Underground parking areas, the entrance for which should be above the flood levels provided in order to prevent inundation during a flood event;
- Access arrangements to and from the site, which should be dry and accessible to all users / residents.

The Flood Risk Assessment shall be implemented in full in accordance with the approved details, prior to the first occupation of any part of the development, hereby approved and thereafter maintained.

Reasons: The site is located in close proximity to a Flood Zone 3, as defined by the Environment Agency, full details of Flood Risk have not been submitted and in the interests of the safety of future users of the site, in accordance with the Paragraphs 94 and 99 – 104 (inclusive) of the National Planning Policy Framework, the National Planning Practice Guidance, especially the guidance related to Flood risk and Coastal Change and policy CF13 of the Medway Local Plan 2003.

- 20 The details to be submitted with the reserved matters application relating to layout shall include details of all proposed external lighting. Such details must take into consideration amenity and light pollution along with ecology, especially with regard to Bat Conservation Trust's "Bats and lighting in the UK" guidance. No other external lighting shall be installed on site other than that approved pursuant to this condition or subsequently approved in writing by the Local Planning Authority.

Reason: The details submitted are limited and the development in the absence of such details could potentially be harmful to the amenity, character and appearance of the surrounding area, the amenities of the surrounding area in general and ecology / biodiversity. This condition is considered to be in accordance with Policies BNE5, BNE35, BNE37, BNE38, and BNE39 of the Medway Local Plan 2003.

- 21 The details to be submitted with the reserved matters application relating to layout shall include the refuse storage arrangements, including provision for recyclable materials. No unit shall be occupied until the approved refuse storage arrangements to serve that unit have been provided in accordance with the approved details and they shall thereafter be retained.

Reason: No such details have been provided and in the interests of visual amenity and to ensure a satisfactory provision for refuse and recycling in accordance with Policies BNE1 and BNE2 of the Medway Local Plan 2003.

- 22 Prior to the commencement of the development, a scheme and timetable for implementation for the mitigation and conservation as set out in Paragraphs 5.5.1, 5.5.2, 6.5.5 and 7.9 of the ecological report, dated April 2007 by Aspect Ecology and the Aspect Ecology letter (ref: ECO1264/LKW/005.let.fee.LPA) dated 7 April 2015 (both received on 2 July 2015), in the form of landscaping



details, bird boxes and bat boxes shall be submitted to and approved in writing by the Local Planning Authority. The details, measures and timetable, as approved, shall be implemented in accordance with the approved details and thereafter maintained.

Reason: In accordance with Paragraph 118 of the National Planning Policy Framework, the National Planning Practice Guidance, especially the guidance related to the Natural Environment and in the interests of nature conservation, in accordance with policies BNE35, BNE37, BNE38 and BNE39 of the Medway Local Plan 2003.

23 Reserved Matters details to be submitted pursuant to condition 2 of this decision notice shall include:

- A) The retention of the hedgerows and trees located on the south-eastern, southern and south-western boundaries of the site and where possible details additional native hedgerows to be planted along this boundary of the site; and
- B) Full details of all other landscaping and shall show the retention of all trees and hedgerows within and along the boundary of the site, or full justification for their loss in a Tree Survey.

Reason: Details related to the retention of trees and hedgerows within and on the boundary of the development site are vague and their uncontrolled loss/removal, without careful consideration, would be harmful to the character and appearance of the surrounding area and interests of biodiversity contrary to policies BNE1, BNE35, BNE37, BNE38 and BNE39 of the Medway Local Plan 2003.

24 No scrub or vegetation clearance required by the development shall take place on the site, including the creation of the new access, during the bird breeding season (the months of March through to August (inclusive)), unless the site has been surveyed, by a suitably qualified ecologist, immediately prior to the vegetation or scrub clearance and the ecologist confirms provides a written confirmation of their findings which are agreed in writing by the Local Planning Authority. Should any bird breeding be recorded on site during the constructions works, then all works must cease within that area of the site, until the bird breeding recorded ceases or an appropriately qualified ecologist provides sufficient evidence that is agreed in writing by the Local Planning Authority that the site clearance can recommence prior to the closure of the bird breeding season.

Reason: To avoid the main and most sensitive periods of the bird breeding season and in the interests of biodiversity, in accordance with policies BNE35, BNE37, BNE38 and BNE39 of the Medway Local Plan 2003

25 The details to be submitted with the reserved matters application relating to layout shall include full details of the proposed pedestrian access to the site. The approved pedestrian access shall be provided prior to first occupation of

any part of the development and shall thereafter be maintained.

Reason: Required prior to development to ensure adequate pedestrian access is incorporated into the scheme, as no such details have been provided, the vehicular access shown does not have a sufficient width to satisfactorily accommodate a pedestrian access and an alternative means of access is required to comply with policy T3 of the Medway Local Plan 2003.

- 26 Details to be submitted pursuant to condition 2 for the approval of reserved matters shall within layout design include track diagrams demonstrating that the development is accessible by larger vehicles, such as delivery/removal vehicles and refuse vehicles.

Reason: No such details have been provided and to ensure that the development is acceptable in terms of highway and pedestrian safety in accordance with Policies T1 and T2 of the Medway Local Plan 2003.

