

MC/16/3583

Date Received: 24 August, 2016

Location: The Yard, 1a Milton Road, Gillingham, ME7 5LP

Proposal: Construction of 2 storey block of 5 no self contained one bedroom flats with associated parking cycle store amenity space refuse storage facilities together with boundary walls and fences

Applicant: Mr C Wright & Mr C Butler

Agent: Mr L Simmons 46 Downsview Chatham Kent ME5 0AL

Ward Gillingham South

Case Officer Thomas Stubbs

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 - Approval, subject to:**

- A) The applicant completing a Unilateral Undertaking to secure a contribution of £1,117.90 (£223.58 per dwelling) towards Designated Habitats Mitigation;
- 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:  
  
Drawing numbers 1578/MRG/03/B, 1578/MRG/04/B and 1578/MRG/05/B received on 21 December 2016.  
  
Reason: For the avoidance of doubt and in the interests of proper planning.
  - 3 No development above slab level shall take place until details and samples of

all materials to be used externally, including the boundary wall and railings and surfacing of the parking area, 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.

- 4 All first floor rear elevation windows shall be fitted with obscure glass and apart from any top-hung light, that has a cill height of not less than 1.7 metres above the internal finished floor level of the room it serves, shall be non-opening. This work shall be carried out and completed before any part of the development is occupied and shall be retained at all times thereafter.

Reason: To ensure the development does not prejudice conditions of amenity by reason of unneighbourly overlooking of adjoining property, in accordance with Policy BNE2 of the Medway Local Plan 2003.

- 5 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 6 to 9 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 9 has been complied with in relation to that contamination.

Reason: Required prior to commencement of development to avoid any irreversible detrimental impact through the potential mobilisation of contamination and 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 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 prior to commencement of development to avoid any irreversible detrimental impact through the potential mobilisation of contamination and 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 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 prior to commencement of development to avoid any irreversible detrimental impact through the potential mobilisation of contamination and to ensure that the development is undertaken in a manner which acknowledges interests of amenity and safety in accordance with Policy BNE23 of the Medway Local Plan 2003.

- 8 The 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: Required prior to commencement of development to avoid any irreversible detrimental impact through the potential mobilisation of contamination and 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 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 6, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 7, 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 7 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 8.

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.

- 10 No drainage system for the infiltration of surface water discharge into the ground is permitted other than with the express written consent of the Local Planning Authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to controlled waters. The development shall be carried out in accordance with the approved details.

Reason: Required prior to commencement of development to avoid any irreversible detrimental impact through the potential mobilisation of contamination and 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.

- 11 Piling or any other foundation designs using penetrative methods shall not be permitted other than the express written consent of the Local Planning Authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to groundwater. The development shall be carried out in accordance with the approved details.

Reason: Required prior to commencement of development to avoid any irreversible detrimental impact through the potential mobilisation of contamination and 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.

- 12 No development, including demolition of the existing buildings, shall commence until a Construction Environmental Management Plan that describes measures to control the noise affecting nearby residents, dust, hours of working, deliveries, operatives parking, wheel/chassis cleaning, pollution incident control and contact details in case of complaints, during the demolition and construction phases 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 commencement of development to avoid any irreversible detrimental impact on surrounding residential amenities and in accordance with Policy BNE2 of the Medway Local Plan 2003.

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

### **Proposal**

This application seeks planning permission for the construction of 2 storey block of 5 no self contained one bedroom flats with associated parking cycle store, amenity space, and refuse storage facilities, together with boundary walls and fences. The existing buildings on site comprising offices, 2 sheds and a store will be demolished.

The two storey block of flats would measure approx. 24m in width with a varying depth between approx. 7m and 10m due to the two hipped roof rear projections. The block would have eaves heights of approx. 5m and a ridge height of approx. 8m. Four of the flats (A-D) would be over a single floor and consist of bedroom, bathroom and kitchen/lounge area. The fifth flat (flat E) would be over two stories and consist of a bedroom, lounge, kitchen, bathroom, w/c and study.

To the rear a communal amenity area will be provided and an area to the rear of the larger flat will be a private garden. The development would provide two parking spaces and a bin store and cycle store for 5 cycles to the north of the block of flats. The application also proposes a 2m high mixture of brick piers and fence panels to the side and rear boundaries.

### **Site Area/Density**

Site Area: 0.036 hectares (0.089 acres)

Site Density: 138.889 dph ( 56.180 dpa)

### **Representations**

The application has been advertised on site and by individual neighbour notification to the owners and occupiers of neighbouring properties. Southern Gas Networks, Southern Water Services Limited, the Environment Agency and KCC Archeology have been consulted.

**Six** letters of representation have been received from the public raising the following concerns:-

- Lack of parking and impact on surrounding residents.
- Impact of noise and dust.
- Impact on neighbours regarding sunlight, overlooking.

