

MC/16/3566

Date Received: 23 August, 2016

Location: Land To The Rear Of 21-23 Asquith Road, Rainham, Gillingham, ME8 0JD

Proposal: Demolition of 6 garages - Construction of 3x two bedroom dwellings with associated parking

Applicant: Mr Creary

Agent: Mr Hawkins Coteq Ltd 187 Edwin Road Gillingham ME8 0AH

Ward Rainham Central

Case Officer Doug Coleman

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. Subject to the applicant completing a Unilateral Undertaking under Section 106 of the Town and Country Planning Act 1990 to secure:

- £670.74 (£223.58 per dwelling) towards Designated 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 00001A (Landscaping) received on 24 August 2016; 00001 rev A (Proposed Site Plan) and 00002 rev A (Proposed Elevations) received on 31 August 2016

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

- 3 No development shall commence until a Construction Environmental Management Plan (CEMP) that describes measures to control the hours of operation, noise, dust and lighting impacts arising from the construction phase of the development has been submitted to and approved in writing by the Local Planning Authority and all construction works shall be undertaken in accordance with this approved plan.

Reason: Required before the commencement of the development in order to minimise the impact of the construction period on the amenities of local residents and with regard to Policy BNE2 of the Medway Local Plan 2003.

- 4 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 5 to 8 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 8 has been complied with in relation to that contamination.

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

- 5 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 as a result of the potential mobilising of contamination and in accordance with Policy BNE23 of the Medway Local Plan 2003.

- 6 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.

- 7 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 first occupation of the dwellings hereby approved.

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.

- 8 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 5, and where remediation is necessary a remediation scheme must

be prepared in accordance with the requirements of condition 6, 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 6 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 7.

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.

- 9 No development above slab level shall take place until details and samples of all materials to be used externally, including hard surfacing materials, 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.

- 10 No dwellinghouse herein approved shall be occupied until there has been submitted to and approved in writing by the Local Planning Authority a plan indicating the positions, design, materials and type of boundary treatment to be erected. The boundary treatment shall be completed in accordance with the approved details before any of the dwellings are occupied and shall thereafter be retained.

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

- 11 The vehicular access serving the proposed development shall be surfaced in accordance with details to be submitted to and approved in writing by the Local Planning Authority before any of the dwellings herein approved are occupied.

Reason: To ensure that the appearance of the development is satisfactory and without prejudice to conditions of visual amenity in the locality, and in the interests of the amenities of the occupiers of the proposed dwellings, in accordance with Policies BNE1 and BNE2 of the Medway Local Plan 2003.

- 12 Prior to the installation of any external lighting on the site details of such lighting including its height, position, external appearance, any shielding, light intensity, colour, spillage (such as light contour or lux level plans showing the existing and proposed levels) and hours of use) together with a report to demonstrate its effect on nearby residential properties and of how this effect

has been minimised shall be submitted to and approved in writing by the Local Planning Authority. Only the external lighting approved pursuant to this condition shall be used on the site and it shall only be used within the hours approved pursuant to this condition.

Reason: In order to limit the impact of the lighting on the nearby residents and wildlife and with regard to Policy BNE2 of the Medway Local Plan 2003.

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

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

- 14 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order amending, revoking and re-enacting that Order with or without modification) no development shall be carried out within Schedule 2, Part 1, Classes A-E of that Order unless planning permission has been granted on an application relating thereto.

Reason: To enable the Local Planning Authority to control such development in the interests of amenity, in accordance with Policies BNE1 and 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 relates to part of a garage site between Asquith Road and Woodside. The site is accessed via an approx. 4 metres wide by approx. 40 metres long drive between 21 and 23 Asquith Road. The garage site measures approx. 33 metres wide by approx. 38 metres deep and is currently occupied by 25 garages, situated along the eastern and western boundaries. There are a further three garages in the rear gardens to 97 and 101 Woodside, which are accessed via this garage site. These garages are about 2 – 2.5 metres high with flat roofs.

The application relates to a parcel of land within the larger garage site measuring approx. 22 metres by approx. 10.4 metres. The proposal is to demolish six garages to the eastern side and construct a block of three x 2-bedroom terraced houses. The proposed building would measure approx. 16.4m across by approx. 8.2m deep and would face north towards the site entrance, with rear elevations and gardens facing south. The block would be two storeys in height with each property comprising a

lounge and kitchen diner to the ground floor and two bedrooms and a bathroom to the first floor. The proposed building would be constructed of brick with concrete roof tiles to complement other materials used in the locality.

Each house would have an approx. 7m deep rear garden. Due to the site layout the rear garden of the end property, although also approx. 7m deep, would be narrower, but this would be more than offset by a side garden measuring approx. 4.4m wide by approx. 14m deep. Each house would have one car parking space on site and a further parking space would be allocated to each property in the existing garage block to the west.

Notice has been served on the owners of garages within the block under Article 12 of the Town and Country (Development Management Procedure)(England) Order 2015. The application is accompanied by a Planning Statement.