- 27 No development above slab level 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.

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

## **Proposal**

This submission is an outline planning application for residential development comprising 36 residential flats (32x 2 bed flats and 4 x 3 bed flats) with all matters reserved for future consideration, except access. All other matters, including appearance, landscaping, layout and scale are reserved for future consideration. This application is a resubmission following the withdrawal of a previous outline planning application for residential development related to residential development of some 52 residential units.

The site is roughly wedge shaped, with the longest edge that faces the river located on the north-west side of the site facing towards the River Medway measuring some 230 metres, whilst the other straight edge, faces north east and measures some 58m in depth. The site then tapers back along the south-eastern, southern and south-western boundaries, following the line of the public footpath until it meets up with the north-west side of the site facing towards the river. The access to the site is via the existing site access to the Beacon Boatyard and Medway Bridge Marina, although it continues along the south eastern boundary to meet with the main development site, instead of turning northwest towards the main car park to the Marina and the related businesses and residential boats/barges on the site. The location plan and related block plans give a clear indicative idea of the layout, although both the layout and

different scale and design concepts related to the development are illustrative only.

The development illustrated shows 3 blocks of flatted residential units with two of these blocks (Blocks A and B) facing the north-western river facing boundary. The submitted plan (drawing Z14/sk04) shows the two north-west facing blocks that look to wards the river as each having 12 residential units within them. The other block (Block C), is located to the northeastern boundary development also shows 12 units, although the number of floors in this is 3 storeys which steps down to 2 storeys on the south-western side of that block. A level of parking is shown below these blocks which are raised up on a podium level. To the northwestern side of Blocks 1 and 2 is an amenity terrace, beyond which is the access to the car parking below this podium area. Between Blocks 1 and 2 is a linked amenity space whilst to the south is the access road, turning heads, 4 visitor parking spaces, bin and bike store as well as a grassed amenity area.

The tree belt along the south-eastern, southern and south-western boundaries, adjoining public footpath RR14 is shown to be retained.

### **Site Area/Density**

Site Area: 0.5873 hectares (1.429 acres)

Site Density: 61.3 dph (24.8 dpa)

### **Relevant Planning History**

Medway Bridge Marina has an extensive history, much of which is not relevant to the consideration of the current submission. This being the case, the planning history list below only contains the most relevant history to the proposed development site, which forms part of the wider Medway Bridge Marina site.

MC/14/3680	Application for outline planning permission with some matters reserved (appearance, landscaping, layout and scale) for residential development Decision Withdrawn by Applicant Decided 04/03/2015
MC/07/0921	Residential development comprising of 30 three bedroom houses; 17 two bedroom flats; 3 one bedroom flats and erection of replacement marine buildings to include boat showroom; boat shed and workshops (demolition of existing buildings) Decision Refusal Decided 19/10/2007 Appeal Dismissed Decided 21/11/2008
MC/06/2045	Town and Country Planning (EIA) Regulations 1999 for a screening opinion to determine the need for an Environmental Impact Assessment to accompany a planning application for residential/commercial

development  
Decision Screening Opinion (EIA) not required  
Decided 11/12/2006

## **Representations**

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

EDF Energy, The Environment Agency, Kent Police, Medway Ports Authority, Natural England, NHS Property Services, Southern Gas Networks, Southern Water Services have also been consulted.

**The Environment Agency (EA):** Following initial objections from the EA, the applicants submitted an updated Flood Risk Assessment. The EA raises no objections to the principle of development. They make further comments in relation to flood risk, groundwater and contaminated land; and the storage of fuels/chemicals and advise conditions to be attached.

**Kent Police:** In relation to Crime Prevention Through Environmental Design, Kent Police advises the applicant discuss Crime Prevention with them in more detail.

**Natural England (NE)** advises that they have no objections to the development in terms of the designated nature conservation sites.

The site is in close proximity to European designated sites. Natural England suggests that a Bird Mitigation Contribution be sought or the applicant provide additional information to enable an Appropriate Assessment by the Council to be undertaken.

In terms of SSSIs, NE raises no objections.

With regard to protected landscapes, NE advises that the proposed site lies approximately 500m north of the Kent Downs Area of Outstanding Natural Beauty (AONB) and that the advice of the AONB Partnership/AONB Conservation Board should be sought.

Advice from appropriate bodies in relation to local sites, local landscape character and local or national biodiversity priority habitats and species should be sought.

In terms of protected species NE have referred the Council to its Standing Advice which is a material consideration in the determination of planning applications

The application may provide opportunities to incorporate features into the design that are beneficial to wildlife, such as the incorporation of roosting opportunities for bats or the installation of bird nest boxes.

**Southern Water:** advises that the applicant may wish to amend the site layout, or combine a diversion of the public surface water sewer with amendments to the site layout. Should any sewer be found during construction works, an investigation of the sewer will be required.

A condition for full details of measures to be undertaken in the diversion of public sewers, as well as one regarding full details of the means of foul and surface water drainage are requested.

