

MC/16/1989

Date Received: 5 May 2016

Location: Jeffery Street Car Park, Jeffery Street, Gillingham

Proposal: Construction of a four storey building to provide 68 student rooms
8 common rooms and associated support facilities together with
cycle and bin storage- Resubmission of MC/15/1186

Applicant: PCD Homes

Agent: Mr Roberts, Camal Architects, 32 Newnham Road, Cambridge
CB3 9EY
Mr A McCombie

Ward Gillingham North

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 Section 106 Agreement securing:

- The development as 'Car Free', by precluding future occupiers from obtaining parking permits, including if required undertaking to pay the Council's costs in regard to amending the relevant Traffic Regulation Order to preclude future occupiers of the development from obtaining such parking permits;
- £15,203.44 towards Designated Habitats Mitigation.

B) The following conditions:

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

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

- 2 The development hereby permitted shall be carried out in accordance with the following approved plans: Drawing Numbers PA001, PA002, PA003, PA004, PA005, PA006 and PA007 received on 05 May 2016.

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

- 3 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.

- 4 Prior to the first occupation of the development, full details of the positions, design, materials and type of boundary treatment to be erected shall be submitted to and approved in writing by the Local Planning Authority. The approved boundary treatments shall be completed before the building is first occupied and shall thereafter be retained.

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

- 5 Prior to the first occupation of the development, full details of a scheme of hard and soft landscaping shall be submitted to and approved in writing by the Local Planning Authority, together with a timetable of implementation. All planting, seeding and turfing comprised in the approved scheme of landscaping shall be implemented during the first planting season following first occupation of the buildings. Any trees or plants which within 5 years of planting are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless the Local Planning Authority gives written consent to any variation.

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

- 6 If, during development, contamination not previously identified is found to be present at the site then no further development shall be carried out until the developer has submitted a method statement stating how this will be managed and written approval of the method statement has been issued by the Local Planning Authority. Thereafter, the land shall be remediated in accordance with the approved method statement.

Reason: To ensure that the development is undertaken in a manner which acknowledges interests of amenity and safety in accordance with Paragraph 121 of the National Planning Policy Framework, The National Planning Practice Guidance on Land Contamination and Policy BNE23 of the Medway Local Plan 2003.

- 7 No development above slab level shall take place until a scheme of acoustic protection is submitted to and approved in writing by the Local Planning

Authority. The scheme shall demonstrate that the internal noise levels within the student accommodation will conform to the good design range identified by BS 8233:2014. The approved scheme of acoustic protection shall be implemented prior to the occupation of the building in full accordance with the details approved pursuant to this condition and thereafter maintained.

Reason: To ensure that the development does not prejudice conditions of amenity in the area in accordance with the Paragraph 123 of the National Planning Policy Framework, the National Planning Practice Guidance on Noise, DEFRA's Noise standard for England 2010 and Policy BNE2 of the Medway Local Plan 2003.

- 8 No development shall take place until the following details of all the measures which will be undertaken to protect and divert the public sewers and water apparatus and the means of foul and surface water sewerage disposal have been submitted to and approved in writing by the Local Planning Authority, in consultation with Southern Water. The development thereafter shall only be implemented in full accordance with the details approved pursuant to this condition and retained thereafter.

Reason: Required prior to commencement of development to ensure appropriate means of foul and surface water sewerage disposal to serve the development so as to avoid flooding.

- 9 No development shall take place until a Construction Code of Practice covering the hours of operation for the construction, delivery times for materials to be used in the construction, methods for dealing with mud on the road, noise, dust, air quality and lighting for the construction phase of the development, shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved Construction Code of Practice.

Reason: Required prior to commencement of development for the interests of the amenities of nearby properties in accordance with Policy BNE2 of the Medway Local Plan 2003.

- 10 No development shall take place until details of the slab levels and the internal finished floor levels of the student accommodation hereby approved have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reason: Required prior to commencement of development in order to safeguard the visual amenities of the area to accord with Policies BNE1 and BNE2 of the Medway Local Plan 2003.

