

Supplementary Agenda Advice

Page 20 MC/16/2051 Land at Otterham Quay Lane

**Recommendation**

**Amend** Conditions 1, 8, 15, 16. **Delete** 21. **Amend** 22 and re-number as 21.  
**Amend** 23 and re-number as 22

- 1 The development hereby permitted shall be carried out in accordance with the following approved plans received on 9th May 2016:

1279/00 REV; 1279/01 REV FINAL; 1279/02 REV FINAL; 1279/05 REV FINAL; 29905/001/013 REV A; 29905/1001/012 REV C; 29905/1001/09 REV C; 1279/08 REV A.

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

- 8 Any application for the approval of reserved matters relating to the landscape shall include full details of hard and soft landscaping and a programme for implementation. Details shall include:
- i. Proposed finished levels of contours, (including slab levels); means of enclosure (should be consistent with boundary treatment proposals); car parking layouts; existing areas of retained planting; other vehicle and pedestrian access and circulation areas; hard surfacing materials; minor artefacts and structures (e.g. external furniture, play equipment; refuse or other storage units, signs, lighting etc); proposed and existing functional services above and below ground (e.g. drainage, power, communications cables, pipelines etc. indicating lines, manholes, supports etc); retained historic features and proposals for restoration where relevant.
  - ii. Soft landscape works shall include planting plans, written specifications (including cultivation and other operations associated with grass and plant establishment, aftercare and maintenance); schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate; tree pit details including species, size, root treatment and means of support; implementation programme.
  - iii. All planting, seeding and turfing comprised in the approved scheme of landscaping, shall be implemented during the first planting season following occupation of the houses or completion of the development,

whichever is the earlier.

- iv. Details of lighting design, location and specification including spillage and intensity
- v. Detailed design for sustainable drainage systems

The programme for the implementation of landscaping scheme shall include details of strategic planting and open space provision that will be delivered prior to the occupation of the first dwelling. These details shall have regard to the Construction Environmental Management Plan required under condition 18 to ensure that these early landscaping works are not undertaken abortively.

Details shall be approved in writing by the Local Planning Authority and thereafter implemented in accordance with the approved timetable.

Reason: To ensure a satisfactory external appearance and provision for landscaping in accordance with Policies BNE1 and BNE6 of the Medway Local Plan 2003

- 15
- a. No development shall take place until a detailed scheme for the provision of surface water drainage for the life time of the development, together with a timetable for its implementation, has been submitted to and approved in writing by the Local Planning Authority.
  - b. No development above foundation level shall take place until details of the future management and maintenance of the surface water drainage, including arrangements for adoption by any public body or statutory undertaker or any other arrangements to secure the operation of the sustainable drainage scheme throughout its lifetime, have been submitted and approved in writing by the Local Planning Authority.

The drainage scheme shall be implemented in accordance with the approved details.

Reason: In order to ensure the satisfactory development of the application site.

- 16
- No development above foundation level shall take place until a detailed scheme of noise insulation/mitigation measures have been submitted to 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 35dB in bedrooms or combined study/bedrooms and 40dB in living rooms with windows closed. Where the internal noise levels (LAeq,T) will exceed 35dB in bedrooms or combined study/bedrooms and 40dB in living rooms with windows open, the scheme shall incorporate appropriately acoustically screened mechanical ventilation. The scheme shall include details of acoustic protection sufficient to ensure amenity/garden noise levels of less 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: To ensure no detrimental effect on residential amenity of future residents.

21 No development shall take place until an Air Quality Emissions Mitigation Assessment and Statement has been submitted to and approved in writing by the Local Planning Authority. The Assessment and Statement shall be prepared in accordance with the Medway Air Quality Planning Guidance, and shall specify the measures that will be implemented as part of the development to mitigate the air quality impacts identified in the Air Quality Assessment dated December 2014 and approved as part of the permission. The total monetary value of the mitigation to be provided shall be demonstrated to be equivalent to, or greater than, the total damage cost values calculated as part of the Mitigation Assessment. The development shall be implemented entirely in accordance with the measures set out in the approved Mitigation Statement. As a minimum the following air quality mitigation measures shall be provided:

- a) All gas fired boilers to meet a minimum standard of <math>40\text{mgNO}\_x/\text{kWh}</math>;
- b) 1 Electric vehicle charging point per dwelling with dedicated parking or 1 charging point per 10 spaces (unallocated parking);
- c) Mitigation in accordance with the Institute of Air Quality Management (IAQM) Guidance on the Assessment of Dust from Demolition and Construction.

Reason: In the interests of amenity and minimising air pollution in accordance with policy BNE24 of the Medway Local Plan 2003.

22 No development above foundation level shall take place until a detailed design for highways improvements to Otterham Quay Lane as shown on drawings 29905\_1001\_009 and 29905/001/013 Rev A have been submitted to and approved in writing by the Local Planning Authority. A timetable for the provision of the improvements shall be submitted and approved in writing and thereafter the improvements shall be constructed in accordance with the approved details and timetable.

Reason: To provide an attractive and safe means of pedestrian access in accordance with Policy T3 of the Medway Local Plan 2003.

## Recommendation

### A S106 –

(ii) The total financial contribution should be increased to £1,299,221.64 as a result of the following:

- £116,230.40 towards Nursery provision
- £285,292.80 towards primary education
- £364,540.80 towards secondary education
- £59,429.65 towards local GP services

**Note:** Depending on the outcome of discussions regarding the quality and provision of on site open space the contribution for open space may be reduced and delegated authority is requested to agree this if necessary.

