

MC/16/2653

Date Received: 20 June, 2016

Location: Elmsleigh Lodge, 118 Maidstone Road, Chatham ME4 6DQ

Proposal: Construction of two pairs of semi detached three bedroomed dwellings with integral garages and associated parking and new tree planting - demolition of existing wall

Applicant: Grays of Chatham

Agent: Mr M Carter Mark Carter Design Design Studio, Priestfield Stadium Redfern Avenue Gillingham Kent ME7 4DD

Ward Chatham Central

Case Officer Paul Ives

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 18 January 2017.

Recommendation - Refusal

The proposed development would result in the loss of important streetscene trees to the front of the site that contribute positively to the streetscene and the Conservation Area. The proposal is therefore in conflict with the objectives of paragraphs 126,131,135 of the NPPF and Policies BNE1, BNE12, BNE14 and BNE43 of the Medway Local Plan 2003.

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

Proposal

This application proposes the erection of two pairs of three storey semi detached houses. The properties would be split level being three storey fronting onto King Edward Road and two storey at the rear accounting for the rise in levels through the site. The rear gardens are proposed of two tier form. The frontage gardens are proposed with hard and soft landscaping combined with tree planting. A mono pitched roof design is proposed with a palette of render and brick finish to the external elevations of the dwellings. The works would require the lowering of the site levels and removal of an existing front boundary wall. In addition mature trees would be need to be removed to facilitate the development.

Each dwelling is proposed to be three storey in height and comprise garage, utility room and w/c at ground floor level (to the front), kitchen, hall and lounge at first floor level and three bedrooms above. The properties will be set back approx. 9.5m from the edge of the highway to provide for a drive and front garden fronting onto King Edward Road. Each property is proposed to be served by an 11m approx. depth rear garden on two levels.

Site Area/Density

Site Area: 0.8hectares (1.9acres)

Site Density: 5 dph (7.8dpa)

Relevant Planning History

- | | |
|------------|---|
| MC/16/2333 | Change of use from community mental health care centre (Class D) to a residential care home (Class C2) together with use of existing office (within single storey detached building to rear) as ancillary storage
Decision Approval With Conditions
Decided 22 July, 2016 |
| MC/15/0645 | Construction of two pairs of 3-bedroomed semi-detached dwellings with associated parking, bin store and amenity space
Decision Withdrawn - Invalid
Decided 09/11/2015 |
| MC/14/3139 | Construction of 4 dwellings with access via King Edward Road
Decision Withdrawn - Invalid
Decided 23/01/2015 |

Land to rear of 116 Maidstone Road

- | | |
|------------|--|
| MC/15/0425 | Details pursuant to conditions 03 and 04 on planning permission MC/14/0270 for demolition of garage block and construction of two 3-bedroomed town houses with associated parking - resubmission of MC/13/1314
Decision Discharge of Conditions
Decided 08/04/2015 |
| MC/14/0270 | Demolition of garage block and construction of two 3-bedroomed town houses with associated parking - resubmission of MC/13/1314
Decision Approval With Conditions
Decided 18/07/2014 |
| MC/13/1791 | Conservation area consent for the demolition of garage |

block to facilitate the construction of two 3 bedroomed houses with associated parking
Decision Withdrawn by Applicant
Decided 18/09/2013

MC/13/1314 Demolition of garage block and construction of two 3 bedroomed houses with associated parking
Decision Withdrawn by Applicant
Decided 18/09/2013

Land to rear of 120-124 Maidstone Road

MC/07/1055 Construction of a terrace of 5 three bedroomed dwellings and associated parking
Decision Refusal
Decided 15/08/2007

Representations

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

9 letters of representation (with two from one household) have been received objecting to the proposal on the following grounds:

- Loss of mature trees in Conservation area
- Out of character with surrounding development and adverse impact on Conservation area
- Increased on street competition for parking and obstruction of highway for residents and emergency vehicles
- Trees have been removed from the site without consent of the authority
- The Council has not managed the development of the site to the north adequately and damage has been caused to an existing wall making it unsafe
- Adverse impact on wildlife
- Increased traffic intensity
- Overcrowding of development in this road
- Lack of pedestrian footpath to front of the site would have an adverse impact on pedestrian safety
- Disruption caused by construction traffic
- Overdevelopment and intrusive form of development
- Previous local opinion ignored
- Poor surface water and sewage drainage system in locality
- Adverse impact on quality of life for residents

Greenspaces (who act on behalf of the tree and highway verge owner Medway Council) advise that the submitted information demonstrates sufficiently the retaining wall's (King Edward Road) structural integrity is being undermined by Medway Council Highway trees. No objection is raised to the felling and removal of all implicated trees. Replacement trees should be planted within the Ward at suitable

locations that will allow 15m+ trees to develop without coming into conflict with grey infrastructure.