- 11 The building shall not be first occupied, until the area shown on the submitted layout as bicycle storage has been provided. 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 access to the bicycle storage.

Reason: Without provision of adequate bicycle storage facilities being provided, the development will be less sustainable. The provision of bicycle storage provision is in accordance with Policy T4 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 proposal seeks full planning permission for the construction of a 4 storey building (ground plus three floors above), which would provide student accommodation, together with the related support facilities. It is a re-submission of a previously refused application, which has also recently been dismissed at appeal. This re-submission is identical to the previous submission (MC/15/1186), but needs to be considered in the light of the Planning Inspector's (PI's) decision letter, which is a material planning consideration in relation to this re-submission.

In terms of the development proposal itself, the ground floor of the development would provide an entrance foyer, an office, a store, a closet, 8 student rooms with en-suite facilities and 2 common rooms. In addition to this, the ground floor contains 2 bicycle stores that will hold up to 80 bicycles, 2 stairwells one of which contains a lift and a bin store. The first, second and third all contain the same layout being 20 student rooms with en suite facilities, 2 common rooms, 2 stairwells one of which contains the lift from the ground floor and a closet / store. In total, the proposal contains 68 student rooms with en-suite facilities and 8 common rooms, which contain kitchen facilities.

The proposed building is of a modern rectangular design measuring approx 34.4 metres in width by 13.4 metres in depth. The building has a shallow zinc covered fully hipped roof, which will have an eaves height of approx 10.5 metres when measured from the existing ground level and a ridge height of approx 11 metres when measured from the ground level. Development contains two feature elevations on both the front (north facing) and rear (south facing) elevations. These features contain a parapet frontage and each measure 11.3 metres in height, when measured from the existing ground level, by 7.3 metres in width.

To the frontage (north facing elevation) there is a small area of landscaping which measures 15.6 metres in length by 1.1 metres in depth either side of the foyer access. This landscape element could act as defensible space between the building and the footpath, but the details of the landscaping in this area are as yet to be provided. To the rear, southern facing elevation is a 1.1 metres access path leading to the bicycle and bin stores as well as providing a secondary means of escape. A 2 metre high fence with gate is proposed to this area to maintain security at the rear of the building.

Site Area/Density

Site Area: 0.0634 hectare (ha) or 0.026 acres

Relevant Planning History

MC/15/1186	Construction of a four storey building to provide 68 student rooms 8 common rooms and associated support facilities together with cycle and bin storage Decision Refusal Decided 2 July, 2015 Appeal: Dismissed 15/04/2016
MC/13/1489	Construction of a three storey building to contain nine residential apartments with car parking Decision Approval With Conditions Decided 09/10/2013
MC/10/0352	Conversion of former offices to 8 one bedroom apartments (Resubmission MC/09/2297) Decision Approved Decided 26 March 2015
MC/09/2297	Conversion of former offices to 8 one bedroom apartments Decision Withdrawn Decided 23 December 2009

Representations

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

EDF Energy, the Environment Agency, Southern Gas Networks and Southern Water have also been consulted.

The Environment Agency (EA) has written advising that they have no objection to the development and that in terms of groundwater and contaminated land they do not consider this proposal to be high risk. Requests informatives to be attached.

Southern Water has not responded. However, they did respond to the identical proposal MC/15/1186. SW advised that SW can provide foul sewage disposal to service the proposed development and would need a formal application for a connection to the public sewer to be made- by the applicant or developer. There is currently inadequate capacity in the local network to provide surface water disposal to service the proposed development. The proposed development would increase flows to the public sewerage system, and any 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, would be required to provide sufficient capacity to service the development. 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 a specific location.

In the light of the above comments, whilst SW have not responded in relation to the current consultation, appropriate conditions and informative previously requested by them in relation to MC/15/1186 should be brought forward to the current submission and be attached to a planning consent.