**B Amend** Conditions 4 and 11 as follows and the reasons for conditions 6 and 7 as follows:

- 4 The development hereby permitted shall be carried out in accordance with the following approved documents/plans:

Application forms (received 01/07/16) Site Location Plan (7038-L-03)  
Development Framework Plan (7038-L-01 rev E) Gladman- Design and Access Statement (June 2016) Gladman - Planning Statement (June 2016)  
Gladman - Statement of Community Involvement (June 2016) Gladman - Socio-Economic Sustainability Statement (June 2016) Prime Transport Planning - Transport Assessment (June 2016)  
Prime Transport Planning - Travel Plan (June 2016)  
Wardell-Armstrong Air Quality Mitigation Statement (June 2016)  
Wardell-Armstrong Noise and Vibration Assessment Report (June 2016) CGMS Consulting Archaeological Desk- Based Assessment (June 2016) CGMS Consulting Built Heritage Statement (June 2016)  
FPCR - Ecological Appraisal (June 2016) FPCR - Arboricultural Assessment (June 2016)  
FPCR - Landscape and Visual Appraisal (June 2016) Enzygo - Phase 1 Environmental Report  
Enzygo - NPPF: Flood Risk Assessment  
Utility Law Solutions - Foul Drainage Analysis (June 2016)  
Land Research Associates - Soil Resources and Agricultural Quality (June 2016)

Conditions 6 and 7 Reason - substitute word "condition" with "Section"

11 Notwithstanding the air quality mitigation approved under condition 10, prior to any development about ground floor slab level details of the following mitigation measures shall be submitted to and approved in writing by the Local Planning Authority:

- All gas-fired boilers to meet a minimum standard of <math>40\text{mgNOx/kWh}</math>
- 1 Electric Vehicle rapid charge point per dwelling with dedicated parking
- 1 Electric Vehicle rapid charge point per 10 spaces for dwellings with unallocated parking

Add new Condition 22 as follows:

22 The land drain running through the site shall be surrounded by a 4m easement and shall also not have any properties backing onto it. These ditches shall therefore be included within open space and shall be maintained as such thereafter.

Reason: To ensure that flood risk and access to the land drains are not impeded as a result of the development.

## Planning Appraisal

### *Flood Risk*

#### Add at end

Consideration needs to be given regarding the land drain running through the site which will be surrounded by a 4m easement. The Council would not want properties backing on to the ditches as this could impede access and flood risk, therefore the ditch should be included within the public open space and maintained as such. It is understood this will be more applicable to the full planning application but needs to be raised at this stage for suitable consideration to be given within the design. A condition is required to ensure this is adhered to.

Page 86 MC/16/2776  
Tree Lane, Gillingham

Land at Brickfields, Darland Farm, Pear

## Recommendation

#### Amend A 9 as follows:

9. A contribution of £28,000 towards the initial capital costs and £21,600 towards ongoing management cost necessary to mitigate the impact of the development on the Darland Banks Site of Nature Conservation Interest and Local Nature Reserve;

**Amend Condition 10 as follows:**

The details submitted in pursuance of Condition 1 shall show land reserved for parking or garaging in accordance with the adopted County Parking Standards. None of the buildings shall be occupied until this area has been provided, surfaced and drained in accordance with the approved details. Thereafter no permanent development, whether or not permitted by the Town and Country Planning (General Permitted Development) Order 2015 (or any order amending, revoking and re-enacting that Order) shall be carried out on the land so shown or in such a position as to preclude vehicular access to the reserved vehicle parking area.

**Amend Condition 11 as follows:**

In accordance with the recommendations contained in British Standard 5837:2012 *Trees in relation to design, demolition and construction - Recommendations* or any revision thereof the plans and particulars submitted pursuant to Condition 1 above shall include:

- a) A tree constraints plan showing root protection areas and any other relevant constraints plotted around each of the category A, B and C trees overlaid onto the proposed site layout plan.
- b) Existing and proposed finished site levels and cross-sectional details on a scaled plan with retained trees and root protection areas overlaid.
- c) An arboricultural impact assessment that evaluates the direct and indirect effects of the proposed design, including during construction in terms of access, adequate working space and provision for storage of materials; and where necessary recommends mitigation.
- d) Arboricultural method statements for the implementation of any aspect of development that is within the root protection area, or has the potential to result in loss of or damage to a tree to be retained. Particular attention should be given to:
  - i. Removal of existing structures and hard surfacing;
  - ii. installation of temporary ground protection;
  - iii. excavations and the requirement for specialized trenchless techniques;
  - iv. specialist foundations or other engineering within root protection areas of retained trees, including details of installation techniques and effect on finished floor levels and overall height;
  - v. retaining structures to facilitate changes in ground levels; and
  - vi. preparatory works for new landscaping.

- e) A schedule of work to trees which is directly necessary to provide access for operations on site, including pruning to facilitate access.

The development shall be carried out in accordance with the approved details before any equipment, machinery or materials are brought on to the site and any mitigation measures shall be maintained until all equipment, machinery and surplus materials have been removed from the site.

Reason: To avoid any irreversible damage to retained trees pursuant to section 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 Policies BNE1 and BNE6 of the Medway Local Plan 2003.

**Add following additional conditions**

- 17. No development shall take place (including any ground works, site or vegetation clearance) until a method statement for ecological mitigation (including provision for reptiles, nesting birds, dormice and bats) has been submitted to and approved in writing by the local planning authority. The content of the method statement shall include the:
  - a) Purpose and objectives for the proposed works;
  - b) Detailed design(s) and/or working method(s) necessary to achieve stated objectives;
  - c) Extent and location of proposed works, including the location of the ecological buffer zone around the periphery of the site;
  - d) Timetable for implementation, demonstrating that works are aligned with the proposed phasing of construction;
  - e) Persons responsible for implementing the works, including times during construction when specialist ecologists need to be present on site to undertake / oversee works;
  - f) Use of protective fences, exclusion barriers and warning signs;
  - g) Initial aftercare and long-term maintenance (where relevant);

The works shall be carried out strictly in accordance with the approved details and shall be retained in that manner thereafter.

- 18. Before the commencement of development (including any ground works, site or vegetation clearance), a bat activity survey shall be carried out with full details of appropriate bat mitigation measures and shall be submitted to and approved in writing by the Local Planning Authority. The approved strategy shall be implemented in full accordance with the details so approved.
- 19. No development shall take place until a "lighting design strategy for biodiversity" for the site boundaries has been submitted to and approved in writing by the local planning authority. The lighting strategy shall:
  - a) Identify those areas/features on site that are particularly sensitive for bats and that are likely to cause disturbance in or around their breeding

sites and resting places or along important routes used to access key areas of their territory;

b) Show how and where external lighting will be installed so that it can be clearly demonstrated that areas to be lit will not disturb or prevent the above species using their territory.

All external lighting shall be installed in accordance with the specifications and locations set out in the strategy and these shall be maintained thereafter in accordance with the strategy.