There is currently inadequate capacity in the local network to provide foul and surface water sewage disposal to service the proposed development. The proposed development would increase flows to the public sewerage system and existing properties and land may be subject to a greater risk of flooding as a result. Additional off-site sewers, or improvements to existing sewers, will be required to provide sufficient capacity to service the development. Irrespective of the above, they also advise that under Section 98 of the Water Industry Act 1991 provides a legal mechanism through which the appropriate infrastructure can be requested (by the developer) and provided to drain to a specific location. Advice on this and in relation to water supply is requested through an informative.

No habitable rooms should be located within 15 metres of the boundary of a proposed pumping station.

**City of Rochester Society** objects on the ground that the proposal constitutes an over-development of the site. They also consider that the access is very limited and not adequate to serve the development.

**Seven letters of objection**, from five separate addresses, have been received raising the following summarised concerns:

- Flood risk - The Marina site is subject to widespread flooding, which on multiple occasions includes the proposed access route from the main gate to the current caravan storage area. Such flooding has become increased in frequency and depth over recent years, particularly at high tides. With tidal levels forecast to rise further and faster over the coming years, and the fact that entire area acts as a 'natural sponge' it would be folly to sanction further development. One of the objectors has supplied photographs of the site during a flooding event which it is stated occurred on 10 February and points out that the photographs demonstrate that this affects the access to the existing caravan storage area, which is the proposed application site.
- Over-development of this site in this location. Riverside areas are being over-developed and this does little to enhance the area. The area should be left in its natural state and unspoilt;
- Height of the development, being of a high rise nature, would be out of keeping with the surrounding area;
- Loss of light (daylight / sunlight);
- Overlooking;
- Noise pollution, both during construction and when occupied. Additionally prospective residents will be impacted by noise pollution from the M2 Motorway Bridge as well as from the High Speed Railway, as existing residents experience

such noise pollution;

- Increased pressure on local services, such as schools and medical services,
- Traffic is already in capacity in Borstal and the village cannot cope with existing traffic levels, let alone an increase. More properties will result in more traffic that will create unacceptable risk to residents and pedestrians;
- Road infrastructure not suitable for existing traffic, let alone the proposed development. The only access is via Manor Lane that has a bend in it that reduces visibility. This road is already saturated with traffic movements especially with traffic to and from the marina. Also vehicular frequently park on both sides of the narrow lane. Traffic congestion will be worse when the Peters Pit Development is completed and also during the construction of the proposed development. The existing access via Manor Lane and the adjoining roads will become virtually impassable;
- The access is totally inappropriate for its present use by the marina, let alone large site machines / building supplies that would be involved in any building works. Countless lorries/low loaders have been experienced many of which have been unable to clear the bend in the road leading into the entrance of Medway Bridge Marina. A similar problem occurs at the top of Manor Lane. An incident at the top of Manor Lane involving a low loader, transporting a boat from the marina, is referred to where the vehicle slipped its load, which crashed on top of the telephone exchange boxes at the top Manor Lane;
- Considerable increase in vehicle movements post construction. Existing use as caravan storage with many of the caravans / vehicles stored never moving and the remainder making infrequent holiday journeys once or twice a year. Post build there could well be in excess of 70 additional residents vehicles making several trips each day;
- The assessment that the new dwellings will use cycles as a primary form of transport must be a joke;
- Considers that the submitted traffic survey under-estimates traffic movement and an extended period of traffic monitoring should be undertaken;
- The playing fields and young children's play area located at the bottom of Manor Lane is already highly congested at weekends with football teams, officials and spectators parking throughout the local streets (and pavements) it would be impossible for construction vehicles to gain access at such times as Manor Lane is reduced to the width of a single car. This presents a major safety risk, especially to small children accessing the play area. Post development this would be compounded by the increased vehicular movements;
- The only access for vehicles into the Marina itself is through an unmanned security gate that requires a pass to open it - the gate is frequently broken in a closed position;
- During construction there will be serious congestion around this area causing issues for emergency services and resident access. The security gate is not fit for

purpose now let alone of sufficient quality to sustain the envisaged increased usage during and post construction. Access to the development site after hours would still be via an unlit public footpath;

- There is already local drainage and waste water issues in the area. Existing drainage will not cope with the extra demand on it resulting from the proposed development; and
- Existing house boat residents occupying the site who are an active part of the cohesive local community many with children attending local schools, these plans are designed to destroy this local vibrant community and in its place impose high rise high density blocks of flats primarily designed for the London commuter.

**One letter received from a local resident**, which in summary, **comments** that the supporting documents for the application give reassurance that the residents of the houseboats moored on the river bank to the north of the proposed site will not need to move. This letter also comments that the scheme:

- Avoids the need to relocate the houseboats and their occupiers and maintains the existing access arrangements with minimum disruption to marina activities;
- Provides a dry means of escape to the service road and public footpath, that would be available not only to proposed residents but also to those people presently living in the houseboats, providing a betterment in safety and accessibility by emergency services for all residents at the Marina site;
- Secures a high quality residential development and enhance the riverside frontage and character, create a sustainable and inclusive residential environmental upgrading the emergency access arrangements for the site as a whole, consistent with National and Local Policy;
- The general tenure of the application is to provide an aesthetically pleasing residential area that is safe. The existing roadway is in desperate need of repair and will detract from a high quality residential development. However, they seek clarification in regard to:
  - Security, if the trees on the north-western NW boundary between the site and the resident houseboats are to be removed;
  - How the access to the footpath that runs to the south of the proposed development and then along the river bank will be made secure and whether the fence that runs down to the water edge, which currently protects houseboat residents, will be retained?
  - Road improvements for existing marina residents and whether they will be incorporated into the scheme?

