

MC/16/2802

Date Received: 29 June, 2016

Location: Rear Of 39 And 40 Birling Avenue, Rainham, Gillingham, ME8 7EY

Proposal: Construction of a two storey detached 3 bedrooomed dwellinghouse with access onto Bloors Lane

Applicant: KM Partnership Ltd

Agent: Mr Cook Cook Associates Capital House 3 Jubilee Way Faversham ME13 8GD

Ward Rainham North

Case Officer Hannah Gunner

Contact Number 01634 331700

Recommendation of Officers to the Planning Committee, to be considered and determined by the Planning Committee at a meeting to be held on 14 December 2016.

Recommendation - Approval subject to:

- A. The applicant entering into a unilateral agreement to secure a contribution towards bird mitigation impacts; and
- B. The imposition of 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 (received 29 June 2016):

Application forms, Design and Access Statement, 16002-001, 16002-002 rev B, 16002-003 rev B, 16002-004, 16002-005, 16002-006, 16002-007 rev A, 16002-008, 16002-00 and the Soils Ltd Phase 1 Desk Study (received 19 August 2016).

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

3 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,
- archeological sites and ancient monuments;

(iii) an appraisal of remedial options, and proposal of the preferred opt

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

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 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: 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.

- 5 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 bringing into use of the development.

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.

- 6 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 5.

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.

- 7 No development shall commence until an acoustic assessment has been undertaken to determine the impact of noise from adjoining industrial related noise sources and shall be made in accordance with BS4142: 1997. The noise rating level (LA,T) associated with the noise source shall not exceed the background noise level (LA90,T), at the location of the proposed development by more than 3dB. The results of the assessment and details of any mitigation measures necessary to ensure an appropriate level of aural amenity within habitable rooms and amenity/garden areas shall be submitted and approved in writing by the Local Planning Authority. 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 safeguard the amenities of the occupants of the proposed development in accordance with Policy BNE2 of the Medway Local Plan 2003.

- 8 No development above ground floor slab level shall take place until details and samples of all materials to be used externally have been submitted to and approved in writing by the Local Planning Authority, and the development shall be carried out in accordance with the approved details.

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

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

Proposal

This application is for the construction of a two storey detached 3 bedroomed dwellinghouse. The proposed dwelling will be within and at the end of, the rear garden of numbers 39 and 40 Birling Avenue but will have a frontage and drive access from, Bloors Lane. The new dwelling will comprise a kitchen, living/dining room and wc on the ground floor and 3 bedrooms (1 with ensuite) and a bathroom at first floor. The proposed dwelling will retain the existing detached garage and there are two further off street parking spaces proposed.

Site Area/Density

Site Area: 0.04 hectares (0.1 acres)
Site Density: 25 dph (10 dpa)

Relevant Planning History

Case ref: MC/14/1500 Construction of a 2 bedroomed detached dwelling and associated parking (demolition of garage)

Decision Refusal
Decided 25 September, 2014

Case ref: GL/63/49D Change of use from garage to office and store.
Decision Refusal
Decided 17 May, 1985

Case ref: GL/63/49C Change of use from domestic garage and garden area/parking bay to proposed use as a light industrial building with one parking bay adjoining and rear external storage area/vacant land.
Decision Refusal
Decided 4 December, 1984

Case ref: GL/53/240D Erection of double garage in place of single garage.
Decision Approval with Conditions
Decided 13 August, 1969

Representations

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

4 letters have been received raising the following objections:

- Vehicles will have to enter or leave the site in a backward direction – dangerous at this junction.
- Road is busy at this point. Will be an issue with pedestrians and pedestrian safety.
- Loss of privacy/overlooking
- Not in keeping
- Plans not accurate – show existing garage much smaller than it is.
- Application will block daylight to houses opposite
- Loss of green open spaces

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 and are considered to conform.