Applicant's response to Councils Structural report conclusions

In response to the structural report the applicants reaffirm that the boundary wall has been damaged by the existing trees which means the Council are responsible for the costs to the damaged wall, which is owned by the applicant. The current wall cannot be replaced in its current position as endorsed with the Councils structural report as any foundation would affect the root position of the trees. The suggestion of a possible replacement being constructed of King Posts and timber was never an option as the Council do not own the existing wall and this proposal would incur exceptionally high costs even if it could ever be achieved as no detail has been proposed. This detail would have to achieve a retaining structure and foundations avoiding the trees and future movement, which in reality is really not a possibility as it would not be possible to carry out a king post replacement fence as the trees will continue to grow and move in that location making it impossible to achieve a boundary that could be guaranteed. There is only one option for the Council and that is to agree to the proposal by Green Spaces to remove the trees. *Officer note - Green spaces agreed with the applicants conclusions but that pre dated the Council's independent structural assessment*

Development Plan

The Development Plan for the area comprises the Medway Local Plan 2003. The policies referred to within this document and used in the processing of this application have been assessed against the National Planning Policy Framework 2012 (NPPF) and are considered to conform.

Planning Appraisal

Principle of Development

The application site comprises the former car park of 118 Maidstone Road, Chatham that was used for visitor and staff parking in association with its use as offices/care provision. It has now been separated from the care home and is now self contained. The site is on the extreme western boundary of Maidstone Road Chatham Conservation Area. The site is approx. 1.5m above the level of King Edward Road and is set out over two tiers. Access to the site is via a single vehicular access point from the western boundary of the site off of King Edward Road. The lower tier is a hard surfaced former car park and the upper tier a soft landscaped parcel of land. The two parcels are linked by a staircase on the southern side of the site. Both the southern and northern most boundaries are walled approx. 1.2-2m above the surface level but it varies in height along its course. The car park is fronted by a wall on the highway which is separated from the roadway by a line of trees. The wall is 2.5m (approx.) in height on the highway side and 1m (approx.) on the car park side. The wall appears in poor condition and there are signs of historic movement in the joints. The trees are sited adjacent to the wall in linear form across the site frontage. The site is surrounded by predominantly residential uses to the north west and south. To the south is the extreme rear garden of 120 Maidstone Road. To the northern side is the

side flank of a recently built three storey house. To the west at a lower level across Kind Edward Road are 1930s/40s two storey terraced housing. To the eastern side lies a single storey storage building that with 2m close boarded fencing now forms the extreme western boundary of 118 Maidstone road. Parking in King Edward Road is on one side of the highway that allows a single passage of traffic flow. The car park has been used historically and informally by residents as overflow parking until the relatively recent sale of the land to the applicant. 118 Maidstone Road has been approved as a care home where parking provision is secured to the site frontage off of Maidstone Road.

Paragraph 49 of the NPPF states a presumption in favour of residential development and paragraph 50 of the NPPF supports the provision of a choice of high quality homes. In terms of Conservation Paragraphs 126,128 131 and 135 are relevant in terms of development impact. In addition to the NPPF, the proposal would need to comply with Policy H4 of the Medway Local Plan 2003, which states that within the urban area, residential infill / redevelopment development will only be permitted provided that there is a clear improvement in the local area. The development would in principle comply with the provisions of paragraphs 49, 50 126,128 131 and 135 of the NPPF and Policy H4 and H5 of the Local Plan and determination of the application rests on matters of detail.

Street Scene and Design

The proposed design represents a contemporary approach to architecture influenced by recent development of the adjacent site to the north which is adjacent to the Conservation Area. In terms of siting, height and design the proposal is considered to be appropriate and in keeping with the neighbouring development.