20. Prior to commencement of development hereby approved, details of how the development will enhance the quality and quantity of biodiversity as outlined in Section 4.3 of the submitted Extended Phase 1 Habitat Survey (Corylus Ecology, April 2016) has been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with those approved details and thereafter retained

## Representations

**KCC's Biodiversity Officer** has written a further letter following the receipt of additional information re-iterating previous comments and noting that a bat survey has taken place and requesting additional conditions

**Kent Wildlife Trust** has clarified its request for a S106 contribution details of which are outline below under 'Appraisal'.

**The applicant** has submitted a response from the flood risk consultant which responds to a point raised concerning the need for a 40% contingency.

Within the residual risk section of the SWMS there is an assessment of the impact a 40% increase in rainfall intensity will have on the proposed development (section 8.11). In this case the additional resilience requested by the council has been provided (as the soakaways and permeable paving do not surcharge when a 40% Climate Change value is applied). I have outlined the conclusions to section 8.11 of the report below.

Although it is not mandatory to design for the exceedance event, it is possible to increase the volume of storage available at the site by either increasing the depth of the sub-base for the proposed permeable paving, or incorporating any of the additional SuDS measures outlined in Section 8.4.

In conclusion, the proposed system has been shown to have sufficient capacity to deal with an additional 20% increase in the design rainfall event, and this ancillary storage will reduce the rate of run-off contributing to the overland flow path previously identified during an exceedance event. Thereby helping to minimise the risk of flooding offsite when compared to the existing situation.

Regarding the allowance for urban sprawl / creep. No allowance has been made within the calculations, however, it is envisaged the additional storage



provided within the soakaways, in conjunction with other SuDS which can be incorporated into the scheme e.g. raingardens. Could be used to mitigate some of the effects of urban sprawl. If this is required it is likely this will need to form part of the detailed drainage design for the site.

## Appraisal

### *S106 Matters*

#### Darland Banks Site of Nature Conservation Interest and Local Nature Reserve

Kent Wildlife Trust have requested the following which is incorporated into the recommendation:

Ride creation along existing desire line (year 1)	- £ 1,000
Coppicing along boundary and internal coppice blocks (years 1,2,3)	- £4,500
Fencing within reserve to control access and protect habitats	- £ 16,000
Interpretation boards (plus temporary information laminates)	- £ 5,000
Dog bin	- £ 500
Tree planting	- £ 1,000
Sub Total	- £ 28,000

Additional Wardening costs for 10 years, 1 day per month @£180/day  
- £ 21,600

The need for additional resources has been calculated at an average of 1 day/month although, in practice, there is likely to be a concentration of need over the spring and summer months. All cost estimates exclude VAT

**Page 114    MC/16/2656            Broom Hill Reservoir, Strood**

## Representations

One of the objectors has written advising that as the previous application was refused by members after a site visit, as there are new members on the Committee, it is requested that there is a further site visit.

**Page 132    MC/16/2653            Elmsleigh Lodge, 118, Maidstone Road, Chatham**

**Member site Meeting** 12 November 2016. Members attending: Cllrs Mrs Chambers (Chairman); Hicks; Bhutia; Carr; Gilry; Pendergast; Potter; Royle and Tranter. Cllr Maple attended as Ward Councillor and Cllr Freshwater as an observer.

Following the opening of the meeting by the Chairman, the Head of Planning outlined the details of the application, the representations received and the planning issues as they related to street scene and design, amenity, highways and parking and, trees and impact on conservation area.

**The Agent** added some detail in relation to the need for the removal of the trees and the wall, and clarified the proposed land levels and the stepped nature of the proposal.

**Residents** expressed the following concerns regarding the development:

- The wall is in no worse condition now than it was 10 years or more ago.
- The trees are important within the street scene and if the wall is sound there is no need for the trees to be removed.
- The trees and wall are important parts of the street scene and form an important part of the character of the conservation area.
- The removal of the wall and trees will be harmful to the conservation area
- The proposed houses would be out of character with the street scene and harmful to the character of the area.
- Previous refusals in the immediate area of housing development are still pertinent and no justification for departing from that now.
- Vehicular access along King Edward Road is already a problem with residents having to reverse the full length of the road at times and this will be made worse with additional traffic caused by the development.
- Inadequate off street parking already in the street.
- Overlooking and loss of outlook as a result of the development.
- Disturbance during construction.

One of the objectors handed the Head of Planning a letter which due to weather conditions could not be circulated and it is attached to this supplementary agenda

### **Relevant Planning History**

At the site meeting, reference was made to the planning history of adjacent land. This is as follows:

MC/07/1055. To the South planning permission was refused for a terrace of 5 three bedroom dwellings on 15 August 2007 for 5 reasons:

- Poor design – a 2 storey flat roof element.
- Inadequate rear garden lengths.

- Car parking inadequate
- Increased on street parking issues
- Loss of trees would be detrimental to street scene and character of the area.

MC/12/1039. To the north, an outline application for four semi detached dwellings to the rear of 114 Maidstone Road was refused in June 2012 due to poor layout; harm to character of the area; lack of an arboriculture report in relation to tree impact and inadequate off street parking. It was dismissed on appeal. The inspector supported all three grounds for refusal at the time

MC/14/0270 Planning permission was granted for the site immediately north of the application site (to the rear of 116 Maidstone Road Chatham) in 2014 under reference MC/14/0270 for the construction of two three bedroomed dwellings. This development has been completed and is the modern development adjacent to the site seen at the site visit. This was a resubmission of MC/13/1314 and the scheme was altered so that the roof design changed to a shallow pitch design. The scheme was accepted as it would preserve generous rear gardens of properties in Maidstone Road and have direct access from the highway (rather than a shared access for the scheme dismissed on appeal). Weight was given also to the design and site levels where the proposal would not have an undue impact when seen from Maidstone Road on higher ground to the east. The gardens as built are more generous than the current application site with a depth of 12.7m approx. with 17m depth retained for the housing 116 Maidstone Road. The report into this application took into consideration the appeal decision on the site further to the north.

