

MC/16/1971

Date Received: 4 May, 2016

Location: 74-76 Ingram Road, Gillingham ME7 1SE

Proposal: Change of use of a pet food sales unit (Class A1) with two bedroom flat (Class C3) above into 2 two bedroom self contained flats together with alterations to fenestration detailing.

Applicant: Mr Rahimi

Agent: Mr M Rahmany 13 Lowther Road Kingston KT2 6LL

Ward Gillingham North

Case Officer Paul Ives

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 16 November 2016.**

**Recommendation – Approval subject to;**

A) The applicant signing a Unilateral Undertaking under Section 106 of the Town and Country Planning Act 1990 to secure:

i) £223.58 towards Wildlife Habitat Mitigation

B) And 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 A-1002-PL-009, A-1002-PL-010, A-1002-PL-014, A-1002-PL-015 and A-1002-PL-016 received on 11 October 2016.

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

3 Unless otherwise agreed by the Local Planning Authority, development other than that required to be carried out as part of an approved scheme of

remediation must not commence until conditions 4 to 7 have been complied with. If unexpected contamination is found after development has begun, development must be halted on that part of the site affected by the unexpected contamination to the extent specified in writing by the Local Planning Authority until condition 7 has been complied with in relation to that contamination.

Reason: Required before commencement of development to avoid any irreversible detrimental impact on human health [and/or] water courses as a result of the potential mobilising of contamination and in accordance with Policy BNE23 of the Medway Local Plan 2003.

- 4 An investigation and risk assessment, in addition to any assessment provided with the planning application, must be completed in accordance with a scheme to assess the nature and extent of any contamination on the site, including risks to groundwater, whether or not it originates on the site. The scheme shall be submitted to and approved in writing by the Local Planning Authority prior to commencement of the development. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report shall be submitted to and approved by the Local Planning Authority prior to the commencement of development. The report of the findings must include:

(i) a survey of the extent, scale and nature of contamination;

(ii) an assessment of the potential risks to:

- human health
- property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes.
- adjoining land,
- groundwaters and surface waters,
- ecological systems,
- archaeological sites and ancient monuments;

(iii) an appraisal of remedial options, and proposal of the preferred option(s).

This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'.

Reason: Required before commencement of development to avoid any irreversible detrimental impact on human health [and/or] water courses as a result of the potential mobilising of contamination and in accordance with Policy BNE23 of the Medway Local Plan 2003.

- 5 A detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment must be prepared, and submitted to and approved in writing by the Local Planning Authority prior

to commencement of the development. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

Reason: Required before commencement of development to avoid any irreversible detrimental impact on human health [and/or] water courses as a result of the potential mobilising of contamination and in accordance with Policy BNE23 of the Medway Local Plan 2003.

- 6 The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of any development (other than development required to enable the remediation process to be implemented) unless otherwise agreed in writing by the Local Planning Authority. The Local Planning Authority must be given not less than two weeks written notification prior to the commencement of the remediation scheme works.

Following completion of the measures identified in the approved remediation scheme, a verification report that demonstrates the effectiveness of the remediation carried out must be produced, and submitted to and approved in writing by the Local Planning Authority prior to the occupation of the development as flats.

Reason: Required before commencement of development to avoid any irreversible detrimental impact on human health [and/or] water courses as a result of the potential mobilising of contamination and in accordance with Policy BNE23 of the Medway Local Plan 2003.

- 7 In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of condition 4, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 5, which is subject to the approval in writing of the Local Planning Authority.

Following completion of the measures identified in the approved remediation scheme a verification report providing details of the data that will be collected in order to demonstrate that the works set out in condition 5 are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with condition 6.

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.

- 8 The ground floor flat shall not be occupied until details of the boundary treatment to subdivide the external amenity space has been submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the approved details prior to the occupation of the ground floor and shall be retained thereafter.

Reason: To ensure the protection of privacy in accordance with Policy BNE2 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 application proposes the change of use of a pet food sales unit (Class A1) with two bedroom flat (Class C3) above into two 2-bedroom self contained flats together with alterations to fenestration detailing.