Site Area/Density

Site Area: 0.036 hectare (0.089 acre)
Site Density: 100 dph (33.3 dpa)

Relevant Planning History

MC/16/3567	Construction of additional block of 3 garages Reported elsewhere on the agenda
MC/16/1833	Application for a Lawful Development Certificate (proposed) for the siting of 5 storage containers Refused 17/08/2016
MC/07/0265	Construction of a block of lock up garages Refused 09/01/2008 Appeal allowed 15/07/2008
MC/06/2262	Construction of a block of lock-up garages Withdrawn by applicant 08/02/2007
MC/05/0352	Outline application for the construction of detached bungalow with garage and parking space Refused 13/04/2005
MC/04/1672	Outline application for construction of 2 two-bedroomed flats with associated parking Refused 22/09/2004 Appeal Dismissed 12/05/2005
NK3/63/72/15305A	Amended layout 2 pairs of houses, 3 bungalows, 46 garages Approved 10 July 1964

Representations

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

15 letters have been received raising the following objections:

- Loss of privacy to adjoining dwellings;
- Increase in noise and disturbance;
- additional traffic in Asquith Road;
- Proposal would restrict access to existing garages;
- Inadequate parking;
- No provision has been made for collection of refuse;
- Proposal would be a road safety hazard;
- Notice has not been served on garage owners;
- Impact of additional dwellings on drainage;
- Tree and hedges on site have recently been removed;
- The site has not been identified for housing in the land availability assessment;

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

As can be seen from the Planning History, there have been several planning applications for development at this site, starting with the grant of planning permission for 2 pairs of semi-detached houses (19-25 odd Asquith Road), 3 bungalows (97-101 odd Woodside), and 46 garages on 10 July 1964 under reference NK3/63/72A/15305A. That permission is extant in so far as the development was commenced within the statutory time period, but it remains incomplete in so far as only 25 of the 46 garages have been built. The approved layout plan showed 15 garages along each of the eastern and western boundaries and a block of 16 in the centre. 25 garages have been built along the boundaries (5 were not built as the part of the land appears to have been sold) but the block in the centre has not been built and could still be built.

An outline application for construction of 2 x two bedroom flats with associated parking was refused on 22 September 2004 under reference MC2004/1672. A subsequent appeal was dismissed 12 May 2005. In the decision notice the Inspector commented that *the two storey height and bulk of the proposed development would not be out of character with the surrounding development*. The appeal was, however, dismissed because, in the opinion of the Inspector, *the proposed development would be isolated within the garage court and the juxtaposition of the proposed building and amenity areas with the garages would look unattractive and incongruous within its*

wider surroundings.

A subsequent outline application for the construction of a detached bungalow with garage and parking space was submitted under reference MC2006/2262 and was refused for the following reasons:

"1 The proposal represents an inappropriate form of backland development that would result in a very limited private amenity area and as such would form a cramped form of development out of character with the area. The proposal would, therefore be contrary to the provisions of Policies ENV15 and ENV16 of the Kent Structure Plan 1996, Policies BNE1, H4, H9 of the Medway Local Plan 2003 and Policy QL1 of the Kent and Medway Structure Plan (Deposit Version) 2003.

2 The proposed location of the property with limited amenity space surrounded on all sides by car parking and vehicle manoeuvring areas would result in substandard level of amenity in terms of noise and disturbance to future prospective occupiers. The development is therefore contrary to the provisions of Policy BNE2 of the Medway Local Plan 2003".

Principle

The site is within the urban area as identified in the Proposals Map to the Medway Local Plan 2003. Policy H4 of the Local Plan contains a presumption in favour of residential development in the urban areas, including infilling, providing a clear improvement to the local environment will result. Paragraph 49 of the NPPF states that housing applications should be considered in the context of the presumption in favour of sustainable development. The principle of the proposed development, is therefore acceptable and in accordance with Policy H4 of the Local Plan and Paragraph 49 of the NPPF.

The proposal would also amount to backland development and therefore also falls to be assessed against Policy H9 of the Medway Local Plan 2003 which states that backland development will be permitted only when it does not constitute piecemeal development that threatens the comprehensive development of a wider area and when:

- (i) There is no loss of privacy from overlooking adjoining houses and/or their back gardens; and*
- (ii) There is acceptable vehicular access; and*
- (iii) There is no significant increase in noise or disturbance to adjacent residents from traffic using the access; and*
- (iv) Existing natural features, such as trees, which contribute to the amenity of the area are retained or conserved; and*
- (v) There is adequate private amenity space for the existing and proposed dwellings; and*
- (vi) The character and amenity of the area as a whole is maintained.*

The proposal will be assessed against each of these criteria, where relevant, below

Design and appearance

The proposed development would comprise a standard terrace of brick built houses with a gabled ended roof. Being located to the rear of existing properties, the proposed development could have its own character. Whilst there are a variety of house types within Asquith Road, the proposed terrace, with its gabled roof would reflect the appearance of the existing houses in front of the site.

