

MC/16/3269

Date Received: 1 August, 2016

Location: 32 Gorse Avenue, Weeds Wood, Chatham ME5 0UG

Proposal: Construction of three bed house with associated parking -  
demolition of outbuilding and conservatory

Applicant: Miss Lauren Smith

Agent: Mr Rogers Seymour Rogers Associates 231 Hempstead Road  
Hempstead Gillingham ME5 0UG

Ward Walderslade

Case Officer Chris Butler

Contact Number 01634 331700

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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 21 September 2016.**

**Recommendation - Approval subject to:**

- A) The applicant signing a Unilateral Undertaking under Section 106 of the Town and Country Planning Act, 1990 (as amended) to secure £223.58 towards Designated Habitats Mitigation plus legal and monitoring costs; and
- 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 Number: WD/01//31/16 received on 01 August 2016; and  
Drawing Number(s): WD/02A/31/16; and WD/03A/31/16 received on 24 August 2016

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

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

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

- 4 All materials used externally shall match those of the existing dwelling at 32 Gorse Road.

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 The building shall not be occupied, until the area shown on the submitted layout as vehicle parking space has been provided, surfaced and drained. Thereafter it shall be kept available for such use and no permanent development, whether or not permitted by the Town and Country Planning (General Permitted Development)(England) Order 2015 (or any order amending, revoking or re-enacting that Order) shall be carried out on the land so shown or in such a position as to preclude vehicular access to this reserved parking space.

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

- 6 The bedroom window at the first floor rear south facing elevation shall be fitted with obscure glass and apart from any top-hung light, that has a cill height of not less than 1.7 metres above the internal finished floor level of the room it serves, shall be non-opening. The obscure glazing and the fixing shut of this first floor rear south facing window shall be carried out and completed before the room is occupied and shall be retained at all times thereafter.

Reason: To ensure the development does not prejudice conditions of amenity by reason of unneighbourly overlooking of adjoining property, in accordance with Policy BNE2 of the Medway Local Plan 2003.

- 7 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification) no windows or similar openings, shall be constructed in the rear south facing elevation of the building than as hereby approved without the prior written approval of the Local Planning Authority.

Reason: To enable the Local Planning Authority to regulate and control any such further development in the interests of amenity and privacy of adjoining property, in accordance with Policy BNE2 of the Medway Local Plan 2003.

- 8 Prior to the commencement of the development, full details of the tree protection, to be provided within the development site, in relation to the "Querus Robur" (Oak Tree), located within the side garden of number 30 Gorse Avenue, shall be submitted to and approved in writing by the Local Planning Authority. The details of tree protection approved, including the erection of any fencing within the development site for the protection of this tree shall be undertaken in accordance with the approved plans and particulars before any equipment, machinery or materials are brought on to the site for the purposes of the development, and shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed in any area fenced in accordance with this Condition and the ground levels within those areas shall not be altered, nor shall any excavation be made.

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 saved policies BNE1 and BNE43 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**

The application seeks consent for the construction of a 3-bedroomed end of terrace dwelling, with associated parking, located to the western side of the existing dwelling. The proposal also includes the demolition of an existing outbuilding.

The proposed dwelling would project 5.1 metres to the side of the existing terrace and be 9.8 metres in depth at ground floor level and 8.0 metres at first floor level. The property would be 2-storey in height, measuring some 4.850 metres when measured from the ground level, at the site frontage, to eaves height and 7.4 metres in height from the ground level, at the site frontage, to the ridge. The eaves and ridge height are shown to match the existing terrace.

A rear garden area is shown that would be a maximum of 5.154 metres in depth by 10.211 metres in width, at its widest point, reducing to 9.403 metres at its shortest point. This reduction is caused by the sites relationship with the angle of the boundary with the adjoining access, which is designated as highway maintainable at public expense. Two off street parking spaces are shown to the side of the dwelling that would provide 1 space for the new dwelling and 1 space for the existing property. Internally the floor plans show a hall, kitchen/dining room, toilet, storage cupboard and lounge at ground floor level and 3 bedrooms and a family bathroom at first floor level. One of the bedrooms has a built in storage area.

The proposed materials are shown to be yellow stock bricks, with concrete interlocking roof tiles and UPVC doors and windows, all to match the adjoining terraced properties. The hard surfacing to the off street parking area is shown to be block paving, but no specific details have been provided in terms of profile or colouration. In terms of boundary treatments, the fencing to the rear garden is shown to be 1.8 metre high close boarded fencing, whilst to the site frontage the boundary treatment is shown to be a continuation of the existing yellow stock brick wall of some 0.9 metre in height.

### **Site Area/Density**

Site area: 0.0278 hectares (ha)/0.0069 acres

Site density: 72dph (29.11 dpa)

### **Relevant Planning History**

MC/13/0977	Construction of a 3-bedroomed end of terrace dwelling with associated parking (demolition of existing outbuilding) Decision Refusal Decided 16/07/2013 Appeal Dismissed Decided 13/01/2014
Case ref: MC/12/2968	Construction of a 3-bedroomed end of terrace dwelling with associated parking (demolition of existing outbuilding) Decision Refusal Decided 06/02/2013 Appeal Withdrawn Decided 08/05/2013

### **Representations**

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

**No letters** of representation have been received.

### **Development Plan Policies**

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 (NPPF) and the National Planning Practice Guidance (NPPG) and are considered to conform.

