

MC/17/0353

Date Received: 30 January, 2017

Location: 311 Station Road, Rainham, Gillingham ME8 7PU

Proposal: Construction of a part two storey part three storey block comprising of two 1-bedroomed and seven 2-bedroomed flats with associated parking and amenity space (demolition of existing buildings)

Applicant: Mr Bowra

Agent: Mr L Mineham Ubique Architects Ubique Architects 11 Ashford House Beaufort Court Sir Thomas Longley Road, Rochester ME2 4FA

Ward Rainham North

Case Officer Thomas Stubbs

Contact Number 01634 331700

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**Recommendation of Officers to the Planning Committee, to be considered and determined by the Planning Committee at a meeting to be held on 13 June 2017.**

**Recommendation - Approval subject to;**

A. The applicant entering into a Section 106 Agreement to secure the following:

1. A contribution of £2012.22 for bird disturbance mitigation

B. 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 003 and 004 received on 30 January 2017 and drawing number 002 Rev A received on 14 March 2017.

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

- 3 No development above slab level shall take place until details (which may include brochures, website links and/or samples) of all materials to be used externally have been submitted to and approved in writing by the Local Planning Authority. 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 Prior to the occupation of any flat herein approved, details of all boundary treatments including a plan indicating the positions, design, materials and type of boundary treatment to be erected shall be submitted to and approved in writing by the Local Planning Authority. The boundary treatment shall be completed in accordance with the approved details before the occupation of any flat herein approved 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.

- 5 Prior to the occupation of any flat herein approved details of a scheme of hard and soft landscaping, including the incorporation of the ecological enhancements as suggested within the Preliminary Ecological Appraisal received on 30 January 2017 (including the use of appropriate native species, a permeable surface for the parking area and safe pedestrian access shall be submitted to and approved in writing by the Local Planning Authority. The landscaping shall be implemented in accordance with the approved details prior to the occupation of any flat herein approved and shall be maintained thereafter.

Reason: To protect and enhance the appearance, character and ecology of the site and locality, in accordance with paragraph 118 of the NPPF and Policies T3 ,BNE1, BNE6 and BNE37 of the Medway Local Plan 2003.

- 6 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 7 to 10 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 10 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.

- 7 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.

- 8 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

- 9 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.

- 10 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 7, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 8, 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 8 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 9.

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.

- 11 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.

- 12 No vegetation clearance shall take place unless a suitably qualified ecologist is present and that the site has undergone nesting bird checks within 24 hours of work commencing. All vegetation removal must be undertaken under the guidance and advice of the qualified ecologist.

Reason: To ensure satisfactory arrangements are made to safeguard habitats and species in the interests of ecology in accordance with Policy BNE37 of the Medway Local Plan 2003.

- 13 Prior to occupation of any flat herein approved any lighting scheme to be installed within the site shall be submitted to and approved in writing by the Local Planning Authority. Any lighting scheme shall incorporate the recommendations set out within the Preliminary Ecological Appraisal received on 30 January 2017. The development shall be implemented in accordance with the approved details and thereafter maintained.

Reason: To safeguard conditions of amenity within the scheme of development permitted in accordance with Policy BNE37 of the Medway Local Plan 2003.

- 14 Prior to the occupation of any flat herein approved, details of the cycle and refuse stores (floorplans and elevations) shall be submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the approved details and in materials to be stated on the plans submitted pursuant to this condition prior to the occupation of any flat herein approved and shall be retained thereafter.

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 seeks planning permission for the construction of a part two storey part three storey block comprising of two 1-bedroomed and seven 2-bedroomed flats with associated parking and amenity space. The existing factory building would be demolished.

The flat roof, T shape block of flats would measure approx. 23.5m in width, between approx. 10.5m to 15m in depth and varying heights of approx. 6m and 8.6m. It would be set back approx. 6.5m further back in the site than the existing factory building and located at least approx. 1.5-4m from the site boundaries. There would be seven 2-bedroom flats with an open plan kitchen/dining/lounge areas, a patio or balcony and a bathroom and two 1-bedroomed consisting of an open plan kitchen/dining/lounge, a

patio or balcony and a bathroom.