Southern Gas Networks (SGN) - Although SGN previously indicated in relation to MC/15/1186 that they had no comments to make on that application, they have written in relation to this submission advising of the presence of low/medium/intermediate pressure gas main in the proximity of the application site. They advise that no mechanical excavations can take place above or within 0.5 metres of the low pressure and medium pressure systems or 3 metres of the intermediate pressure systems. SGN have also advised that the applicant will need to ensure that they confirm the position of mains using hand dug trial holes and of the need to undertake safe digging practices. Additionally they have advised that other gas transporters/private owners may have separate gas infrastructure in the area and that it is for the applicant/developer to ensure that they are fully aware of all gas infrastructure within the area. Finally SGN have provided a copy of the Health and Safety Executive document entitled "HSG47 – Avoiding Dangers from Underground Services" and advised about the risks of direct or consequential damage to gas plant and the fact that SGN will charge for any damage resulting to their gas plant.

One online comment from a local business owner/resident objecting, has been received. This online comment raising the following summarised planning concerns:

- Loss of parking in an area where there is already a lack of parking in the vicinity, which has a serious impact on High Street businesses and surrounding area in general. A further shortage of parking would mean less trade for the High Street;
- There is not a shortage of student accommodation in the area, but there is a big shortfall of accommodation for young families.

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 (NPPF) and are considered to conform.

Planning Appraisal

Background

Members will recall, and have noted from the Planning History section above, that an identical proposal has been previously considered by them in July 2015 under planning reference MC/15/1186. That application was refused following consideration by Members on the following ground:

"The proposal represents an over-development of the site by virtue of its positioning on the site together with its height, bulk, mass and scale that would dominate this part of Jeffery Street and be overbearing in regard to the two storey residential and commercial premises opposite the site in Jeffery Street. As a result of this the development fails to respect the scale, appearance and locality of those building and visual amenities of the surrounding area in general contrary to the aims and objectives of Paragraphs 17 and 61 of the National Planning Policy Framework and Policy BNE1 of the Medway Local Plan 2003."

The applicant appealed that decision and whilst the appeal was dismissed on 15 April 2016, it was only dismissed on the basis that no unilateral agreement, under Section 106 (s.106) of the Town and Country Planning Act 1990 (as amended) (The Act) had been offered up, as part of the appeal process, securing the proposal as a 'Car Free Development', by preclude future occupiers from obtaining parking permits, as a planning obligation, or amending the relevant Traffic Regulation Order. In respect of the suggested use of a condition, the Planning Inspector stated that *"...attempting to use planning controls to remove rights given under other legislation, taking away someone's entitlement in a Controlled Parking Zone to apply for and obtain a resident's parking permit..."* may *"...result, if challenged in the Courts..."* as *"...it might be considered unlawful and unreasonable. A condition removing such rights may not therefore prevent additional on-street car parking, while failing the tests for the Use of Planning Conditions set out in the Planning Practice Guidance (PPG), with regard to matters such as being reasonable and enforceable."* (See paragraphs 17 and 18 of appeal decision APP/A2280/W/15/3138034).

In addition to the Inspector's comments above, he also considered whether a condition requiring an obligation might be suitable. However, he considered that *"it is made clear in the PPG that a negatively worded condition limiting the development that can take place until a planning obligation or other agreement has been entered into is unlikely to be appropriate in the majority of cases..."* and that *"...in exceptional circumstances a negatively worded condition requiring a planning obligation or other agreement to be entered into before certain development can commence may be appropriate in the case of more complex and strategically important development where there is clear evidence that the delivery of the development would otherwise be at serious risk."*

However, the Inspector did not consider, in this case, that the single building represented a complex and strategically important development and as such a condition would not be appropriate. This being the case, in the absence of the unilateral obligation under s.106 of the Act being offered with the appeal the PI considered there to be *"...no suitable means of preventing new residents obtaining a parking permit."* (See paragraphs 19 to 21 of appeal decision APP/A2280/W/15/3138034).