## **Representations**

**Kelly Tolhurst MP** has emailed to advise that she has been contacted by residents concerned about the application and considers that the best way for Members to consider and assess those concerns would be for a deferral for a site visit.

## **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 Relevant Planning History detailed above that a full planning application for the erection 50 residential units at Medway Bridge Marina was refused and dismissed on appeal in 2008 under planning reference MC/07/0921. The main planning considerations identified by the Planning Inspector (PI) in consideration of that appeal related to flood risk and whether the development lay in the functional floodplain. In dismissing that appeal the PI concluded, that “notwithstanding the lack of harm in other respects and the benefits of using previously developed urban land in a more efficient way... the harm through flood risk would be unacceptable and outweigh all other matters.

Since that appeal decision, the Environment Agency has updated flood mapping and Government Policy has been amended in terms of flood risk, through the revocation of the Government Planning Policy Statement 25 (Development and Flood Risk) and the introduction of the National Planning Policy Framework and the National Planning Practice Guidance “Flood Risk and Coastal Change”. Additionally, the current application site relates to a much smaller site at some 0.5873ha (1.429 acres) compared to the appeal site that was some 1.77ha (4.37 acres).

The result of the reduction in site area, the updated EA flood mapping and the introduction of the National Planning Policy Framework and the National Planning Practice Guidance “Flood Risk and Coastal Change” means that the site and the related vehicular access no longer lies with an area where residential development is considered inappropriate, subject to certain constraints.

The current application site lies within a Flood Zone 1, as defined by the EA and although close to areas at risk of flooding, where residential development may be deemed inappropriate (Flood Risk Zones 2 and 3), is no longer considered to be inappropriate for residential use.

### *Principle*

The application site lies within the urban area of Medway, as defined in the Policy H4 of the Local Plan, which allows for residential development within such areas including the use of vacant or derelict land or the change of use or redevelopment of existing buildings no longer required for non-residential use (See H4(i)); or the redevelopment of existing residential areas and infilling in such areas (providing that a clear improvement in the local environment will result) (See H4(ii)); or mixed commercial and residential uses in close proximity to town centres (H4(iii)); or the use of upper floors above commercial premises; or the use of upper floors above



commercial premises (See H4(iv)).

Whilst the site is not currently vacant or derelict or would result in the change of use/ redevelopment of an existing building or the use of upper floors above commercial premises (Policy H4(i) and H4(iv)), an argument could be made in relation to the redevelopment of the site by virtue of either H4(ii) or H4(iii) due to the fact that it could be construed that the proposal would be the redevelopment of a piece of land that is within an existing residential area and the infilling in such an area could be seen to result in a clear improvement in the local environment. Alternatively, a case could be made that the proposal would result in a development located within close proximity to one or more town centres that would result in a mix of commercial and residential uses.

National guidance and local policy support residential development within existing urban areas and in sustainable locations in favour over countryside sites. Paragraph 17 of the NPPF encourages the effective use of land by reusing land that has been previously developed. Members will have noted above that the PI in her previous appeal decision, in 2008, considered this site to be previously developed urban land.

In addition to the above, this site is also considered to be located in a relatively sustainable position and is thought to be an acceptable site for redevelopment for residential use in this sense. This being the case, the general principle of the development is considered to comply with the requirements of the NPPF and Policies S1, S2 and H4 of the Medway Local Plan 2003 and is considered to be acceptable in principle.

Even were this not the case, paragraph 47 of the NPPF seeks to significantly boost the supply of housing and Government policy within the Framework dictates that local planning authorities should, amongst other criteria, identify and update annually a supply of specific deliverable sites sufficient to provide five years worth of housing against their housing requirements.

In the absence of a five year housing land supply, paragraph 49 of the Framework dictates that relevant policies for the supply of housing should not be considered up-to-date". Paragraph 49 of the NPPF directs Local Planning Authorities to consider all housing applications, where they cannot demonstrate a five-year supply of deliverable housing sites, to be considered in the context of the presumption in favour of sustainable development.

The NPPF at Paragraph 14 states "*a presumption in favour of sustainable development... for decision-taking means*":

- approving development proposals that accord with the development plan without delay; and
- where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless:
  - i) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or
  - ii) specific policies in this Framework indicate development should be restricted.

In this instance, it is not considered (as examined below, in report) that the adverse impacts of allowing this outline planning application would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF, taken as a whole; or would be contrary to any specific policies in the NPPF that indicate the development should be restricted. This being the case this development would be considered compliant with paragraph 14 of the NPPF.