Page 144      MC/16/0370      Land at 185 Walderslade Road

## Planning Appraisal

### *Ecology/Biodiversity*

Since the Planning Report was drafted in relation to this development, further information has been provided to the Council's Ecological Consultants and they have amended their advice as follows:

"As a result of reviewing the data we have available to us (including aerial photos and biological records), the information submitted with the planning application and photos provided by the planning officer we advise that the proposed development has limited potential to result in ecological impacts.

The submitted photos indicate the following:

- Site is a mixture of hard standing/regularly mown grassland;
- There is close boarded fencing surrounding the site which will limit the potential for protected/notable species to access the site;

- The buildings appear to be in good repair reducing the potential for suitable bat roosting features to be present; and
- The tree survey does not identify features which highlight that they may be suitable for roosting bats."

As a result of the above, the Council's Ecological Consultant advises they are satisfied that there is no requirement for an ecological scoping survey to be carried out and that the current management of the site should continue, until such time as the development is commenced, to ensure that no suitable habitat establishes on site.

In the light of the above, there is no longer a need to impose a condition related to ecology.

**Page 166    MC/16/3533            21 Victoria Street, Rochester**

### **Background**

Since the Listed Building application (MC/16/3533) and the Planning application Report (MC/16/3537) were drafted, the applicant has submitted further information to justify their proposed development submissions against the tests set out at Paragraph 133 of the National Planning Policy Framework.

That information consisted of the following additional evidence:

- A letter from Allan Cox (The Built Heritage Consultant) dated 2<sup>nd</sup> November 2016, that sets out a justification for the development in terms of responding to Historic England's letter of objection and sets out why, in his opinion the development is acceptable in both planning and listed building consent terms when the development is considered against the tests set out at Paragraph 133 of the NPPF;
- A letter from County Lettings Ltd, regarding the current nature of the property needing renovating in the first instance and then the likelihood of potential lettings and rental returns;
- An e-mail from DSG Builders Ltd, dated 24 September 2010, concerning the conversion costs of the adjoining premises at 19 Victoria Street, Rochester and the estimated conversion work cost to 21 Victoria Street;
- A letter from DSG Builders Ltd, dated 26 October 2016, confirming that the estimated conversion cost of 21 Victoria Street would not have significantly changed in the intervening 6 years;
- A letter from Machin Lane, Residential Estate Agents, dated 14 October 2016, concerning the prospective return from extension the existing

property at 21 Victoria Street, Rochester, with a view to creating a two bedroom ground floor property, based on their knowledge of the area and sales of residential properties in Victoria Street between October 2014 and July 2015;

- A letter from Sweet Property Services, dated 23<sup>rd</sup> May 2014, concerning the failure to sell 21 Victoria Street and the fact that in their view there is no demand for it to be sold under present circumstances, despite the vendor indicating that they were open to offers.
- A letter from Wakes Construction Ltd, dated 26<sup>th</sup> October 2016, where they estimate the building cost of the 2010 Planning Permission + 20% VAT, but also offering their professional view that incorporating the existing building in with a new built structure would not be cost effective, etc.

Following the submission of this additional information/evidence the Council has re-consulted with both Historic England (HE) and the Ancient Monuments Society (AMS). No response from the AMS has been received, so it has to be assumed that they maintain their objections to both the Planning and Listed building Consent Submission. However HE has written as set out in the representations section below:

## **Representations**

**Historic England** has written advising that they:

*"maintain the view that there is a high level of harm associated with the proposed scheme and that this, for the reasons stated in my [HE's] previous letter, still amounts to substantial harm to the heritage significance of 21 Victoria Street. Because this building is listed at grade II, substantial harm to its significance should only be accepted exceptionally (NPPF para 132) and only where one of the two sets of tests set in paragraph 133 applies. We [HE] do not think that substantial public benefits would be generated from the proposed works, so for the current scheme to be acceptable it would need to fulfil the second set of tests of para 133. The additional information provided with the current application now provides you [the Council] with the necessary basis for assessing the current scheme in relation to those four bulleted tests.*

*The first test requires that 'the nature of the heritage asset prevents all reasonable uses of the site'. Potential uses for this building are very limited because of its small size, but it is conceivable that a small office could be accommodated in its two rooms. However, we accept the financial information now provided with this application, which indicates that the costs of repair and conversion to that use would considerably outweigh both the end value of the building or potential rental yields for that or any other new use. The same appears to be the case for a residential conversion, even when taking into account possible extensions to the rear, as has previously been permitted, or*

on the larger scale suggested in my [HE's] previous letter. Marketing information has now been provided to substantiate the applicant's claims in this regard, which is a requirement of the second test.

The third test requires that possible forms of grant funding or public ownership are explored and appropriately discounted. Although there is no evidence provided by the applicant in this respect, we are willing to accept that both these possibilities are very unlikely given the extent of the conservation deficit and the limited range of benefits that restoration of this building would involve.

The final test requires that the harm to significance should be outweighed by the benefit of bringing the site back into use. In this case we [HE] are willing to accept that there are public benefits associated with bringing this long-derelict building back into use and that the range of possible options for this building is extremely limited. The current solution may therefore represent the last resort.

We [HE] consequently **withdraw our [their] objection** to the current application. However, your Council will still need to satisfy itself that the above tests have all been met and, if you are minded to grant consent, that an appropriate means of protecting and reinforcing the retained fabric of the listed building is secured. We suggest that this should be done by means of a structural engineer's report explaining how the retained fabric would be protected during the course of works and how it would then be reinforced to take the additional loads imposed on it. We [HE] recommend that should be agreed and secured before the application is determined."

### **Planning Appraisal**

In the light of the additional information/evidence supplied by the applicant and the in the light of the revised advise from HE, it is considered that a further consideration of this application is required to establish whether the development would meet the tests as set out in paragraph 133 of the NPPF.

It is clear from HE's advise above that they are still of the opinion that "there is a high level of harm associated with the proposed scheme and that this... still amounts to substantial harm to the heritage significance of 21 Victoria Street." This being the case, it is considered that a further assessment of this application is required in the light of the additional information/evidence supplied and the tests set out in by the applicant in paragraph 133 of the NPPF.

These submissions are not the first applications submitted in regard to this site. The applicants have owned this building for some time and during this period they have sought to find an appropriate way forward with a view to bringing the existing building back into a viable use.