Whilst the Inspector dismissed the appeal on this ground, he also considered the concerns of the Council in regard to the ground of refusal on the refusal notice issued, which is quoted in full above. In his consideration of the Council's reason for refusal, the Inspector did not agree with any of the concerns raised by the Council in terms of its concerns that the appeal proposal would result in:

- an over-development of the site, by virtue of the buildings positioning on the site when combined with its height, bulk, mass and scale resulting in a development that would dominate this part of Jeffery Street; and
- a development that would be overbearing in regard to the two storey residential and commercial premises opposite the site in Jeffery Street and the development failing to respect the scale, appearance and locality of those building and visual amenities of the surrounding area in general.

The Inspector's comments in regard to these matters are considered further below, under the relevant related headings.

Principle of Development

The National Planning Policy Framework at paragraph 17 sets out a number of Core planning principles, including the effective reuse of brown field land, such as this application site, the promotion of mixed uses, making the fullest use of public transport, walking and cycling, and focusing development in locations where it can be made sustainable. These core planning principles also promote securing high quality design as well as good standards of amenity and taking account of the different roles and character of different areas, promoting the vitality of our main urban areas.

In terms of the Council's Medway Local Plan 2003 (MLP2003), Policy H8 relates to residential institutions and hostels, such as the student accommodation proposed in this development and states:

"Residential institutions and hostels will be permitted subject to the following criteria:

- (i) The proposal would not adversely effect nearby residential amenity; and*
- (ii) in appropriate cases, where the occupants have a degree of mobility and independence, the property is within reasonable walking distance of shops, public transport and other facilities; and*
- (iii) Adequate amenity space is provided for residents; and*
- (iv) Parking is adequate for staff, visitors and service vehicles, taking into account the accessibility of public transport; and*
- (v) For changes of use, the property is too large to reasonably expect its occupation by a single household."*

Assessing the proposal against the criteria the development:

- The proposal is not considered to adversely effect the amenities of nearby residents (see amenity below);
- Is within reasonable walking distance of shops, public transport and other facilities in the immediate vicinity regardless of the degree of mobility and independence. Indeed the site is also located close to the universities and Mid Kent College;
- Located in close proximity to the Great Lines Heritage Park, which provides adequate amenity space for prospective occupiers. Irrespective of this great facility being located close by it is likely that the need for such space would be limited as students are likely to spend a significant amount of time at university /

college or away from the property, unlike people in sheltered accommodation, who would spent more at the property;

- Acceptable in parking terms as addressed in the highways section below.
- Finally, the proposal is a new build development and not a single household. Therefore, criterion H8(v) is not relevant.

Subject to the considerations set out below, this development considered to comply with Policy H8 of the MLP2003.

Street Scene and Design

Jeffery Street at this location on the southern side creates a poor impression of the town centre for vehicles travelling along it and other users accessing the town centre from adjacent residential areas. Over the years it has developed a 'ring road' character and gaps in the urban fabric have developed, primarily for car parks and service yards.

Whilst these fulfil useful town centre functions, it is important from an economic and public safety point of view to improve the environmental quality of this corridor and make it a 'living street' once again. The Gillingham Town Centre Development Framework July 2007 sets out aspirations for this area and considered that these issues can be addressed through redevelopment of vacant/underused sites, reintroducing residential and employment uses fronting onto the street. The proposed student accommodation will be sited on a private car park and would introduce an active frontage into an area that currently lacks one. This is considered to be in compliance with the objectives of the core planning principles set out in the National Planning Policy Framework.

To the north side of Jeffery Street there are predominately two storey terrace houses, a small number of them have been converted to commercial premises, and there is a block of age exclusive housing in the form of a flatted development at Will Adams Court. The site adjoins the very large Wilkinson's Store to the east between 9m and 12m in height and a large office building (approx. 11m in height) to the west. As such the site sits between two very large and bulky slab like masses.

To the rear of the site is the service yard for Wilkinson's with the rear of the W.H Smith building, with new flats above, sited as the backdrop to the site. The Inspector in his consideration of the view to the south/south-west of the site noted that the "*rear of the buildings fronting onto the High Street can be seen through the site...*" and that those buildings "*...have a somewhat stark and utilitarian appearance, with rooftop plant being visible.*" The Inspector considered that given those factors and the general sense of enclosure in the street provided by frontage buildings, that "*...the appeal site comprises a somewhat unattractive void space.*" (See paragraph 6 of appeal decision APP/A2280/W/15/3138034).