**Southern Gas Networks** have advised of a lower/medium/intermediate pressure gas main near the site and there should be no mechanical excavations taking place above or within 0.5m of mains or within 3m of an intermediate pressure system. Details of the supplied plans and advice booklet to be made aware to senior person on site. Also safe digging practices in accordance with HSE publication HSG4. These issues will be issued as an informative.

**Southern Water Services** have written requesting conditions and informative relating to discharge of foul and surface water drainage.

**Environment Agency** have responded indicating that planning permission could be granted subject to conditions regarding contamination and preventing infiltration into the principle aquifer below within SPZ2 for public supply.

**KCC Archaeology** has written indicating that no archaeology measures are required.

## **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**

### *Principle*

The site is located within the urban area as designated by the Local Plan. The previous use of the site was as a builders yard with both offices and storage uses taking place (uses B1a, B2 and B8). Although the site is not allocated for employment purposes it would meet the definition of an employment site within Local Plan. Consideration is therefore required for the loss of employment land and the redevelopment of it for residential purposes. Local Plan Policies S1, ED3 and H4 and the national advice of paragraphs 17 and 49 of the NPPF are applicable.

The site is within a tight grain predominantly residential area served by relatively narrow streets. Its use for business purpose, particularly the builders yard with the associated noise and early morning disturbance is non conforming which could be detrimental to the character and amenities of the area. The principle of its removal and redevelopment for residential purposes would be an environmental gain and enhance the area.

With regards to the loss of employment land Policy ED3 is relevant, which seeks to protect existing employment sites not within allocation by restricting the change to B1 uses. There are exemptions within the policy justification: *'However, there are also sites which by reason of their age, impact on local amenity, physical constraints, or poor infrastructure are less suited to modern employment uses. In these cases, provided a suitable alternative site can be found for the relocation of existing firms, it would be appropriate to consider redevelopment for other uses to facilitate an improvement in local amenity and the environment of the area. Within the urban area the preferred form of redevelopment is likely to be housing.'* It is considered in this instance due to the above non conforming nature and the fact that the use has ceased with the site being vacant, that there is no conflict with this policy nor the NPPF.

Policy H4 of the Local Plan states that the use of vacant land or change of use of buildings no longer required for non-residential use will be permitted for residential development and paragraph 49 of the NPPF says that housing applications should be considered in the context of the presumption in favour of sustainable development. In this context there is no objection in principle to the proposed change of use.

### *Design*

Policy BNE1 of the Local Plan states that:

*"The design of development should be appropriate in relation to the character, appearance and functioning of the built and natural environment by:*

- (i) being satisfactory in terms of use, scale, mass, proportion, details, materials, layout and siting; and*
- (ii) respecting the scale, appearance and location of buildings, spaces and the visual amenity of the surrounding area; and*
- (iii) where appropriate, providing well structured, practical and attractive areas of open space."*

Paragraph 56 of the National Planning Policy Framework (NPPF) states that:

*"The Government attaches great importance to the design of the built environment. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people."*

The proposed development is located within a predominantly residential area consisting of two storey terraced properties, with small gardens to the front. The existing site formed a triangular shaped builders yard with single storey vacant storage/office buildings and a steel framed open sided store area. The site is bounded by a public footpath and neighbouring gardens of residential properties.

The proposed block of flats is considered to be of an appropriate size and scale for

the size and shape of the triangular plot being offset from the side and rear boundaries by at least one metre. Although the buildings abuts the footpath (entrances have been recessed) and the rear communal area is not reflective of the large rear gardens to the surrounding area this is not considered to be significantly detrimental to the character of the area as it is limited by the plots size and shape. The amended scheme has been designed to create the appearance of a row of two storey terraced dwellings with parapet details breaking up the gabled roof to the front and rear and therefore it is considered to be of a good quality design in keeping with the character of the street scene and character of the area.

The proposed bin store and cycle store to the north of the site are considered to be of an appropriate size and scale and similar to the existing store building on site. No objections are raised from the proposed boundary treatment.

Consequently the block of flats, boundary treatment (subject to a materials condition), is considered to be in keeping with the street scene and character of the area in accordance with Policy BNE1 of the Local Plan and Paragraph 56 of the NPPF.

### *Amenity*

There are two main amenity considerations, firstly the impact of the proposed dwelling on neighbours and secondly the living conditions which would be created for potential occupants of the development itself.

With regard to neighbouring amenities, by virtue of the design and distance to neighbours properties and their habitable windows there would not be any concerns on residential amenity regarding outlook and daylight. Concerns have been raised regarding overlooking (privacy) and sunlight. With regard to overlooking the windows to the rear first floor level are proposed to be obscure glazed, it would therefore not result in the overlooking of the rear gardens within Rock Avenue, and an appropriate condition is recommended. The ground floor rear windows would also not result in overlooking due to the proposed boundary treatment. The side window serving the study in flat 2 due to its positioning would not result in a significantly detrimental impact in privacy to the immediate rear garden areas of the rear gardens within Rock Avenue.