To the side and rear a communal amenity area would be provided. Located to the front, the development would provide 10 parking spaces, a bin store and a covered cycle store for storage of up to 10 bicycles. The proposed site plan drawing states a mix of different boundary treatments. The site will utilise the existing site entrance between 309a and 311a Station Road.

### **Site Area/Density**

Site Area: 0.102 hectares (0.253 acres)

Site Density: 87.884 dph (35.573 dpa)

### **Relevant Planning History**

MC/09/1400	Retrospective application to retain single storey extension to existing light industrial premises  Decision Approval With Conditions Decided 26 November, 2009
MC/02/1149	Construction of an extension to rear (demolition of existing extension) Decision Approval with Conditions Decided 21 August, 2002
MC/00/1664	Part demolition of factory and construction of an enlarged extension to rear. Decision Refusal Decided 30 January, 2001
MC/99/5569	Outline application for the demolition of part of factory and erection of new two storey extension. Decision Refusal Decided 22 December, 1999

### **Representations**

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

**Five** letters of objection have been received raising the following objections:

- Loss of privacy, sunlight and outlook.
- Noise from flats and construction.
- Proposed flats and number of stories out of character of the area.
- Increased traffic.

**One** letter of support has been received commenting on the boundary treatment proposed, an amended plan clarifying these issues has been submitted.

These issues will be considered within the report below, issues not listed above (such as right to light and de-valuation of properties) are not material planning considerations.

## **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 an existing backland development located within the urban area, where the character is predominately residential. The existing building and site is vacant and in dilapidated state. The previous use of the site was for light industry (use B1c). 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, H4 and H9 and the national advice of paragraphs 17 and 49 of the NPPF are applicable.

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 which states: *'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.'* Due to the physical constraints of the site and that the previous company has relocated to an alternative site it would be considered acceptable for the loss of employment.

The residential redevelopment of this plot would be considered to be backland development (although not a new backland site) and needs to be considered under Policy H9 of the Local Plan, this indicates that backland development would only be approved subject to the compliance with six points, which can be summarised as; no overlooking, acceptable vehicle access, no significant noise increase, existing natural features retained, adequate privacy space, character of the area and amenity land maintained. Policy H4 of the Local Plan is also relevant which seeks that the development would result in the most effective and efficient re-use of urban land and whether a 'clear improvement to the local environment' would result. Subject to compliance with the detailed matters of these policies which are subject to assessment below, the principle of the site for residential development is considered acceptable given the residential character of the area.

## *Design*

By virtue of its siting, the proposed block of flats would be visible from Station Road, Ellison Way and neighbouring properties. The surrounding properties are in residential use and consist of a mixture of two storey terraced, semi-detached and detached properties with a mixture of brick, cladding and render of which some in Station Road have been converted into flats. The existing vacant factory building consists of a two storey brick rendered building with a corrugated steel rear extension.

Concerns have been raised in consultation that the proposed block of flats are out of character with the area at three storeys in height. The proposed block of flats has been set back further than the existing building from Station Road and further back from the northeastern boundary so it sits at least 1.5m from all boundaries which is considered to be an improvement when compared to the siting of the existing building in relation to neighbouring properties. The siting of the building within the plot is considered acceptable. Although the three storey flat roof building is not reflective of the character of the area, the maximum height is similar to the maximum height of the existing building and the proposed materials would be reflective of the materials used in the area. Consequently the proposed block of flats would not be considered to be detrimental to the appearance of the street scene and the character of the area and it is considered that the proposed building and use would be an improvement to the existing building being of an acceptable size and scale in relation to the size and shape of the plot.