Turning to the Loss of Employment Use, whilst the caravan storage activity, currently accommodated on the site, is a Sui Generis use class, given it is a viable business, it can be considered an employment use. As such, it is necessary to have regard to the supporting text to Policy ED3 'Other Employment Sites', which relates to firms (extant employment uses) which lie outside identified employment areas.

The supporting text to policy ED3 explains that there are conditions that should be met before the redevelopment of 'Other Employment Sites' can be considered. These are:

*"sites which by reason of their age, impact on local amenity, physical constraints, or poor infrastructure are less suited to modern employment uses. In these cases, provided alternative sites can be found for the relocation of existing firms, it would be appropriate to consider redevelopment for other uses to facilitate an improvement in local amenity and the environment of the area. Within the urban area the preferred form of redevelopment is likely to be housing."*

It should be noted that whilst Policy ED3 and its supporting text is not explicitly a housing policy, it could be considered 'a relevant policy to the supply of housing'. Thereby, in the absence of a five-year land supply, Policy ED3 could be considered 'out of date' for the purposes of NPPF paragraph 49. The NPPF emphasises the Government's commitment to "securing economic growth in order to create jobs and prosperity" (paragraph 18), whilst Paragraph 22 outlines the approach that Local Planning Authorities should take to sites allocated for employment uses. The NPPF does not specifically outline an approach to unallocated employment sites.

### *Housing Mix*

NPPF paragraph 50 suggests that planning authorities should: *'deliver a wide choice of high quality homes, widen opportunities for home ownership and create sustainable, inclusive and mixed communities*. The proposal is for a total of 36 residential dwellings, consisting of 32 x 2 bed flats and 4 numbered x 3 bed flat. The development will consist of a range of tenures with 9 of the units (25%) being affordable housing units. Therefore, it is felt that the development corresponds with National Planning Policy Framework and is acceptable in terms of the proposed housing mix in this instance.

### *Design*

Design and landscaping are reserved matters and can be dealt with in detail at a subsequent reserved matters stage should an outline planning consent be granted for the proposed development on this site.

The site is a prominent riverfront location and is visible both up and down the river. It stands out in the foreground of views upriver towards the motorway bridge. It is also prominent in views across the river from the cinema complex on the north bank.

The applicant has submitted a clear indication of the number of residential units and has submitted illustrative layouts showing these to be in three blocks of 12 units each, that step up from two, three and four storeys in height, together with a parking area below the ground level podium. A judgement can be made on the illustrative streetscape elevations and whether the site could appropriately accommodate a development of 36 residential unit in the general principles of the terms of design shown.

Boats in the marina itself form an attractive foreground to the site and the surrounding developments rises on slopes above the site. These developments are low rise, at two to four storeys, and suburban in character. It is broken up by extensive belts of trees, both along the uphill edge of the site itself and elsewhere.

The proposed blocks are set above flood level and car parking is proposed on a raised podium. There is no doubt that the illustrative schemes are bulky, when compared to surrounding single houses and that the flat blocks of four storeys will stand out from their surroundings, being extremely prominent in views up, down and across the river.

The applicants cite modern development at the Esplanade as setting a precedent for the potential scale of development, but it should be noted that the Esplanade developments are located a reasonable distance from the site and the site could not necessarily be argued to be read in the context of those developments, due to that distance. Despite this, it is not considered that the character of the surrounding area is particularly coherent.

The tree belt, which is located on the south-eastern, southern and south-western boundary of the site, adjoining public footpath RR14 provides some visual separation of the site from its surroundings. This visual separation can be seen from both views close up and more distant. Given this, it is considered that development that is different in character from its surroundings and would not cause undue harm, provided that it forms an attractive and elegant object in itself within the existing town and river scape. In this respect, the illustrative drawings submitted with the application show bulky blocks of a rather dated design facing straight out onto the river. There is little in the way of geometry or architectural features to add interest or subtlety. The illustrative design does not therefore provide much assurance on achieving design of the required quality.

In terms of the illustrative visual perspectives, version two of the design shows flat roofed apartment blocks that sit rather lower and more sensitively in the landscape than other versions. In addition to this, version two indicates a more interesting arrangement of solid & void. It begins to show how quality might be achieved, but more detailed work and design skill needs to be incorporated into the reserved matters design stage to ensure a development of quality, should outline planning consent be forthcoming.

However, as design is a reserved matter, this concern relates to the illustrative details submitted as part of the outline submission can be resolved at the reserved matters stage.

In terms of landscape impact, the surrounding land uses consist of fairly low key informal marine based activities (boatyards, jetties, storage and parking). When the layout, scale and appearance of the development is considered at reserved matters stage, the proposal will need to ensure that it is respectful of this character. With appropriate landscaping, also a reserved matter, planting to the north and east of the site can be undertaken so as to ensure that views of the new development from across the river will be relatively unobtrusive.

A variety of alternative layouts and designs could be possible on this site and with good vision in terms of design, it is considered that 36 flats could be accommodated satisfactorily on the site, in a way that would enhance the area and the surrounding riverview setting/streetscene in general.