The proposal will necessitate the removal of the historic wall to the front of the site and the trees along the frontage. The walling is historic but in poor condition and appears to have been altered in the past to facilitate the provision of car parking behind. Sufficient evidence has been provided to understand the impact of the trees on the existing wall and this has formed the basis of the scheme approach. The existing trees have affected the stability of the walling. On this basis, the wall could be lowered and made good or removed and the affect on the health and stability of the mature trees to the front has been questioned. These trees contribute positively to the streetscape but have affected the stability of the wall necessitating the need to reduce or remove it. On the basis of an alternative design having been found that would enable the trees to be retained and replacement boundary treatment provided (see tree section of report), the visual loss of mature trees to the front of the site is a concern and the development is considered to conflict with the objectives of Policies BNE1, BNE12 and BNE14 of the Local Plan and Conservation objectives set out in paragraph 126 131 and 135 of the NPPF.

Amenity Considerations

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

Impact on neighbouring amenity:

The proposed accommodation would have a road frontage with King Edward Road. There are properties on the opposite side of King Edward Road but it is not considered that the proposal would cause an unacceptable loss of amenity to the occupiers of those properties by reason of overlooking, outlook, dominance and light as it would be part of the character of the area generally to have properties facing each other across a street and indeed it is no different from the new properties to the north. There would be no unacceptable impact on the amenities of the occupiers of the new properties to the north or the occupiers of the care home to the rear.

Impact for future residents

The development has been assessed with regard to the Government's Technical Housing Standards 2015 and the objectives of Policy BNE2 and BNE7 of the Local Plan. The proposal meets with the standards in terms of room sizes and circulation space with regard to the National described space standards and whilst the garden space would be small, the two tier garden would be sufficient and in character generally with the area. In terms of refuse storage and collection, the details show provision to meet requirements and such refuse would need to be presented to the public highway on collection days only to meet the needs of the collection team. In summary the amenity impact of the development is therefore considered acceptable with regard to Policy BNE2 and BNE7 of the Local Plan.

Environmental Protection

In the event of any contamination being found, a planning condition is recommended to control any mitigation in accordance with the objectives of Policy BNE23 of the Local Plan.

Tree Impact

Despite Greenspaces acceptance of the impact of their trees on the integrity of the wall and thereby the need to remove the trees, the Planning Committee deferred making a decision at a previous planning committee and requested officers to secure the services of a structural engineer to review the applicants submission and offer comment regarding the stability of the wall and if the existing trees could be retained to secure development of the site behind at the existing level.

The resulting report revealed that the retaining wall is of conventional mass gravity masonry construction being generally 215mm thick with 325mm square stiffening piers at approximately 3.8m centres.

The appointed engineer reviewed the applicants survey and confirmed that there are two semi-mature sycamore trees located tight up to the front face of the wall in the verge on King Edward Road and that the bases of the trunks of both trees lean toward King Edward Road. The wall was also noted to lean toward King Edward road by varying degrees along its length. At its peak, the lean was estimated to be in the order of 100mm within the full height of the wall. The wall was also observed to be damaged by cracking running generally horizontally through the bed joints of the masonry.

As a consequence, the engineer advises that the positions of cracking are strongly

correlated with the positions of the Sycamore tree trunks where the root systems of both trees extend through the cracking into the retained soil behind the wall. The horizontal suckers of the trees also appear to run longitudinally along the wall and presumably also grow within the horizontal cracking where it is below ground.

The construction of the wall is rather insubstantial given the height of soil and car park live loading which it is required to support on the retained side. It seems likely that the wall was originally not intended to retain soil but has been historically modified and ground levels raised up in the distant past. It is anticipated that formal quantitative checks on the structural capacity of the wall would show that it is under strength.

The conclusion concurs with the applicants appointed consultant (Alan Baxter Partnership) that the damage to the wall is the result of direct root action on the wall with there being no visual evidence to suggest that the damage is due to other possible causes, such as bending failure of the wall stem or more conventional subsidence of the wall's foundation. However, the report also concludes that the trees do not rely on the wall for stability. It is true to say that conventional reconstruction of the wall would remove so much soil and disrupt the root systems of the trees to such an extent that they are likely suffer significant damage and possible instability but however, it would be possible to reconstruct the boundary treatment with an alternatively designed form of a king post construction that would be possible without extensive excavation for / reconstruction of foundations and retain the trees at the same time.