It is noted that the applicant also owns adjacent building, 19 Victoria Street, and their initial approach was to seek planning permission for conversion of both properties into residential flats. In terms of 21 Victoria Street, this

involved a single storey new home based on preserving most of the existing building and extending to the rear. This is the option, which was favoured by HE, proved unviable. The build cost for the conversion and extension works significantly exceeded any resale value and likewise attempts to sell the property as it stands, with that planning permission, also appear to have failed to attract any interest over several years.

In addition to the above the applicants have submitted evidence showing that they have considered renovating the building and renting it out as a small office space. However, this has also proved to be unviable based on the evidence submitted.

With these efforts in mind, and in consideration of the documentary evidence supplied that demonstrates the applicants efforts, over several years, to bringing the existing building back into a viable use, it is considered that alternative forms of development may be justifiable.

In the light of this position the applicants have now applied to build a three storey townhouse in keeping with the area. The development as now proposed requires the partial demolition of the existing building, which is Grade II Listed in its own right. Essentially the applicants propose to demolish the internal walls, but with the preservation of one flank wall and fireplace and the front façade. Having inspected the building, both the Councils Senior Planner and Senior Conservation Officer consider that it is only these feature that contain any real merit, especially in the light of the nature of the building in this location and its poor level of repair.

Quite rightly HE have identified that the tests set out in Paragraph 133 of the NPPF need to be addressed prior to this development being considered to be acceptable or the issuing of any consent. The tests are referred to in the HE response detailed above, but essentially consist of: Whether the nature of the heritage asset prevents all reasonable uses to the site; and whether no viable use of the heritage asset itself can be found in the medium term through appropriate marketing that will enable its conservation.

In response to these tests, it is considered that the evidence submitted demonstrates that the site has remained empty and disused since 1979. No viable use has been found for its reuse in that time, some 37 years, including the applications most recently efforts.

Furthermore, based on the additional information and evidence submitted, the nature of the heritage asset has prevented all reasonable uses to the site. Preserving the existing building as a single storey home, by means of an extension to the rear, has been previously granted, but this consent has not proved possible over a period of more than six years to make this a viable possibility. In terms of the additional information and evidence provided it is clear that:

The costs of the building of a single storey home, incorporating the existing building:

was first costed some six years ago when the applicant undertook the conversion of 19 Victoria Street into four flats. It was then estimated by the company that carried out that conversion next door that the cost for No 21 would be £300,000, with VAT making it £360,000. The same company confirmed that estimate recently. See email 24.10.10 and letter 25.10.16. The applicant has also obtained an up to date quote from another construction company with a record of dealing with historic buildings, Wakes Ltd, which puts the price at £328,000 plus VAT of £65,600, totally £393,600. See letter from Wakes dated 27.10.16.

The likely value of selling a single storey home incorporating the existing building has been researched by the applicant who have approached local estate agents Machin Lane and asked them to give a valuation and justify their figure against actual sales in Victoria Street. Their valuation gives the highest possible sales value as £265,000. See the Machin Lane letter dated 14.10.16.

Based on the above it is clear that the viability of the project is none existent in the current residential market. It is clear from the building costs and the likely sale value that there is a very substantial shortfall. Additionally it should be noted that this includes no valuation for the value of the site itself (residual land value), which has not been factored in, but would clearly make the development proposal as previously granted even less viable. The applicant advises that the site cost in the region of £100,000 when they purchase it some 19 years ago, as part of a larger property package with No19 in 1997. Even if the site is valued at only £70,000 the difference between the cost and sale value would demonstrate a minimum £145,000 loss. In the light of this it is not considered that anybody would be likely to build anything other than if there was a perceived reasonable profit, let alone breaking even.

In the light of the above, even with any amount of adjustment with the design of the single storey proposal, it is not considered that anything close to a financially viable project can be achieved.

Turning to the question of 'no viable use of the heritage asset itself can be found in the medium term through appropriate marketing that will enable its conservation'. It is clear from the additional information and evidence submitted that in terms of selling the site with planning permission for a single storey home, efforts have been made over several years to try and achieve this without any success or indeed real interest. See letter of Sweet Property Services dated 23.5.14.

The applicant has explored the possibility of renovating the existing structure for use as offices, but this clearly fell short of being a viable option. The additional information and evidence provided demonstrates that any such



renovation would cost in excess of £70,000, with only a small office letting being created. The likely revenue from letting such offices (two small rooms and a WC) is estimated to be no more than £6000 per annum in Rochester and hence this is not a viable option. See letter County Lettings Ltd dated 26.10.16.

In terms of the third test referred to by HE in their letter of the 15 November 2016 which requires that possible forms of grant funding or public ownership be explored and appropriately discounted, even HE accept that both these possibilities are very unlikely given the extent of the conservation deficit and the limited range of benefits that restoration of this building would involve, despite there being no evidence provided by the applicant in this respect. However, based on HE's own admission, it is not considered that grant funding or public ownership is possible in this instance and that the test can be appropriately discounted on the basis of the HE comments set out above.

Moving on to a third point under Paragraph 133 of the NPPF where in the Council need to justify itself in relation to allowing consent by demonstrating that 'the harm or loss is outweighed by the benefit of bringing the site back into use' it is clear, after 37 years of being empty and falling into a seriously dilapidated state, the reuse of the site as a large family home, which fits with the adjoining residential dwellings and other used in this streetscene and which also respects the adjoining listed buildings and the conservation area within which it is set, that the current proposal has considerable benefits which outweigh the loss of this building, whilst preserving one flank wall and fireplace and the front façade, being the only aspect of the building which now retain any historical merit.

### **Recommendation**

Listed Building Consent be granted, subject to:

- i) Referral to the National Planning Casework Unit (NPCU), due to the objection from the AMS, advising them of the Council's intention to grant Listed Building Consent subject to the imposition of conditions, and the NPCU not calling the application in within the relevant period; and
- ii) The granting of delegated authority to the Council's Head of Planning to impose such conditions as he deems reasonable and which he considers meets the tests as set out in the National Planning Practice Guidance related to the use of Planning Condition; and

**Background, representations and Officer Appraisal – see above**

**Recommendation**

Planning permission be granted, subject to:

- i) The granting of delegated authority to the Council's Head of Planning to impose such conditions as he deems reasonable and which he considers meets the tests as set out in the National Planning Practice Guidance related to the use of Planning Condition.