The site is currently closed off, but formerly allows for the parking of 24 cars with access from Sappers Walk. The site is bounded along Jeffery Street by a 1.8m close-boarded fence.

The proposal comprises a four storey building that would take up the entire plot, with

the exception of the landscape strip to the site frontage (north facing elevation) and the rear access to the bins and cycle stores. The landscape strip to the site frontage could be planted as an area of defensible space between the building and the footpath to allow for some soft landscaping and mimic those front garden areas on the opposite side of the road to the front of the terrace block. The Inspector in his consideration of the previous appeal proposal stated that the height of the development would be "...compatible with those of the properties to either side, with the depth and consequent bulk and mass being substantially less." The Inspector also considered that *"when seen from the front the building would have an overall horizontal emphasis due to its height being less than its length. As a result, the vertical four storey features at the front and rear would tend to balance the appearance of the building and break up the perceived bulk, reflecting good design rather than unduly increasing its prominence."* (See paragraph 8 of appeal decision APP/A2280/W/15/3138034).

In the light of the above comments and considerations, it is considered that the proposed building would comfortably sit between two adjacent large bulky buildings, while designed in a manner which would improve the character and appearance of the wider streetscene and the surrounding area in general.

In terms of the development impact on the two storey domestic housing located on the opposite side of Jeffery Street, the Inspector was quite clear in his consideration of the appeal in that he considered: *"The development would be most readily seen in relation to the particularly substantial buildings to either side, which provide the immediate context for the development. As a result there would be no visually detrimental relationship with the lower but more distant two storey properties located on the other side of the street. Rather than overwhelming the terraced properties and being visually overbearing, the development would reduce the dominance of the larger neighbouring blocks and provide a more attractive and sympathetic setting. The active frontage of the new residential use, with windows and a central entrance, would complement those of the houses opposite. As a result, I consider that the opportunity would be taken to mend the link to the adjacent residential area, which the Council indicates is one of the aims of the SPD."* (See paragraph 9 of appeal decision APP/A2280/W/15/3138034).

Indeed, the proposed development is set on the opposite side of Jeffery Street with some 17.5 metres (approx) between the front elevations of those dwelling and proposed development. Furthermore, the development will be seen against the very large and slab like building located to its east and west, as well as the rear of the retail premises in Gillingham High Street located to the rear, southern side, of the development site. The building has been designed using appropriate material to the contemporary design and will not look out of context with the buildings located on this side of Jeffery Street.

The use of natural stock bricks of a buff colour together with a naturally finished vertical timber cladding under a standing seam zinc roof, or similar roofing product, would improve the visual relationship in the streetscene between the currently poor appearance of the adjoining building and streetscene in this locality. Additionally, the design of development is considered to be appropriate in relation to the character, appearance and functioning of the built and natural environment. The development is

considered to be satisfactory in terms of use, scale, mass, proportion, details, materials, layout and siting and would respect the scale, appearance and location of buildings, spaces and the visual amenity of the surrounding area.

Whilst the development is in contrast to the housing on the opposite side of the road, it is not considered to be out of character with its surroundings on the northern side of Jeffery Street. The existing terrace houses on the opposite side of the road that are predominately rendered and/or painted in light colours would not be adversely impacted by the development. Indeed in terms of the impact on the character and appearance of the surrounding streetscene, the Inspector considered "*The new building would be relatively close to the footway in Jeffery Street and set further forward than the structure to the west, which has landscaping to the front. However, the front elevation would be virtually flush with that of the building to the other side. This position would have the benefit of significantly limiting the prominence of the unsightly flank of the existing structure. The built form of that now proposed would be relieved to a degree by some planting to the front in a strip about a metre deep*". (See paragraph 10 of appeal decision APP/A2280/W/15/3138034).