### **Planning Appraisal**

*Background*

Planning applications MC/12/2968 and MC/13/0977, as detailed in the Planning History section above, were both refused on the following grounds:

*"The development by virtue of the width and siting of the property would erode a current openness within the street scene and be at odds with the existing properties in the adjoining terrace. Furthermore the shallowness of the rear garden would afford future occupiers poor levels of amenity and result in increased overlooking of the rear garden of 13 Rosemary Close contrary to policies BNE1 and BNE2 of the Medway Local Plan 2003."*

The applicant appealed both applications, but withdrew MC/12/2968 from the appeal process prior to the Planning Inspectorate issuing their decision. However, the applicant for MC/13/0977 maintained the appeal. Whilst the Planning Inspector (PI) dismissed the appeal he identified the main issues to be *"...the effects of the proposal on (a) the living conditions of the occupiers of 13 Rosemary Close, with reference to overlooking, and the occupiers of the proposed dwelling, with reference to outdoor space, and (b) the character and appearance of the area."*

In terms of the impact of the development on the character and appearance of the streetscene and the wider area in general, the PI considered that a relatively sizeable gap would be retained between the boundary of the appeal site and the side of the proposed dwelling. The PI took the view that the use of part of the side area of land which was being retained for car parking and access areas would ensure a significant degree of openness to the side of the development would be retained.

The PI concluded that the development would be compatible with the mixed character and appearance of the street, and provide some space to the side of the proposed extended terrace which would avoid a cramped form of development. As such the PI concluded that the development would not harm the character and appearance of the area.

In terms of the living conditions of the occupiers of the proposed dwelling, the PI considered that the proposed development would not result in material harm to the future occupiers of the proposed dwelling, as he considered that adequate outdoor space would be provided. However the PI did consider that in term of overlooking to the private amenity area of the adjoining occupiers at No. 13 Rosemary Close, the proximity of the one rear first floor window would face the rear garden area of that property where the depth of the appeal site would result in overlooking due to the separation distance only being approximately 7m, at its closest point. The PI concluded that the rear facing window would overlook the private amenity area of No. 13 Rosemary Close and that this distance would be too short.

Consequently the PI dismissed the appeal on the grounds of overlooking of the private amenity space of No.13 Rosemary Close, caused by the one rear first floor habitable room window located in the proposed development that faced the rear garden area of that adjoining property.

In order to address this issue the applicants have submitted a revised proposal which removes the first floor habitable room window that overlook the private amenity areas of No. 13 Rosemary Close and have put the window in the side elevation.

### *Principles of Development*

The application site is located within the defined urban boundary of Chatham. Whilst garden areas are no longer classified as previously developed land the site is within a residential area close to shops and services. As such the site is considered to be in a sustainable location in keeping with the land use in the locality. Accordingly no objection is raised to the broad principle of the development and the provisions of policy H4 of the Medway Local Plan 2003. In addition the PI in determining the previous appeal accepted the principle of development.

### *Street Scene and Design*

The proposal is for a 2-storey dwelling to be attached to an existing row of terraced properties. The dwelling would follow the terrace in terms of building line, depth, width and roofline. The scheme would result in the loss of an existing side garden. However similar properties in the area are built up to the pavement edge in similar corner locations. The PI in relation to the appeal related to MC/13/0977, concluded that the development would not harm the character and appearance of the area. The design of the development has not significantly changed since the PI's conclusions and as such it is not considered that the proposed dwelling would cause an unacceptable harm to the character and appearance of the locality. The plans show the dwelling would use materials to match 32 Gorse Avenue and the boundary treatment surroundings the rear garden would be 1.8-metre fencing that can be seen generally in the locality. No objections are raised with regards policy BNE1 of the Medway Local Plan 2003.

### *Amenity Considerations*

The proposed dwelling would be a continuation of the existing terrace. The presence of the access road to the side and large side garden of 30 Gorse Avenue means that this neighbouring property would be located some 15.1 metres distance from the side elevation of the proposed dwelling to the side wall of the two storey side elevation of number 30 Gorse Avenue, Chatham. There is a large tree located within the curtilage of number 30 Gorse Avenue, which is within the side garden area of that property close to the development plot. Whilst there will be a habitable room window to the first floor level of the proposed dwelling, as well as a window in the ground floor side elevation of number 30 Gorse Avenue, the distance between two properties is considered to be adequate to avoid any direct overlooking or loss of amenity to that property or its private outdoor amenity area. Indeed the positioning of the large oak tree to the side of 30 Gorse Avenue provides a significant degree of screening between the two properties, and whilst it is acknowledged that the tree could be removed at some future point it does provide a level of screening in addition to the distance between the proposed development and the dwelling to the west.