**Page 194    MC/16/3590                    47-49 High Street Rochester**

**Representations**

The Planning Agent, for this development, has requested attention be drawn to the following:

*"The tenant of the building, Mr Arulparham, who runs the convenience store, has agreed terms to relocate and continue his services from No. 33 Rochester High Street. Thus, the services he currently provides will continue to be provided locally."*

**A further representation** has been received from the writer of an existing representation that has been included within the main body of the planning report. The writer has raised concerns in regard to the 'Highways' section of the officers report and state that in their opinion this section of the report "...appears to be incorrect".

The writer states: *"Vehicular access from Corporation Street is for cars renting garages and space from Sheldrick House to the right of the entrance and they need clear unobstructed access to their land at all times with a small car parking area to the left of the entrance and this is used daily by staff at the Medway Register Office. The access to the rear of the property in question is pedestrian only being that there is a path between the register office building, the land belonging to Sheldrick House and this path then goes past the rear of the Corn Exchange. Whilst it would be possible for refuse bins to be moved through the path onto the highway for collection there would be no vehicular access for the unloading of deliveries of food, goods or building materials as this would block the access to Sheldrick House parking which are in use 24/7. Has the right of way actually been established in law?"*

**Officer comment**

In terms of the Planning Agents representation, from a pure planning point of view, the above information is not a material consideration that should not be taken into account in the determination of this planning application. Officers of the Council have not seen any evidence that confirms this statement, although they have been aware of similar rumours recently, and such information would be immaterial to the planning considerations of this development in any event.

In terms of the further representation received from the writer of an exiting representation. The Planning Case Officer considered that the writer has misinterpreted the purpose of this section of the committee report. The intent of the highways section of the report is only related to the highways matters arising out of the development proposed. It cannot and does not deal with land ownership issues or matters arising out of matters concerning rights of way. These are private civil matters between the two parties and are not material planning consideration.

As stated within the main body of the Planning Committee report, the Local Planning Authority is not able to intervene in private civil issues, such as those listed above and it is not be able to take such concerns into its consideration/determination of this planning application.

**Page 210    MC/16/3243            1 Main Road Hoo St Werburgh**

**Amend Condition 4**

- 4        The use hereby permitted shall only operate between the hours of 17:00 to 23:00 on Monday to Friday and 12:00- 23:00 on Saturday and Sunday.

**Appraisal**

*Health and well being*

Whilst the site is more than 400m from the schools, it is on a direct route from the school to the village centre and would be passed by pupils leaving school and walking to the village either at lunchtime or after school. Accordingly, it is recommended that the condition be changed so that the premises shall do not open before 17:00 on Monday to Friday.

**Page 220    MC/16/2335            259-261 High Street Rochester**

**Recommendation**

The applicants via their agent have provided amended and additional plans to make slight variations to the proposed parapet levels; clarify the retention of the existing rear retaining wall and distance of block 2 from that boundary;

provide comment on the existing trees on the railway embankment and provide clarification on circulation and parking arrangements for disabled persons. The block plan shows the rear block 2 to be between 1m approx. and 2.2m approx. from the rear retaining wall overall along its length.

#### **Amend Condition 2**

2. Drawing 3275 PD 11 Rev B (block and location plan); 3275 PD 12 Rev B (Proposed Plans block 1); 3275 PD 14 Rev A (block 1 Proposed Elevations); 3275 PD 15 Rev B (Proposed Sections A-A and B-B; 3275 PD 18 (Block 2 Floor Plan –retaining wall details); Design and Access Statement (2 November 2016); letter dated 1 November 2016 all received by email dated 3 November 2016.

**Amend Condition 3** to insert “above ground floor” instead of above “first floor”

**Delete Condition 23** (as covered by informative) and **re-number** remaining conditions

**Add new Condition** which due to renumbering will be 27

27. No development shall commence until full details of means of access for maintenance purposes for the area between the rear elevation of Block 2 and the existing retaining wall. The means of access shall be provided in accordance with any details subsequently approved and thereafter maintained.

#### **Relevant Planning History**

**MC/09/2401** was the subject of an appeal following the decision of the Planning Committee to refuse the application contrary to the officer recommendation and was allowed with costs (17 February 2011) being awarded against the Council.

#### **Representations**

**Kent County Council (Archaeology)** has written in advising that the site lies outside of the ancient historic core in an area of ribbon development along the route between Rochester and Chatham. The line of Roman road heading east out of Rochester is suggested to lie a short distance to the south of the site in question whilst to the west between the High Street and Star Hill burials of early medieval date were found during construction works. It is therefore possible that archaeological remains in the later medieval and post medieval period may be present and also potential for earlier archaeological remains to be present. In view of this a condition is recommended to address this in the form of a programme for archaeological works. The Conservation Officer should be consulted in respect of works that will obscure the gable end of the neighbouring Leech Building which is a prominent feature in the area and contributes positively to the areas character.

Network Rail have written to advise that they strongly recommend that the developer contacts Asset Protection Kent as the site is adjacent to Network Rail's operational railway infrastructure prior to any works commencing on site. It is recommended that the developer agrees an Asset Protection Agreement with Network Rail to enable approval of detailed works to enable safe operation of the railway and protection of Network Rail's adjoining land. They advise that the developer must ensure that the proposal during and after completion of works on site does not encroach onto Network Rail Land; affect the safety, operation or integrity of the company's railway and its infrastructure; undermine its support zone; damage the company's infrastructure; place additional load on cuttings; adversely affect any railway land or structure; Over sail or encroach upon the airspace of any Network Rail Land or Cause to obstruct or interfere with any works or proposed works or Network Rail Development both now and in the future.

*Officer comments Network Rail have suggested conditions that relate to future maintenance; drainage; plant and materials; scaffolding, piling, fencing of the site, lighting management; Noise and vibration management and landscaping that are civil issues between Network Rail and the developer. Where appropriate regarding surface water drainage and foundation design, conditions have been recommended.*

## **Planning Appraisal**

### **Add at the end**

#### *Comment on amended plans and details received*

Minor change to the frontage of block 1- The level of the parapet has been reduced to reflect the levels of the adjoining properties. This parapet level has been taken around the buildings other facades so as to be consistent in both visual and construction terms.