Bearing all of the above matters in mind, it is considered that the character and/or appearance of the properties located on the northern side of Jeffery Street or the wider surrounding area and streetscene in general would not be adversely impacted by the proposed development. Furthermore, whilst offering a landscape element to the frontage of Jeffery Street, the development would also act as a screen the service yard, which is seen as a benefit to the scheme. The Inspector also considered that the proposal would significantly limit the prominence of the unsightly flank of the existing structure located to the east of the site.

In his conclusions related to impact on the character and appearance of the streetscene, the Inspector states: "*...the proposed building would not appear overly dominant or comprise overdevelopment, being acceptable in respect of considerations such as its position, height, bulk, mass and scale.*" He goes on to state "*...the introduction of an attractive building with an active street facing frontage and other benefits, such as reducing the prominence of the building to the east, would result in an improvement to the quality of the built environment...*", concluding "*that the character and appearance of the locality would be enhanced. The proposal would accord with the intention of Medway Local Plan, Adopted May 2003, Policy BNE1 that development should be appropriate to the character and appearance of the built environment in respect of matters such as scale, mass and siting...*" (See Paragraphs 11 and 12 of appeal decision APP/A2280/W/15/3138034).

Bearing all of the above in mind, the development is considered to be in accordance with Paragraphs 56 and 61 of the National Planning Policy Framework (NPPF) that promotes high quality and inclusive design and policy BNE1 of the Medway Local Plan 2003.

Amenity Considerations

In terms of the adjoining residential properties, located to the north of the application site on the opposite side of Jeffery Street, the proposed frontage of the development is in excess of 17m from the front of those properties. Whilst dwellings are also

located to the rear of the site, in the High Street above existing shops, the proposed student accommodation is set in excess of 30m from those properties.

The proposal would have views across the street towards the existing dwellings, but would be no more or less than would be typical in such urban locations. Indeed Members will have noted the Inspector's comments above, concerning the relationship of the proposed development to the properties located on the opposite side of the road, as well as the previous planning history, (see the planning history section above), where a scheme for nine residential apartments was granted in 2013.

Indeed in his consideration of the appeal, the Inspector concluded in terms of residential amenity that, "the new building would... be more than 17m from the dwellings and ground floor commercial premises on the opposite side of Jeffery Street and 30m from residential accommodation in the High Street. These distances would be sufficient to prevent any undue loss of privacy from overlooking, especially as the properties in Jeffery Street are open to view from the footway at fairly close proximity anyway. Given the height of the new building, the distances would also be sufficient to prevent any undue loss of daylight or outlook." (See paragraph 13 of appeal decision APP/A2280/W/15/3138034). Bearing all of these factors in mind, whilst the proposed development is set over four stories, it is considered that there would not be any significant loss of outlook, sunlight, daylight or privacy resulting from the development on the residents of any adjoining dwellings .

In terms of noise and disturbance to sensitive receptors (e.g. residential accommodation located close to the development site) during construction, it is recommended that the submission of a code of construction practice, to include amongst other things the control of construction noise and dust impacts arising from the development, should be required by condition.

The proposed student rooms would face north and south. Those facing north would be directed away from any noise and disturbance of the service yard, whilst those on the southern side would overlook the service yard. No details of noise mitigation have been submitted by the applicant in regard to the development; but no objections are raised in relation to either the proximity of the development to the service yard or those units fronting Jeffery Street. Whilst it is noted that the adjacent site (Wilkinson / WH Smith) does not currently operate their service yard at night (i.e. no deliveries), this situation may alter at anytime in the near future, which would more than likely result in complaints of noise nuisance from residents. This being the case, it is considered that a condition requiring a scheme of acoustic protection would be essential should planning consent be granted. Subject to the recommended conditions, the scheme is considered to be acceptable and in accordance with the Paragraph 123 of the National Planning Policy Framework, the National Planning Policy Guidance entitled 'Noise' DEFRA's Noise Standard for England 2010 and policy BNE2 of the Medway Local Plan 2003.