Having considered the development site against the Council's adopted Landscape Character Assessment, the application site does not lie within or directly opposite any of the designated character areas within that document. Whilst there are several within the vicinity of the site, including the Nashenden Gap, The Nashenden Valley, the Wouldham Carp East, Wouldham Marshes and the Cuxton Scarp Foot and Ranscombe Farm, none are considered to be adversely impacted by the proposed development. The general principle of the development is therefore considered to be acceptable in general landscape impact terms and acceptable in terms of the NPPF and policy BNE6 of the adopted Local Plan.

### *Amenity*

Due to the orientation of the development site, no loss of light, day or sun light will occur.

The residential properties adjoining the site in Brambletree Close and Farmdale Avenue are located to the south-east and southern portions of the site. The illustrative plans show that the blocks of flats will be located to the north-eastern and north-western sides of the site. As the sun rises in the east, moves through to the south and drops to the west, it is considered that no shadow would be cast on any of the adjoining properties in Brambletree Close or Farmdale Avenue.

Furthermore due to the distance from the occupied boats within the marina, including the barges/house boats, no impact in term of sun or daylight, overshadowing or loss of general amenity will occur in relation to this development, providing that the reserved matters details match or are similar to the proposed illustrative design of these 36 residential units.

It is considered that the proposed development would be sited in a location that would provide adequate distances between the site and surrounding dwellings and that this would be acceptable in planning terms. The illustrative plans indicate that issues such as potential overlooking, design and scale are all capable of being resolved. However, these are matters of detail and are the proper subjects of reserved matter

applications.

In terms of noise and general disturbance, the updated noise report, dated March 2015, which provides an estimation of the noise level increase associated with the growth in traffic, has been considered. This report shows that noise level at this site over the last 9 years (the period between the recently submitted noise survey and date the original noise survey submitted with this application was originally undertaken) has had a small increase that has resulted from traffic growth. However, this updated noise report also determines that the noise increase would be in the order of 2 decibels, which is not a significant increase and generally imperceptible. Therefore the development is unlikely to be affected by traffic noise from any nearby traffic generated noise source including the High Speed rail line (HS1) or the M2 motorway bridge. However, it should be noted that the noise survey report only provides estimates and is not derived from a more recent noise survey undertaken at the site.

Whilst the development would appear to fall within acceptable noise limits, it is considered to be appropriate to impose a condition requiring a more up to date noise surveys to be actually undertaken on site to back their estimated finding. Therefore, should outline planning consent be forthcoming such a condition is recommended to be imposed.

#### *Contaminated Land*

The former use of the site as a cement works and marina could have given rise to contamination. This being the case, the applicant submitted a Ground Investigation Report, undertaken by Geo-Environmental and a Desk Study Report. The desk top study which has been submitted by the applicant is acceptable. That report included a conceptual site model, developed for the site, and recommends that a site investigation is undertaken to support the conceptual site model. Indeed it is clear from the submitted reports that further site investigation works are required at the site before a remediation strategy can be produced for the site. Should outline planning consent be granted, such conditions that are reflective of the planning conditions recommended by the EA are recommended to be imposed.

Gas monitoring has been undertaken at the site and the submitted report notes that nothing of concern was detected. However, the gas monitoring results were omitted from the report and these will need to be submitted to the Local Planning Authority for verification prior to the commencement of any development on site. An appropriately worded condition can be imposed on any outline consent granted requiring the gas monitoring results. The applicant will also need to undertake further gas monitoring at the site, which can be controlled by way of a condition.

Subject to the use of appropriately worded planning conditions, the development is considered to be acceptable when assessed against paragraph 121 of the National Planning Policy Framework, The National Planning Practice Guidance on Land Contamination and policy BNE23 of the adopted Local Plan.

#### *Ecology and Appropriate Assessment*

Ecological information has been reviewed and it is considered that the proposed

development would not have an unacceptable impact on protected / notable species and habitats.

The main area of ecological interest is mature trees/hedgerows that surround the site. As the application seeks outline planning application, it is unclear if all the hedgerows/trees will be maintained, but the site should retain and enhance these boundary features as far as possible as they are likely to support protected/notable species such as foraging bats and breeding birds. Additionally, in terms of lighting design, the Bat Conservation Trust's '*Bats and Lighting in the UK*' guidance should be adhered to in terms of lighting design to minimise the impact from lighting on the boundary features. Both of these issues can be dealt with by way of planning conditions.

The access road has scrub and vegetation adjoining it, which may be impacted as a result of the development and as such suitable habitat for breeding birds is likely to be affected. This being the case, should outline planning permission be granted a condition must be imposed preventing vegetation clearance during the breeding bird season (March – August) or, if that is not possible, a suitably qualified ecologist must survey the site prior to the development commencing and if any breeding birds are recorded all works must cease within that area.

Landscaping is a reserved matter so proposed landscaping to the access road is unclear. However, should consent be granted a condition should be imposed requiring landscaping to the southern boundary of the road to retain hedgerow and where required provide additional native hedgerow in the interests of retaining breeding bird and bat foraging habitat.

The enhancements recommended within the submitted ecological survey will need to be secured by condition, should this outline planning application be granted.