The amenities of future occupants of the development and those enjoyed by nearby and adjacent properties will not be adversely impacted. The design of development is such that there will be no unacceptable levels of loss of privacy, daylight, or sunlight.

The application, as amended, has been assessed against the Government's Technical Housing Standards (GTHS) in terms of indoor amenity standards. The internal floor area provided is some 85.3sq.m, which exceeds the GTHS for a two storey dwelling of this nature that is shown to be 84sq.m. Additionally the room sizes for each of the bedrooms exceeds the 11.5sq.m required for a double or twin bedroom or the 7.5sq.m required for a one bed bedroom. The width of all of the bedrooms exceed the standard specified in the GTHS of 2.75m for the first double or twin bedroom and 2.15m for a one bed bedroom. Finally, the internal storage area shown on the revised plan amounts to some 2.88sq.m which exceeds the 2sq.m specified in the GTHS. This proposal is therefore considered to be compliant with the GTHS

In terms of the provision of outside amenity space, the proposal would retain sufficient rear garden space for 32 Gorse Avenue, as well as providing a reasonable sized garden for the proposed new dwelling. A reasonable level of external amenity space is shown to be provided for both the existing and proposed residential units on the site, which accord with the outdoor amenity standards specified in the Medway Housing Design Standards 2011 and is considered to be acceptable in this regard.

In terms of the siting of windows, the positioning of the windows in the proposed new property will allow for acceptable levels of outlook, light and privacy. The secondary light to the bedroom on the rear, south facing, elevation which is shown on the submitted plans as being obscure glazed and secure shut, with the exception of any fan light window with a cill height of no less than 1.7 metres above the internal finished floor area of the room that it serves and this is necessary to protect the amenities of the property to the rear. Subject to the imposition of conditions which secure this and prevent the insertion of any further windows at the first floor level on the rear, south facing, elevation over and above those already shown on the approved drawings, no loss of residential amenity will occur to any adjoining residential property and the development will be acceptable in terms of amenity standards

Accordingly the amended scheme would provide acceptable levels of amenity whilst not causing harm to surrounding residents. As such no objections are raised with regard to policy BNE2 of the Medway Local Plan 2003.

### *Highways*

The application proposes 2 off road parking spaces, one to be retained for use by 32 Gorse Avenue and one for the new dwelling. This falls short of the residential parking standards. However, the existing and proposed dwelling would only fall 1 space short of the requirement in the standards and it is considered that there is sufficient capacity on surrounding streets to cater for this. Indeed the adopted standards allow for a reduction in the standard where the site is sustainably located (i.e. close to existing nodes of public transport and community facilities, such as shops, dental practices, doctors surgeries, schools, etc).

The proposed off street parking spaces would be located on the access road to the side of the site and this access is considered to be satisfactory. Accordingly no

objections are raised with regard to the parking and highway impacts and the provisions of policies T2 and T13 of the Medway Local Plan 2003.

### *Contaminated Land*

As the site currently forms part of the residential curtilage of 32 Gorse Avenue it is unlikely that contamination will be present on site and so no objection is raised with regard to policy BNE23 of the Medway Local Plan 2003. However a condition is recommended to ensure that if contamination is found during construction it is dealt with appropriately.

### *Trees*

As referred to above, whilst there are no trees within the development site itself, there is a large oak tree within the curtilage of the adjoining residential property at number 30 Gorse Avenue. The development proposed lies outside of the crown spread of this tree and the development is considered to be located a reasonable distance from this tree, albeit that part of the crown of the tree stretches over part of the site. Despite this it is not considered that the development will have any adverse impact on this tree during construction, providing a condition is imposed regarding the provision of fencing, within the development site, to prevent the storage of equipment or other development activity under any crown spread of the tree

The tree is considered to provide a valuable contribution to local character of the area and subject to the imposition of such a condition mentioned above, this development will comply with the objectives of Policy BNE43 of the Medway Local Plan 2003.

### *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 (excluding legal and monitoring officers costs, which separately total £550) 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 have submitted a unilateral undertaking. No objection is therefore raised under Paragraph 118 of the NPPF and Policies S6 and BNE35 of the Medway Local Plan 2003.

#### *Local Finance Considerations*

There are none considered relevant to this application.

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

The proposed dwelling has been redesigned since the previous refusal and dismissal on appeal. The property, as redesigned is no longer considered to cause direct overlooking to the private amenity space of the adjoining property at 13 Rosemary Close or any other residential property in the vicinity of the site. The development is considered to be appropriate within the streetscene and acceptable in terms of off street parking provision. As such the scheme is considered to accord with the aforementioned development plan policies and is recommended for approval, subject to the imposition of appropriate conditions.

This application would normally fall to be determined under officers delegated powers, but is being reported for Members consideration due to a request from Cllr Brake on the basis of his previous objections, as set out in relation to MC/13/0977 and MC/12/2968, where concerns were raised due to the size of the plot, size of the dwelling and garden, overdevelopment of the site, loss of rear access to 32 Gorse Avenue, access via a service road and the general similarities with the previously refused schemes.

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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/>