With regard to sunlight, sunlight tests indicate an additional area of shadowing within the morning of the rear section of neighbouring properties rear gardens within Rock Avenue. However by virtue of location of the shadowing caused by the proposed design, orientation of the site, path of the sun and the existing shadow cast by the buildings on site, this would not be considered significant enough to warrant a refusal.

Concerns have been raised regarding noise and dust. Due to the close proximity to the neighbouring properties there is potential impact from noise and dust during the construction stage and an appropriate condition is recommended regarding a Construction Environment Management Plan (CEMP).



With regard to the amenities of the future occupiers, the proposed flats have been considered against the Technical housing standards - nationally described space standard dated March 2015.

<b>Flat</b>	<b>Number of bedrooms/ Number of floors</b>	<b>Gross internal floor area</b>	<b>Nationally described housing Standards Gross internal floor area</b>
<b>A</b>	<b>1b2p/ 1 floor</b>	<b>50.9sqm</b>	<b>50sqm</b>
<b>B</b>	<b>1b2p/ 1 floor</b>	<b>50.9sqm</b>	<b>50sqm</b>
<b>C</b>	<b>1b2p/ 1 floor</b>	<b>51.2sqm</b>	<b>50sqm</b>
<b>D</b>	<b>1b2p/ 1 floor</b>	<b>51.2sqm</b>	<b>50sqm</b>
<b>E</b>	<b>1b2p/ 2 floors</b>	<b>67.32sqm</b>	<b>58sqm</b>

All of the proposed flats would comply with the minimum requirements in the specified Technical housing standards - nationally described space standard dated March 2015 for a one bedroom two person dwelling over one or two floors. In addition, all bedrooms would exceed the 11.5 sqm minimum floorspace for a double or twin bedroom.

The development would provide a private amenity area to the rear for flat E. This would measure approx. 2.5m in width and 2m in depth, this would provide a private outdoor amenity space of 5sqm which would be in accordance with the Medway Housing Standards (interim) November 2011 (MHDS) for flats of 1 and 2 beds having a outdoor amenity space of 5sqm. The remainder of the land to the side and rear would be a communal amenity area including a lawn and patio area, two parking spaces and a bin storage area and a cycle store. The windows to the rear at first floor level are proposed to be obscure glazed to prevent overlooking issues, this is considered acceptable for future occupiers in terms of outlook as they serve either non-habitable rooms or form secondary windows to the lounge/kitchens which have windows within the front elevation.

Consequently no objections, subject to conditions, are raised in terms of Housing Standards and the amenities of both the future occupiers and neighbour amenities under Policy BNE2 of the Local Plan and paragraph 17 of the NPPF.

### *Highways*

Medway Council's Interim Residential Parking Standards require the provision of one space per dwelling for a one bedroom dwelling, plus 0.25 spaces per dwelling for visitor parking, making a requirement of 6.25 spaces for the proposed development.

Two spaces are to be provided to serve the proposed development, which would fall short of this standard. Concerns have been raised regarding the impact of parking in the area. However, with regard to the parking demand for the previous use of between 3 (B8 use) and 12 (B1 use) and with regard to the proximity of the site to Gillingham Town Centre and public transport, no objection is raised in terms of parking standard. The proposed access is also considered acceptable and would not result in any issue of public safety. Consequently the proposal is considered to be in accordance with Policies T1, T2 and T13 of the Local Plan.

### *Contamination*

Policy BNE23 of the Medway Local Plan 2003 requires that land known to be or likely to be contaminated should be accompanied by detailed site examination and appropriate remedial measures to reduce or eliminate risk to human health and the wider environment be agreed. No preliminary risk assessment or desk top study has been provided.

The previous use of the site as a builders yard could of resulted in contamination, however as the application is for flats with limited open space it is considered that the need for a desk top study at the application stage is not required, but should be a condition of any approval. The Environment Agency have been consulted as part of the application, they consider the small scale use and condition of the hard surfaces from photos submitted would suggest a small scale risk however a preliminary risk assessment would be required to be conditioned, especially as the site overlies a principle aquifer and within an SPZ2 for public water supply. .

Subject to suitably worded conditions, no objection is raised to the proposal under Policy BNE23 of the Medway Local Plan 2003 and paragraphs 109 and 121 of the NPPF.

### *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.

### *Local Finance Considerations*

There are no local finance considerations.

### **Conclusions and Reasons for Approval**

The proposal is considered acceptable in terms of principle, design, amenity, contamination and highway aspects and with regard to all other material planning considerations. . The proposal accords with the provisions of Policies S1, ED3, H4, BNE1, BNE2, BNE23, BNE35 S6, T1, T2 and T13 of the Medway Local Plan 2003 and the advice in the NPPF. The application is accordingly recommended for approval.

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/>