In terms of designated sites, the proposed development is located within 200 metres of the River Medway between Cuxton and Temple Marsh Local Wildlife Site (LWS). The submitted information has assessed the impact the proposed development will have on the LWS and made a number of recommendations to minimise the impact on this LWS from the construction of the proposed development. As such to ensure ecology and biodiversity is protected and enhanced the above conditions should be imposed and where appropriate to be incorporated into requirements of a Construction Management Plan.

Subject to the use of appropriately worded planning conditions, the development is considered to be acceptable when assessed against paragraph 118 of the National Planning Policy Framework, The National Planning Practice Guidance on Biodiversity and policies S6 and BNE35 of the adopted Local Plan.

With regard to Appropriate Assessment, whilst Natural England have advised that the site is located within their bird disturbance buffer zone at some 5.9 km from the site, the site clearly lies just outside of the buffer zone on the map showing the Ramsar and Special Protection Areas 6km buffers. This being the case, the site lies outside of the zone where bird disturbance requests can be sought and it is not considered that outside of this zone an Appropriate Assessment under Section 61 of the Habitat

Regulations is required.

### *Highways*

The TRICS trip generation database indicates that the proposed development is likely to generate up to 10 vehicle movements per hour, with each dwelling generating an average of around 3 vehicle movements per day. Whilst it is acknowledged that the southern section of Manor Lane is subject to kerbside parking, the disruption this causes is not considered to represent a severe threat to highway safety or the amenity of local residents and would not be made significantly worse by the proposed development. Double yellow line parking restrictions are in place at the junction with Borstal Street in order to ensure satisfactory visibility. On this basis, no objection is raised in respect of Policies T1 and T2 of the Local Plan.

It is not proposed to construct a footway alongside the existing vehicular access and the existing margin is not of sufficient width to satisfactorily accommodate pedestrian movement. The development therefore needs to provide an alternative means of pedestrian access in order to comply with Policy T3 of the Local Plan. This is likely to comprise a link to Public Right of Way RR14 and then access on to Farmdale Avenue. From this point, there is a footway to take pedestrians towards the village. It is requested that details of pedestrian access to the site, including surfacing improvements to Public Right of Way RR14 and proposals to address the change in ground levels, be submitted for approval prior to commencement of any development on the site.

The indicative layout demonstrates that 53 parking spaces could be provided, although it is not demonstrated that the indicative internal access road can accommodate the requirements for larger vehicles. An assessment of the internal layout and on-site parking provision would need to be made when the reserved matters application is submitted, should the outline application be approved.

### *Other Matters*

#### *Development, Flood risk and Sustainable Urban Drainage System*

Whilst the Environment Agency (EA) initially objected to this development, due to the fact that the applicant had failed to submit an up to date Flood Risk Assessment (FRA), the applicant has rectified this issue through the submission of an updated FRA. The EA have subsequently withdrawn their objection (Please see the Representations section above). Having assessed the development against the EA's floodplain maps, it is clear that the site and its access lie within flood zone 1, although it is located in close proximity to both Flood Zones 2 and 3. The National Planning Practice Guidance is clear in that there is considered to be limited risk from flooding within areas designated as Flood Zone 1.

The National Planning Practice Guidance indicates that where possible new development should be directed to locations within Flood Zone 1 and that elsewhere development at any particular location should take into account the flood risk vulnerability of land uses and consider reasonably available sites in Flood Zone 2, applying the Exception Test if required. Only where there are no reasonably available sites in Flood Zones 1 or 2 should the suitability of sites in Flood Zone 3 be

considered, taking into account the flood risk vulnerability of land uses and applying the Exception Test, if required.

As stated above, the development and its access, although close to Flood Zones 2 and 3, actually lies within a Flood Zone 1 and it is not considered at significant risk of flooding. This being the case, the development site is considered to be appropriate in terms of its location and is considered to be in accordance with the NPPF, the advice in the NPPG and Policy CF13 of the Medway Local Plan.

With regard to SUDS, the Lead Local Flood Authority (LLFA) have advised that they understand that the existing Southern Water sewer will be utilised and that all roads and parking areas will be drained by surface water trap gullies and petrol interceptors. Whilst they have noted that this may necessitate enlargement of the existing infrastructure that will need to be confirmed in the detailed design stage, rather than at the outline planning submission point. The applicants will need to demonstrate that the surface water scheme can be designed to cope with a tide locked situation, should the EA agree to such a drainage solution, when flows are enabled to discharge into the Medway. Additionally it is noted that Section 4.16 - 4.18 of the 2007 Flood Risk Assessment states that the use of Sustainable Drainage Systems is not required on site due to the proximity of the tidal Medway and therefore no attenuation requirements are needed.

However, in the light of the EA's comments regarding discharge to the adjoining river and the fact that other SUDS, such as grey water systems and rainwater harvesting, may need to be considered. Both grey water systems and rainwater harvesting are good examples of source control measures, which would have the added benefit of reducing potable water demand. As such, a condition requiring the submission of the disposal of surface water drainage is recommended, should Members be minded to grant outline planning consent.

### *Public Rights of Way*

Public footpath RR14 runs directly next to this application and is mentioned several times in the application. The Public Rights of Way Officer (PRoW) considers that the footpath is in need of surface improvements and directly accessible from the proposed development. As such they have suggested that a S106 contributions be sought for the resurfacing of this footpath.