The site currently has a run down appearance, and several of the garages appear to be empty or underused. The building of three houses on the site would enhance its appearance, and the activity and surveillance associated with the houses would prevent further neglect.

Previous applications for residential development within this garage forecourt were refused in 2005. The current proposal differs from those schemes and it is considered that the concerns raised at the time do not relate to the current proposal.

There are no trees or other natural features on the land which contribute to the amenity of the area. Accordingly, no objection is raised in terms of design and appearance under Policy BNE1, H4(ii) and H5(iv & vi) of the Local Plan and Paragraph 58 of the NPPF.

Residential Amenity

Occupier Amenity

The DCLG'S Nationally Described Space Standard specifies a minimum Gross Internal Floor Area (GIA) of 79 sq. m. for a two bedroom/four person house. Each house would have GIA of approx. 79 sq. m. and would, therefore comply with these standards. These standards also require a minimum bedroom floorspace of 11.5 sq. m. (double or twin) and 7.5 sq. m. (single). The submitted drawings, as amended, show respective floorspaces of approx. 15 sq. m. and approx. 12 sq. m. and the proposal would, therefore, also comply with these standards in terms of bedroom sizes and no objection is, therefore raised in this regard under Policy BNE2 of the Local Plan and Paragraph 17 of the NPPF.

Each house would have an approx. 7m deep rear garden, although, the end property would have narrower rear garden, but a large side garden measuring approx. 4.4m wide by approx. 14m deep. This would fall short of the Medway Housing Design Standard of 10m deep rear garden. However, this could be addressed by the imposition of a condition removing permitted development rights, which otherwise would allow for extensions to be build reducing the depth of rear gardens. There would therefore be adequate private garden space for the proposed dwellings and no objection is, therefore, raised in this regard under Policies BNE2, H5(v) and Paragraph 17 of the NPPF.

Neighbour Amenity

The rear of the nearest properties to the front (21 & 23 Asquith Road) would be approx. 38m from the front of the proposed houses, whilst to the rear of the proposed houses, the nearest properties (99 & 101 Woodside) would be approx 40m from the rear of the proposed houses. Both these distances are well in excess of the 20m expected in new developments and therefore, there should be no unacceptable overlooking, loss of privacy or loss of light as a result of the proposed development and no objection is therefore raised under Policies BNE2 and H5(i) of the Local Plan and Paragraph 17 of the NPPF.

The proposed houses, would result in a small amount of vehicular traffic utilising the existing access between 21 and 23 Asquith Road. Whilst this has the potential to cause some disturbance to the rear of those properties, having regard to the current garage use, this would not be significant and accordingly, no objection is raised in terms of noise and disturbance under Policies BNE2 and H5(iii) of the Local Plan and Paragraph 17 of the NPPF.

Contamination

Highways

The submitted drawings show two spaces per dwelling, one in front of each house and three in three of the existing garages. This would exceed the Council's adopted Vehicle Parking Standards which require the provision a minimum of 1.5 spaces for a two bedroom dwelling, plus 0.25 space per dwelling for visitors.

6 garages would be lost as a result of the proposed development and the block of 16 would not now be built. However, according to the applicant 10 of the garages are currently unoccupied and could, therefore accommodate any displaced vehicles. The proposal should not, therefore result in an increase in on street parking. There would be a gap of approx. 6m between the side boundary to the application site and the front of the garages on the western boundary. This should be sufficient to enable vehicles to access the garages.

Accordingly, no objection is raised in terms of parking, under Policy T13 of the Local Plan.

The existing access is considered to be adequate to serve the proposed development, and therefore no objection is raised under Policy T2 of the Local Plan.

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 officer's 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 are in the process of submitting 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.

Other matters

Having regard to the previous use of the site, there is potential for contamination and appropriate conditions are recommended to address this. Subject to these conditions, no objection is raised under Policy BNE23 of the Local Plan and Paragraphs 120 - 122 of the NPPF.

Concerns have been raised in respect of an unauthorised container on the land. This container is currently the subject of a current enforcement investigation with an Enforcement Notice having recently been served.

Local Finance Considerations

There are no local finance considerations raised by this application.

Conclusions and Reasons for Approval

The principle of the proposed development is acceptable and subject to appropriate conditions, no objection is raised in terms of backland development, design and appearance, residential and neighbour amenity, highways and contamination. The applicant has agreed to pay the appropriate tariff towards bird mitigation and has submitted a unilateral undertaking. The proposal would, therefore comply with Policies S6, BNE1, BNE2, BNE23, BNE35, BNE37, BNE39, H4, H5, T2 and T13 of the Local Plan and Paragraphs 17, 49, 58 109, 118 and 188 of the NPPF and is therefore recommended for approval.

This application would normally be determined under delegated powers but is being referred for determination by Planning Committee due to the number of representations which have been received expressing views contrary to the Officer 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/>