Such a construction typically takes the form of an array of steel vertical posts set at between 2m and 3m centres along the length of the wall. The posts are installed with a substantial embedment into the ground with a concrete encasement. The gaps between the posts are then commonly infilled with horizontal timber or concrete members slid into the webs of the steel posts. The use of timber infill would be appropriate as it would be more readily adaptable to accommodate the trees as well as being more tolerant of a degree of future movement. This would enable the existing trees to be retained where they contribute positively to the streetscape with new boundary treatment along the frontage retained without the need for full excavation of the site.

In view of this conclusion, the existing trees are considered worthy of preservation as they contribute positively to the streetscene and Conservation Area location. The proposed development and subsequent loss of these trees would be contrary to the objectives of Policy BNE12, BNE14 and BNE43 of the Local Plan.

Highways

It is proposed to provide a minimum of two off-road car parking spaces per dwelling within a garage and in front on a hardstanding. This would meet the maximum parking standards for the type of dwelling proposed. Whilst at a premium, on-street parking is also available nearby. There would be satisfactory vision for access both on and off of the public highway. The site is within walking distance of Chatham Town Centre, Chatham Station, local shops and amenities. On this basis it is considered that the proposal for two parking spaces per dwelling would cater for the demand generated by the development. There is no objection with regard to

Policies T1, T2 and T13 of the Local Plan.

S106 matters

Natural England (NE) has advised councils that a significant effect, either alone or in combination, is likely to occur on the coastal North Kent Special Protection Areas (SPAs)/Ramsar sites from recreational disturbance on the over-wintering bird interest from new development proposals. This relates to development within 6km of the North Kent Marshes SPA/Ramsar Sites. NE has worked closely with the local authorities to advise on establishing and securing the necessary strategic mitigation measures to protect the coastal SPAs and to enable development to proceed. Further advice was provided on 17 August 2015 concerning this matter. The strategic measures are in the process of being developed by the authorities, but are likely to be in accordance with the Category A measures identified in the Thames, Medway & Swale Estuaries Strategic Access Management and Monitoring Strategy (SAMM) produced by Footprint Ecology in July 2014. Natural England has also advised that an appropriate tariff is collected on the basis that it can be used to fund strategic measures across the Thames, Medway and Swale Estuaries. This interim tariff should be collected, for new builds, in anticipation of:

- An administrative body being identified to manage the strategic tariff collected by the local authorities;
- A memorandum of understanding or legal agreement between the local authorities and administrative body to underpin the strategic approach;
- Ensuring that a delivery mechanism for the agreed SAMM measures is secured and the SAMM strategy is being implemented from the first occupation of the dwellings, proportionate to the level of the housing development.

The tariff which has been agreed currently stands at £223.58 per additional dwelling (excl. legal and monitoring officers costs which separately total £550). The applicants have agreed to pay this tariff in the form of a Unilateral Undertaking in accordance with Policies S6 and BNE35 of the Local Plan.

Local Finance Considerations

None considered relevant.

Other matters

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.

Conclusions and Reasons for Recommendation for Refusal

Following the conclusions of the structural report undertaken on behalf of the Local Planning Authority, the loss of trees to the front of the site is considered unacceptable for the reasons stated above.

The proposed development would result in the loss of important streetscene trees to the front of the site that contribute positively to the streetscene and the Conservation Area, in conflict with the objectives of paragraphs 126,131,135 of the NPPF and Policies BNE1, BNE12, BNE14 and BNE43 of the Medway Local Plan 2003.

The planning application was originally reported to Planning Committee for Members consideration in light of extent of representation received expressing a view contrary to the recommendation - when the application was recommended for approval. It is now being reported to Committee for decision for consistency as the Committee have been involved all through on decisions in relation to this application. Firstly the Committee deferred to decision in order to undertake a site visit and the subsequently deferred a decision in order that an independent structural report could be undertaken. The current recommendation reflects the findings of that independent report.

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/>