Siting of Block 2- An additional plan 3275 PD 18 has been drawn at 1:100 to show the position of the retaining wall and bank to the rear. A section X-X is also shown to demonstrate the proposed levels as requested.

Trees- With the exception of the existing tree located to the west of the site, trees are located to the rear of the site at the back by the railway line. The applicant confirms that this planting is mainly made up of sycamore saplings, although there are some more established trees further toward the railway track. They confirm that the existing retaining wall at the bottom of the bank is to remain. The proposed block 2 will retain a separation distance to the bank to ensure there is no chance of the root protection zone being impacted and is unchanged from the application approved by appeal ref: MC/09/2401, where the inspector did not have concerns. As the trees are outside of the site, the onus would be on the developer to engage with the owner of the trees to ensure that they are managed appropriately before during and after development if the scheme is approved. Should there be a need, the

applicants would be prepared to accept a condition to be placed on any approval which would address the issue of trees in this area and do not for these reasons consider that a tree report is required in this instance.

Based on the submitted plans, the rear separation distance appears to be land locked accessible only from ground floor circulation windows to the rear of block two. On this basis where debris and leaves will potentially fall into an area where access is poor but can be achieved, it is recommended that a condition be imposed to address this in the interests of good planning. Amenity impact is not a concern for future residents due to the orientation of the block in terms of habitable room windows.

Disabled access- The applicants have incorporated a wheelchair lift to give access from the communal area on the ground floor down into the basement parking zone. The lift is accommodated within a weather-proof single storey glazed structure linked to the main corridor. The applicant proposes 6 disabled parking spaces, which are proposed to be allocated to those units that are best suited to both wheelchair use and the use of the ambulant disabled. These units will be those in block 2 at ground floor and 1<sup>st</sup> floor levels. A wheelchair lift is located from the basement parking giving access to the landscaped deck above, giving level access across the deck to block 2. Those in wheelchairs would use the 3 units on the ground floor of block 2, whilst the staircase would be constructed in accordance to the ambulant disabled guidance to the levels above. Pedestrian access is also ramped from the raised deck down to the High Street level. This situation again remains unchanged from the application approved by appeal ref: MC/09/2401.

As well as the attached drawings, an amended Design and Access Statement has been supplied adding details regarding tree/landscaping and circulation as mentioned above.

**Page 244    MC/16/3523                    765 Maidstone Road, Rainham**

### **Representations**

**Four additional letters** have been received reiterating previous concerns raised with a focus on highway impact, loss of privacy, and construction noise.

Maintenance of trees and observations about the applicants supporting letter have also been raised which are not a material planning consideration

**Page 254    MC/16/3577                    55 Luton High Street**

### **Recommendation**

**Amend Conditions 4 as follows:**

4. Prior to the first opening of the take away hereby approved the car parking area within the application site (and defined on the submitted block plan) shall be formally marked out to show at least 4 car parking bays with the bays of a size commensurate with that set out in Medway Council's interim parking standards. Thereafter the parking area shall be retained and kept available for customer parking at all times that the hot food take away is open for business.

**Page 286      MC/16/2906                      51 Ladywood Road Cuxton**

**Members Site Meeting 12 November 2016.** Members attending: Cllrs Mrs Chambers (Chairman); Hicks; Bhutia; Carr; Gilry; McDonald, Pendergast; Potter, Tranter and Wicks.

Following the opening of the meeting by the Chairman, the Head of Planning outlined the application and the planning issues as they related to matters of design, street scene and amenity. He confirmed that there had been one letter in support of the application from a neighbour and that the Parish Council had confirmed they had no objections. He advised that one letter of objection had been received and as that resident could not attend the site visit, he read out the letter in full. The concerns set out in the letter are summarised in the officers report to committee.

**A resident** attending on behalf of the neighbour thanked the Head of Planning for reading out the letter and confirmed that the main objections related to loss of privacy; out of keeping with area and loss of bungalow accommodation that is suitable for elderly people rather than families with children.

**The applicant** explained the need for the development in terms his growing family, that he felt the development was in keeping with other similar developments in the area and would not cause any loss of privacy that did not already exist. He offered two possible areas of compromise should Members consider them appropriate, regarding a possible barn hip and partial obscure glazing to a proposed rear window.

Following the closing of the meeting Members viewed the site from the rear garden of the neighbouring property – the garden of the main objector.

**Page 280      MC/16/3240                      15 Rochester Crescent, Hoo**

**Member Site Meeting 12 November 2016.** Members attending; Cllrs Mrs Chambers (Chairman); Hicks; Bhutia; Carr; Gilry; McDonald, Pendergast;

Potter; Royle; Tejan; Tranter and Wicks. Cllr Freshwater attended as Ward Councillor.

Following the opening of the meeting by the Chairman, the Head of Planning explained the application, summarised the representations received and outlined the issues as they related to street scene, drainage, impact on car parking in the street and residential amenity.

**The applicants team** made the following comments:

- The steps had been moved to make way for a new retaining wall
- The block pavements are porous and so naturally drain but further drainage had been put in to the rear of the parking area and at the base of the wall.
- They accepted that there had been a surface water problem originally but the drainage had sorted this.
- They will re-lay the block pavements to provide a more level hardstanding.
- The proposed landscaping will soften the hardstanding.
- Overlooking of neighbours window already exists from their own hardstanding and the public footpath.
- They do wish to put in a boundary fence.

**The objectors team** raised the following concerns and points;

- No objection to the hardstanding as it does help to ease parking pressure.
- The objection relates to the re-located steps and the overlooking that causes to their main living room window.
- The relocation of the steps also results in visitors including the postman walking across their hardstanding.

Following the closing of the meeting, Members went into the neighbours property to consider the overlooking issue.