Both flats would be accessed from separate entrances within the eastern elevation. There would be one flat at ground floor level and one flat at first floor level. Each flat would have a living room/kitchen, bathroom and two separate bedrooms. A communal garden is proposed at the rear with refuse storage area. Access to the front of the site is proposed via a side pathway. The property is proposed to be re-rendered, fenestration upgraded with a new roof proposed to be finished in slate. The frontage design would be altered to facilitate the conversion by blocking up the existing double door opening. The applicants have right of access across a private access road to the front of the site but no right to park within this area.

The proposal was originally submitted to include changes to the roof level to accommodate an additional flat (making a total of three flats proposed). However, the proposal has been amended removing the alterations to the roof level and one of the original three flats proposed following officers' concerns.

### **Site Area/Density**

**Site Area:** 0.011hectares (0.027acres)

**Site Density:** 90dph (74dpa)

### **Representations**

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

**Six letters** of representation have been received objecting to the original scheme which included the three flats and alterations to the roof on the following grounds:

- Loss of privacy;
- Loss of light;
- Out of character with surrounding development with the development too high and intrusive;

- Inadequate refuse provision;
- Proposed pedestrian access to the school will be compromised in terms of safety for children;
- Increased traffic generation with no allocated parking provision;
- Inadequate parking and poor access for vehicles;
- The applicant has a right of way to use the site from Medway council as the landowner but not the right to park on the private road in front of the premises. No objection would be raised to informal parking provided it does not impinge on the school use of the road as an entrance; and

**The Saxon Way School/Griffin School Trust** object to the proposal on the grounds that they have plans to open access road as a new pedestrian / main entrance to the school from Summer 2017 and would wish the road to be kept free of parking at all times

Reconsultation was carried out in respect of the revised scheme but no further representations were received.

### **Development Plan**

The Development Plan for the area comprises the Medway Local Plan 2003 (the Local Plan). 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 are considered to conform.

### **Planning Appraisal**

#### *Principle of Development*

The application site is currently vacant and in poor condition. It appears to have been like this for some time and the rear yard area is overgrown. The ground floor is open plan served by double doors within the northern elevation. The first floor appears to have been last used as a two bedroomed flat ancillary to the ground floor used as a pet food shop. The property is set back of the main highway accessed via a highway in private ownership that is owned by Medway Council who control access. The application site and neighbouring properties have the right to use this land for access purposes by lease. The property is two storey and set behind a terrace of two storey housing in Ingram Road with some having converted loft areas served by dormer windows and roof lights. The site is located within the urban area of Gillingham and to the west of the site Saxon Way School. The school also uses the access as a secondary route to the rear of the school at present.

Paragraph 49 of the NPPF states a presumption in favour of residential development and paragraph 50 of the NPPF supports the provision of a choice of high quality homes. In addition to the NPPF, Policy H4 of the Local Plan is also relevant. Policy H4 states that within the urban area, development will only be permitted provided that there is a clear improvement in the local area. The high density residential development of the site is generally supported by Policy H5 of the Medway Local Plan 2003 but would need to be in keeping with the character of the

surrounding neighbourhood to comply. The development would in principle comply with the provisions of paragraphs 49 and 50 of the NPPF and Policies H4 and H5 of the Local Plan but is subject to consideration of more detailed matters.

### *Street Scene and Design*

The application site is located in a discrete location back from the highway behind terraced properties in Ingram Road. The proposal would therefore have a limited visual on the streetscene. The premises are visible from neighbouring gardens and the school to the west. Its poor condition and vacant use lends itself to reuse for retail, conversion or rebuild. In consideration of the location outside a local centre and off of the public highway, the proposed development for conversion to residential use would appear an acceptable option for bringing the building back into use and enhancing the appearance of the site.

The surrounding area primarily consists of varied house and flat types from different ages. Within the immediate vicinity of the application, the housing is predominantly two storey. The proposed development has been designed to compliment the original form of the building. As the building design in the locality is varied, the design approach aims to keep the building simple with minor changes to the elevations with just those necessary to facilitate the change of use and upgrade the appearance. The detailing is limited but includes an indication to re render the building, upgrade fenestration, alter the frontage to a domestic appearance and utilise the rear yard as communal space for washing /storage purposes. The development would respect the character of the area and is considered to comply with paragraph 56 of the NPPF and Policy BNE1 of the Local Plan.