The proposed parking area, cycle storage and bin stores to the front of the flats is not usually ideal in terms of appearance, however, given that these areas would be obscured from view by the existing houses when viewed from the street scene of Station Road, this area is not considered to dominate the appearance of the frontage and is therefore considered acceptable. No final details of landscaping have been submitted at this stage. If the application were considered to be acceptable, a condition for hard and soft landscaping including natural enhancements (see ecology section) and boundary treatments would be required.

The proposed scheme is therefore considered to be in accordance with Policies BNE1, H4 and H9 of the Local Plan and Paragraph 56 of the NPPF subject to the aforementioned conditions.

## *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.

### Neighbouring Residential Amenity

Issues of outlook, sunlight and privacy have been raised through consultation response. The siting of the block of flats is proposed to be located further away from 53 Ellison Way and the properties located in Station Road. Due to the distances from all neighbouring properties and the siting of the garage block to the northwest of the site it is considered there would be no detrimental impact on the amenity of surrounding



residents in terms of loss of outlook. Furthermore the design and siting of habitable windows (only bathroom windows on the northeastern elevation) and given that the balconies located to the front and rear elevations of the block have been designed with side privacy screens there would be no detrimental impact in terms of overlooking/loss of privacy to properties in Robson Mews and 53 Ellison Way.

In relation to the balconies and habitable windows to the rear of the block, these would overlook the garages within Ellison Way. Given the significant separation distance between the rear of the block and the properties on the other side of Ellison Way which face the application site, it is considered that there would not be any detrimental impact in terms of loss of privacy. The habitable windows and balconies to the front elevation would overlook the rear the properties in Station Road, however these properties were already overlooked by the offices at first floor of the existing building which are sited closer to the Station Road properties than the front elevation of the proposed block. The distance between the front elevation of the block and the rear of the Station Road properties is now approx. 14-23m and it is considered the impact would not be significant to warrant refusal of the application.

With regard to sunlight and daylight, the applicant has submitted their own tests which indicate that there is no detrimental impact on any neighbours. In undertaking our own sunlight tests following the advice given within the Building Research Establishment (BRE) Site Layout Planning for Daylight and Sunlight; A guide to good practice (2011) document, intended to be used in conjunction with the interior daylighting recommendations in BS 8206-2 *Code of Practice for daylighting*, it is found that due to the siting and height of the proposed block of flats, daylight will reach all neighbouring habitable rooms. The most affected property would be 53 Ellison Way, however lateral light would still reach over this property over the proposed flats.

The proposed block would be located to the northeast of properties in Robson Mews and to the northwest of the rear of the properties in Station Road and would therefore not result in any detrimental impact on the amenities of the occupiers of these properties in terms of loss of sunlight and shadow cast.

As is the case with the existing building, the proposed block would be to the southeast of 53 Ellison Way. The existing building causes overshadowing to 53 Ellison Way during the morning and early afternoon period. The siting of the proposed block further away from the boundary with this property changes this relationship. There would still be overshadowing but the time this occurs would change from predominantly the morning and early afternoon period to the afternoon (approx. 13:00 to 16:00). The result is that whilst overshadowing would occur, the situation is not considered detrimental. This is because the period of overshadowing of this property is similar to existing, the change is the time of day that it would occur.

Concerns have been raised in consultation regarding potential noise from the proposed flats. There is history of enforcement action and noise complaints when the building was occupied for the purposes of light industrial use. The proposed residential use would not give rise to noise levels similar to a light industrial use and therefore no there is no objection raised in this regard. However due to the proximity of neighbouring properties there is potential impact from noise and dust during the construction stage and if the application were considered for approval an appropriate

condition is recommended regarding a Construction Environment Management Plan (CEMP).

### Amenity of Future Occupiers

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 Standards Gross internal floor area</b>
<b>1, 2, 4, 5, 6, and 9</b>	<b>2b3p/ 1 floor</b>	<b>61sqm</b>	<b>61sqm</b>
<b>3 and 7</b>	<b>1b2p/ 1 floor</b>	<b>50sqm</b>	<b>50sqm</b>

All of the proposed flats would comply with the minimum requirements of gross internal floor area specified Technical housing standards - nationally described space standard dated March 2015. The proposed single and double bedrooms would also comply with the minimum widths and areas in accordance with the housing standards.