Highways

The current scheme proposes no off-street car parking provision; however, its use as student accommodation would not generate significant vehicle movements. Existing development fronting on to the High Street is serviced from Sappers Walk and this

development would require the same arrangement. The site is located within the town centre, has good access to local bus services and the railway station and cycle storage is proposed for each student room.

In order to reinforce the sustainability of the development and to protect the amenity of nearby residents who rely on kerbside parking, it is considered that future occupiers should not be permitted on-street parking permits. As has been discussed in detail within the Inspector's decision letter, a Planning Obligation securing the development as car free is required prior to issuing any planning approval granted. This being the case, subject to the prior completion of a s.106 agreement securing development as 'car free' by precluding future occupiers from obtaining parking permits, or undertake to pay the Council's costs in amending the relevant Traffic Regulation Order, the development would be acceptable in terms of the Council's adopted parking standards and accord with the saved transport and parking policies T1, T4 and T13 of the Medway Local Plan 2003.

Other Matters

Bird Mitigation - As the application site is within 6km of the North Kent Marshes SPA/Ramsar Sites, 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 advised that an appropriate tariff of £223.58 per dwelling/unit of accommodation (excluding legal costs of £500 and the monitoring officer costs of £300 per trigger event) 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, either as new builds or conversions (which includes HMOs and student accommodation), 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 subject to the prior completion of a unilateral undertaking, under S.106 of the Act, securing the Natural England bird mitigation contribution, no objection are raised in regard to this material consideration, as the development would comply with Paragraph 118 of the NPPF and Policies S6 and BNE35 of the Medway Local Plan 2003.

Southern Water (SW) - Whilst SW have not responded to the Council's consultation related to this application, they did respond to the Council's previous consultation on an identical proposal on this site made under planning reference MC/15/1186. In those comments SW commented on the inadequate capacity in the local network to provide surface water disposal to service the proposed development are noted. However, they also stated 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 a specific location, thus mitigating their concerns. Southern Water have requested the imposition of appropriate conditions, should planning permission be forthcoming and bearing these factors in mind it would be unreasonable to refuse the application on the grounds of the current lack of surface water capacity. Planning conditions can be used to prevent the development commencing until such time as the surface water drainage issue is resolved to the satisfaction of Southern Water and in this regard it is not considered that an objection to the development on drainage grounds can be made.

Contaminated land: Turning to the issue of contaminated land, although the site is not likely to be contaminated due to its previous use as a car park, it is recommended that the imposition of a contamination watching brief condition should planning consent be forthcoming. This would be appropriate and would conform to Paragraph 121 of the National Planning Policy Framework, the Government's National Planning Practice Guidance on land contamination and Policy BNE23 of the MLP2003.

Waste: In terms of the provision waste services, the size, type and number of waste bins required, as well as providing information about the nature of the refuse vehicle and the criteria for accessing the site in relation to the weight of the vehicles and other requirement, should be included as an informative on the decision notice.

Local Finance Considerations

None relevant to this application

Conclusions and Reasons for Approval

The Inspector in his decision letter related to MC/15/1186 has given clear comment on the development acceptability in terms of impact on the streetscene and amenity. The Inspector's considerations and conclusions, as set out in his decision letter, are material planning considerations and must be taken into consideration of the current proposal.

For the reasons set out above, the development proposal as a whole, is considered acceptable in terms of design; impact on the street scene, amenity and highway terms subject to the prior completion of a legal agreement under S.106 of The Act. The development is also considered to be acceptable in terms of all other material planning considerations, but the S.106 agreement will also need to include the Natural England Bird Mitigation measures, as agreed by the applicant and set out above. Bearing in mind all of these material considerations, the proposal is considered to accords with the provisions of policies BNE1, BNE2, BNE6, BNE23, T1, T4, T13 and H8 of the Medway Local Plan 2003 and the application is recommended for approval, subject to the prior completion of a s.106 legal

agreement, securing the heads of terms details above, and relevant appropriate planning conditions.

The application would normally be determined under delegated powers but is being referred to Planning Committee due to their previous consideration of an identical proposal on this site.

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/>