Members will be aware that current section 106 arrangements are based on the Council being able to demonstrate a clear need for S106 obligations and the need for those contributions to meet the tests set out in the Community Infrastructure Levy (CIL) Regulations, which are that the contribution must be: (a) necessary to make the development acceptable in planning terms; (b) directly related to the development; and (c) fairly and reasonably related in scale and kind to the development. Further changes to the CIL Regulations came into force in April 2015.

The 2015 changes specified that in the absence of an adopted CIL, the Council needs to be specific in what it is seeking to securing, including in relation to pooled contributions. Additionally the new legislation specified that in the absence of a CIL, the Council are prevented, by law, from having more than 5 pooled contributions related to any one scheme funded through the S.106 process. As such, if the Council



is unable specify/justify the contributions against the above requirements, then it is not lawfully entitled to seek the requested contribution.

To meet the requirements of Section 122/123 of CIL Regulations, the contributions must meet the appropriate tests, including not exceeding the threshold for the number of pooled S106 Contributions. Supporting evidence from Council in regard to specific named projects and cost calculations for those projects, together with details of how the contribution relates to mitigate the specific development project and the appropriate proportion of contribution they should pay are required before a request should be made to the developer. No such information has been provided by the PROW officer and this being the case, the S.106 requests related to the PROW have not been pursued in this instance.

Should consent be granted and a temporary diversion or closure order be required as a result of works undertaken as a result of the development, an informative will need to be added to any consent granted advising the applicant of the need to seek a temporary diversion or closure order in relation to this PROW, prior to any works on or in close proximity to the PROW being undertaken

#### *Archaeology*

The proposed development has the potential to impact upon buried archaeological remains, including deposits of palaeo-environmental interest and a condition requiring a programme of archaeological work is recommend should a planning consent be forthcoming.

#### Planning Obligations / S106 matters, 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, education and other social provisions 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 £70,387.20, as requested by the Council's Children's Services

(Schools) section, towards Nursery, Primary, Secondary and Sixth Form education on the basis of the lack of sufficient nursery, primary and secondary school places in the area;

- A contribution of £68,251.68 towards open space provision for a new changing pavilion at Borstal Recreation Ground and/or additional play facilities at The Esplanade;
- A contribution of £4,498.20 towards the Great Lines Heritage Park for the repair and maintenance of footpaths adjoining Chatham Naval Memorial;
- A contribution of £4,921.56, as requested by the Council's Community Centres and Neighbourhood Facilities Section, to be used in relation to the Woodside Community Centre, Strood;
- A contribution of £16,846.20 towards improvements to towards improving at the General Practitioner facilities within a 1 mile radius of the development; and
- Affordable Housing provision at 25% of the total units proposed, in accordance with the housing / tenure mix, to be agreed with the Council's Housing Section;

No other planning Developer contribution requests have been received. The agent has confirmed that the Section 106 contributions are acceptable.

#### *Local Finance Considerations*

There are no other Local Finance considerations relevant to this submission.

#### **Conclusions and Reasons for Approval**

This is an outline application, with all matters reserved, with the exception of access. This being the case, the main planning considerations relevant to the proposal relate to the principle of the development, whether the development can provide the quantum of development proposed by the applicant and whether the access is acceptable in terms of increased vehicular and pedestrian movements and highway and pedestrian safety generally.

Having regard to current National Planning Policy Framework, the National Planning Practice Guidance and the adopted local plan policies, the principle of the proposed development is considered to be acceptable.

In the light of the housing land supply issue, the current status of the Council's housing policies and, by default Policy ED3 of the adopted Local Plan it would be unreasonable to resist the loss of this portion of the wider Medway Bridge Marina site to residential re-development. The site is located within Flood Zone 1, whilst the remainder of the Medway Bridge Marina Site lies within Flood Zone 2 and 3. Therefore, there is no objection in terms of flood risk to the proposed residential redevelopment located with the Flood Zone 1 area.

The proposal is considered to be acceptable in terms of all other material planning considerations, including traffic generation, environmental concerns and ecology. It is also felt that the site could be developed in a manner that is acceptable in terms of design and appearance, the developments impact on the character and appearance of the surrounding area, neighbour amenity, parking and all other material planning consideration appropriate to an outline planning submission. The proposal is

considered acceptable in terms of infrastructure contributions, subject to the successful conclusion of a Section 106 agreement.

Accordingly the proposals considered to conform to the provisions of paragraphs 14, 17, 47, 49, 50, 56, 57, 58, 61, 69, 118, 121, 123, 124, and 205 of the NPPF and Policies S1, S2, S4, S6, BNE1, BNE2, BNE6, BNE7, BNE8, BNE21, BNE23, BNE35, T1, T2, T4 and T13 of the Medway Local Plan 2003.

The application is being reported to Committee due to the level of representations received that raised objection to the proposal contrary to the recommendation.

This application was considered by Members at the Planning Committee on the 1 June 2016, when it was determined to defer a decision to enable a Members' site visit to be held.

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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/>