### *Amenity Considerations*

There are two main amenity considerations: the impact on the amenities of neighbours and the impact on the amenities of the future occupiers.

#### Neighbouring Amenity

The proposed accommodation would have a private road frontage. There is already overlooking between gardens to the front and rear and it is considered the proposal would not create any further overlooking that would be detrimental to neighbouring residential amenity. Given that the changes to the building only relate to changes within the elevation and no additional volume, there would be no detrimental impacts on neighbours in terms of any loss of outlook, daylight and overshadowing.

#### Future Occupants

The development has been assessed with regard to the Government's Technical Housing Standards: National described space standards 2015 and the objectives of Policy BNE2 of the Local Plan. The proposal meets with the standards in terms of room sizes and circulation space with regard to the National space standards and whilst garden space is communal, this would enable occupants to dry washing or store refuse within the identified areas. There would be a degree of potential inward looking into the rear of the ground floor flat but this can be controlled by fencing within the garden to subdivide the space to prevent this. In terms of refuse storage and collection, the details show provision to meet the requirements for both flats.

In summary the proposal is considered acceptable with regard to amenity and is in accordance with the fourth point of paragraph 17 of the NPPF and Policy BNE2 of the Local Plan.

### *Environmental Protection*

As the site is in close proximity to land used historically for military purposes and works are to be carried out to the ground floor which will potentially affect ground conditions of site, it is considered appropriate to recommend the imposition of land contamination conditions to safeguard the amenity of future residents. With the use of such conditions, the proposal would be in accordance with paragraph 121 of the NPPF and Policy BNE23 of the Local Plan.

### *S106 matters*

Natural England (NE) has advised councils that a significant effect, either alone or in combination, is likely to occur on the coastal North Kent Special Protection Areas (SPAs)/Ramsar sites from recreational disturbance on the over-wintering bird interest from new development proposals. This relates to development within 6km of the North Kent Marshes SPA/Ramsar Sites. NE has worked closely with the local authorities to advise on establishing and securing the necessary strategic mitigation measures to protect the coastal SPAs and to enable development to proceed. Further advice was provided on 17 August 2015 concerning this matter. The strategic measures are in the process of being developed by the authorities, 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. Natural England has also advised that an appropriate tariff is collected on the basis that it can be used to fund strategic measures across the Thames, Medway and Swale Estuaries. This interim tariff should be collected, for new builds, 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 tariff which has been agreed currently stands at £223.58 per additional dwelling (excl. legal and monitoring officers costs which separately total £550). The applicants have agreed to pay this tariff in the form of a Unilateral Undertaking in accordance with Policies S6 and BNE35 of the Local Plan.

### *Highways*

The site is currently accessed via a private access road from Ingram Road. There is already satisfactory vision for highway users from this access road onto the public highway. No parking can be formally provided. On-street parking is available informally to the front of the site where no restrictions are in place and nearby as overspill to serve the development without compromise to neighbouring amenity. The

applicants have completed a survey of available parking within the vicinity on 11 October 2016 however this of course is for one day only between 07:30 and 16:00. The site is within walking distance of local shops and amenities and is on a public transport route. On this basis, it is considered that in view of the sustainable location and on street parking available within the vicinity, no objection with regard to Policies T1, T2 and T13 of the Local Plan.

#### *Local Finance Considerations*

None considered relevant.

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

The residential development of this vacant site is welcomed and would significantly improve the appearance of the site. The impact on the amenities of neighbours and the living conditions for future residents are considered acceptable, as are the parking and highway impact of the development. The development is acceptable with regard to Policies S6, H4, H5, BNE1, BNE2, BNE23, BNE35, T1, T2 and T13 of the Local Plan and paragraphs 17, 49, 50, 51, 56 and 121 of the NPPF.

The planning application is reported to planning committee for members consideration in consideration of more than three letters of representation being received contrary officer recommendation.

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#### **Background Papers**

The relevant background papers relating to the individual applications comprise: the applications and all supporting documentation submitted therewith; and items identified in any Relevant History and Representations section within the report.

Any information referred to is available for inspection in the Planning Offices of Medway Council at Gun Wharf, Dock Road, Chatham ME4 4TR and here <http://publicaccess.medway.gov.uk/online-applications/>