### **Recommendation**

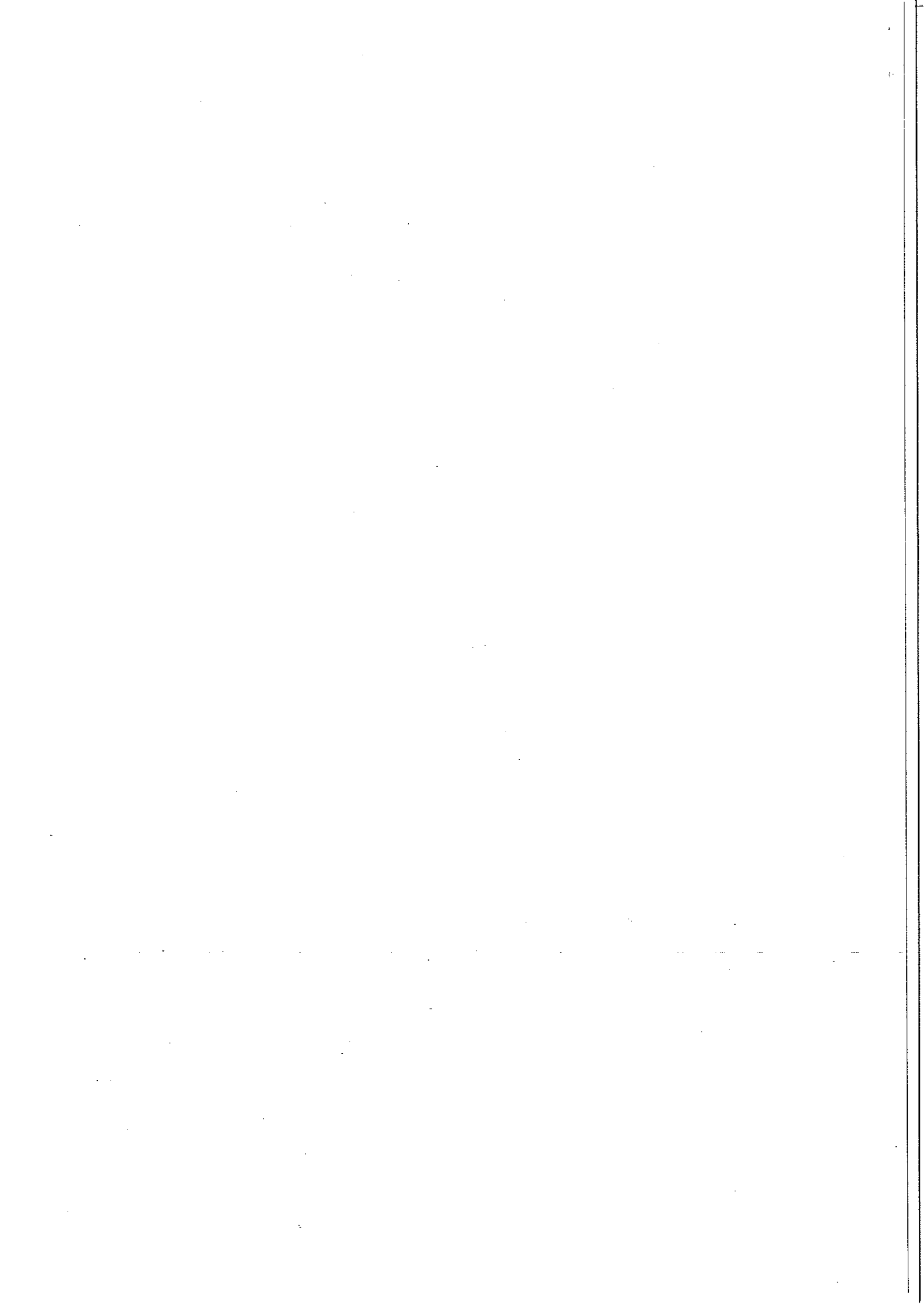
Add additional Condition 3 as follows:

3. Within 2 months of the date of this permission, the new fencing as detailed on the boundary treatment plan received on 15 November 2016 shall be undertaken and shall thereafter retained on site.



Reason: In the interests of privacy and to accord with Policy BNE2 of the Medway Local Plan.

Condition 1 will need to be altered to add in the plan referred to in Condition 3 above.



Case Officer: Mrs H Edwards 01634 331607  
Ref: MC2007/1055  
Date: 15th August 2007

**Medway**  
COUNCIL

Mr & Mrs J Lippett  
9 King Edward Road  
Chatham  
ME4 6EA

**Serving You**  
Development and Transport Division  
Regeneration and Development Directorate  
Medway Council  
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Kent ME4 4YH  
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Dear Mr & Mrs Lippett

**TOWN AND COUNTRY PLANNING ACT 1990**

**PROPOSAL: Construction of a terrace of 5 three bedroomed dwellings and associated parking**

**LOCATION: Land Rear of 120-124 Maidstone Road Chatham ME4 6DQ**

Further to your representations on the above planning application I am able to advise you that a decision of Refusal has been made, please see attached sheet for details. May I take this opportunity to thank you for taking the time to inform me of your views.

Should you require any information about the decision please contact the case officer given at the head of this letter.

Yours sincerely

*Stephen Gaimster*

Stephen Gaimster  
Assistant Director Development and Transport Division



Certificate No: FS 77901

INVEST

MC2007/1055

Land Rear of 120-124 Maidstone Road Chatham ME4 6DQ

Refusal

1. The proposed design involves a prominent two storey flat roof element, which would be out of keeping with the traditional character of King Edward Road and the wider area, and would be contrary to Policy BNE1 of the Medway Local Plan 2003, and Policy QL1 of the Kent and Medway Structure Plan 2006.
2. The development would result in garden lengths which would be of an inadequate size for a three bedroom dwelling and which would result in a poor level of amenity for the future occupiers of the units, contrary to Policy BNE2 of the Medway Local Plan 2003.
3. The proposed development would have a level of parking which would be likely to be inadequate and would result in indiscriminate parking along King Edward Road and beyond. This displacement of parking would result in a detrimental impact on the amenities of the existing residents of King Edward Road, contrary to Policies BNE2 and T13 of the Medway Local Plan 2003.
4. ~~The likely displacement of parking for the new development onto King Edward Road, as a result of the reduced off-street parking proposed, would exacerbate existing difficulties that are experienced by vehicles turning within a restricted area and cause highway safety issues, contrary to Policy T1 of the Medway Local Plan 2003.~~
5. The proposed development would be unable to be carried out without the removal of three existing mature sycamore trees, located along the King Edward Road boundary, which are of high amenity value. The loss of these trees would have a significant detrimental impact on the local character of King Edward Road and therefore the proposal would be contrary to Policy BNE43 of the Medway Local Plan.