The development would provide a 6sqm private amenity area in the form of either a balcony or patio for flats 1-8 in accordance with the Medway Housing Standards (interim) November 2011 (MHDS). The siting of these balconies and side screens would prevent privacy issues between the flats. Flat 9 on the second floor does not have a balcony area but a full size window to the living area which is acceptable in this circumstance due to the communal amenity area to the front and side of the flats. A condition is recommended to ensure the privacy screens to the balconies are provided on site.

Subject to the suggested conditions, no objections are raised in terms of the impact on amenities of both the future occupiers and neighbours and the proposal is considered to comply with Policies BNE2, H4 and H9 of the Local Plan and paragraph 17 of the NPPF.

### *Highways*

Medway Council's Interim Residential Parking Standards require the provision of 1 space per dwelling for a one bedroom dwelling and 1.5 spaces per two bedroom dwelling, plus 0.25 space per dwelling for visitor parking, making a requirement of 14.75 spaces for the proposed development. Ten spaces are to be provided to serve the proposed development, which would fall short of this standard. However, with regard to the parking demand for the previous use which was previously under standard and with regard to the proximity of the site to Rainham Town Centre and public transport, no objection is raised in terms of parking. Consideration has been given to ensuring that residents of the development are restricted in terms of being able to apply for a permit to park on Station Road. However, given that as the permit control ends within close proximity of the site and therefore there is unrestricted

parking close by in Station Road and Tilbury Road and taking into account any overflow parking from the development would be minimal, it is not considered reasonable and necessary to apply such restrictions in this case.

Concerns have been raised regarding activity and impact on traffic. The existing use would expect to generate 21 movements a day with approx. 4 movements within peak times. The proposed residential use would generate approx. 17 movements a day with approx. 3 movements at peak times. Consequently no concern is raised with regard to traffic activity levels. The proposed access is via the existing access used for the site and is considered acceptable. Safe access to the site for pedestrians can be considered within the landscaping condition. Subject to the aforementioned conditions no objection is raised having regard to Policies T1, T2, T3, T13, H4 and H9 of the Local Plan.

### *Contamination*

Policy BNE23 of the Local Plan 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. A Phase 1 Desk Study undertaken by Soils Limited ref J11849/DS dated July 2010. The report recommends a further intrusive contaminated land investigation risk assessment would be required which can be secured by conditions. Subject to such 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.

### *Ecology*

Due the site being vacant and overgrown, a Preliminary Ecological Appraisal of the site which has been submitted. This appraisal is considered acceptable. The report indicates that there is evidence of fox movements, that the site is suitable for breeding birds at present and that there is limited potential for badger sets. If the application were to be approved it is recommended that informatives be applied to ensure a precautionary approach to site clearance is adopted requiring an ecologist to present and nesting birds. It is also recommended that conditions be applied to require the control of lighting to avoid impacting on any foraging bats and finally a finalised landscaping scheme to include the ecological enhancements recommended within the report to enhance biodiversity. Subject to these conditions no objection is raised regarding Policy BNE37 of the Local Plan and paragraph 118 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, ecology and highway aspects and with regard to all other material planning considerations. The proposal accords with the provisions of Policies S1, ED3, H4, H9, BNE1, BNE2, BNE23, BNE35, BNE37, S6, T1, T2, T3 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.

This application was considered by Members at the Planning Committee on the 12 April 2017 when it was determined to defer for further negotiations regarding the design and lowering the number of units.

The applicant was informed of the concerns raised at Planning Committee, however the applicant has decided to not alter the scheme but rather intend to submit an accompanying statement to address the issues raised at the 12 April 2017 Planning Committee.

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#### **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/>