Planning Appraisal

Background

Planning permission was refused in 2014 (MC/14/1500) for a detached 2 bedroomed house at the rear of no.40 Birling Road. The reasons for refusal were:

- 1 *Due to the siting and orientation of the proposed dwelling and its close proximity to the highway and its own boundaries, the development would appear as a cramped form of development within a street scene that is otherwise spacious and open in terms of its character contrary to Policies BNE1 and H4 of the Medway Local Plan 2003.*
- 2 *As a result of the confined and restricted limited turning radius within the site, egress would result in a series of difficult manoeuvres which in turn would lead to a reasonable conclusion that a parked vehicle would have to reverse onto an heavily congested ancillary road prejudicial to highway safety for other highway users and pedestrians contrary to Policy T2 of the Medway Local Plan 2003.*

It should be noted that this application is different from this previous refusal as the

application now uses the rear of 2 properties (39 and 40 Birling Road) and has a larger overall site area with altered access, amenity area and house size.

Principle

The site is currently within an urban area of Rainham and is occupied by detached garages and garden, associated with both 39 and 40 Birling Avenue. The site is currently screened by a high close boarded fence which is covered with foliage, along with part of the site being occupied by garaging. The site appears to be slightly raised from the public highway, however this is not by a significant amount. Bloors Lane, which the proposal fronts onto is a prominent road in this area as it connects London Road to Beechings Way. To the north of the application site is a small commercial/business area which is home to smaller scale commercial companies (a glazing firm, ceramics firm, chartered accountants etc). This is not a designated employment area and sits within a predominantly residential area. Beyond this to the north however, there is 'Splashes' sports/leisure centre.

The proposal would comply with Policy H4, which states that within the urban area, residential development is encouraged. The development is also considered to be in general conformity with the NPPF in terms of a presumption in favour of sustainable high quality homes for different people offering a mix of choice (para 49 and 50) and introducing a good design approach to the scheme (para.56). The NPPF does though advise some caution with respect to "garden grabbing" but relates to considering proposals in relation to the context of the character of the surrounding area and matters of detail which will be considered within the next sections. Overall the principle of the development is considered acceptable.

Street Scene and Design

The surrounding housing primarily consists of brick built terrace and semi-detached housing (within Bloors Lane) and 1930s semi-detached houses in Birling Avenue. The styling of these 1930s housing can vary slightly but in general these are bay window semis with hipped roofs. The terraces on Bloors Lane also have hipped roofs over. These are set back from the road by approximately 9m to accommodate off street parking and spacious front garden areas.

The mix in the character of the area is such that whilst the proposal will result in the reduction in the garden sizes of the existing properties which will then be smaller than their neighbours, the overall character of the area will not be harmed.

The proposed development whilst being set off the boundary is only done so by 1.5m. However, the positioning of the house is proposed in such a manner that the road facing wall of the house is the narrowest elevation. This makes it appear more modest within the street scene. The main parking area, entrance and 'front garden' is on the north elevation and is therefore considered to be the main façade.

The design of the house is in brick to mimic the materials of the surrounding houses. The overall style is not considered to be controversial in any way but is also not exceptional. The general size and scale of the property is modest and recognises the differences in ground levels at this point. The ridge line is lower than the houses in Birling Avenue but the ground level is raised from Bloors Lane, leaving the garage at a lower ground level. The site section helps to understand how the proposal has

been designed to step down from Birling Avenue to the commercial/business units in a discrete and considered manner.

In terms of the general design and siting in the street scene, the proposed detached house is considered an acceptable scheme and would sit well within its surroundings. The previous refusal related to the siting of the proposed dwelling which directly abutted the boundary and was at an angle to the road itself. This application is a more conventional building in terms of shape, siting and design and is also set in from the boundary. The development is therefore considered acceptable with regard to Policies BNE1 and H4 of the Medway Local Plan (2003) and the design objectives set out in chapter seven of the National Planning Policy Framework.

Amenity

There are two main amenity considerations; the impact on the amenities of neighbours and the standard of amenity which would be experienced by prospective occupants of the site itself.

Impact on neighbours

A few of the objectors have commented that this proposal impacts on the amenity, privacy and daylight to their properties. The plans show that the proposal is sited 19m from the rear of the properties in Birling Road and 22m from the front of the houses on the opposite side of the road in Bloors Lane. It is considered that these distances are sufficient enough to not impact on daylight to the neighbouring/closest houses and also, given that the proposal is to the north of Birling Avenue it will not overshadow the gardens in any way either.

Due to distance and siting, the development would have no adverse impact on neighbour's amenity. In summary, the impact of the development on the amenities of neighbours is considered acceptable including with regard to light, dominance, outlook and privacy.

Impact for future residents

The proposed house has amenity area to the south, east and north of the main building. This is shown on the plans with a decking/patio area around the house which extends out to the garden. The dimensions of the overall garden are approximately 20m x 6m (area to east) with an additional area to the south joining on to this part of the garden that measures 5m x 10m. The approximate garden/amenity area shown for this house is therefore 170m². This is considered to be directly comparable to average garden sizes in this area and is sufficient private amenity space for a three bed, 5 person home. The distancing of the houses and the size of the proposed amenity space therefore comply with the principles set out in the Medway Housing Standards (interim) November 2011.

The house itself has been assessed with regard to the Medway Housing Standards (interim) November 2011, along with the Government's Technical Housing Standards 2015 and the objectives of Policy BNE2 of the Medway Local Plan 2003. The proposal meets with the standards in terms of room sizes in that it provides 2 x

double/twin bedroom spaces over 11.5m² and 1 x single bedroom space at 7.9m².

In terms of refuse storage and collection, this would be no different from the existing situation for neighbouring residents whereby the refuse is put out for collection at the appropriate time. A refuse storage area is shown on the plans behind the garage. This is considered adequate.

In summary the amenity impact of the development is therefore considered acceptable with regard to Policy BNE2 and BNE7 of the Local Plan.

Highways

With regard to parking, it is considered that the application conforms with the adopted minimum standards, in that it provides 2 off road parking spaces along with the retention of the existing garage on site (which is shown on the plans for cycle storage). The parking area is shown to be 3.6m wide x 10.5m in depth allowing for 2 cars to park.

The previous application raised concern in relation to egress, making the point that there was a limited turning radius which would require a series of difficult manoeuvres. This application varies slightly from the previous refusal as it is not proposing to remove the existing garage and uses the existing vehicular access, directly adjacent to the garage. The issue therefore relates to whether the proposal creates a situation that is worse or different to the existing. In this instance it is considered that the situation remains substantially similar to the existing set up and the parking and egress is not jeopardised as a result of this proposal. The position of the telegraph pole is noted, however given that this is between the garage and the access it is not considered to obstruct either. The Council are not aware that this positioning has been an issue for the existing set up.

Both of the existing properties have parking provision at the front with off road parking and garaging. This is considered adequate for both and the loss of the garage at the rear of no 40 is not considered to be of concern and will not impact the parking arrangements for the existing house.

Given the above, the application is considered acceptable in terms of Policies T1, T2 and T13 of the Medway Local Plan 2003, insofar as this utilises existing access points and is not considered to alter the current position in relation to the safety of vehicular occupants, cyclists and pedestrians

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/are in the process of submitted/submitted a unilateral undertaking. No objection is therefore raised under Paragraphs 109 and 118 of the NPPF and Policies S6 and BNE35 of the Local Plan.

Noise

The site is located next to a cluster of industrial/business units, the closest of which - manufactures double-glazed windows. As a direct consequence of that, there is the potential for noise to permeate and impact upon aural amenities for prospective occupiers. Should planning permission be forthcoming, it is recommended that a condition be attached to ensure that an acoustic assessment is undertaken to determine the impact of noise from the adjoining industrial related noise sources and a report submitted setting out the findings of this assessment with any recommendations for mitigation measures. Subject to the imposition of this condition, the proposal would be in accordance with Policy BNE2 of the Medway Local Plan (2003).

Contamination

There are a number of potentially contamination issues associated with historical land use at and near the site. It is therefore recommended that a full contaminated land condition be attached to any permission, although there is no objection to the principle.

Local Finance Considerations

None relevant

Conclusions and Reasons for Approval

The proposed dwelling is considered to be acceptable in terms of the siting, design and location of the dwelling within the plot and also in relation to the neighbouring properties. The differences between the previous refusal and this current application are noted and it is considered that the current application deals with the previous concerns. There are no issues in relation to the highway safety aspect as it is considered that this application is similar to the existing situation on site and would not warrant refusal alone.

Overall it is considered that this application complies with Policies BNE1, BNE2, BNE7, BNE35, H4, T1, T3, T13 and S6 of the Medway Local Plan (2003) along with the relevant paragraphs within the National Planning Policy Framework (2012). The application would normally be determined under delegated powers but is being referred to Committee due to the extent of the representations received expressing a view contrary to the recommendation.

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/>