

MC/17/3756

Date Received: 31 October, 2017

Location: Land Adjacent No 37 Dagmar Road Luton Chatham ME4 5HB

Proposal: Construction of a 2-bedroomed dwelling with associated parking

Applicant: Brosey Group

Agent: Mr Bucknall Rayner Davies Architects Unit 1 The Joiners Shop
Main Gate Road Historic Dockyard CHATHAM ME4 4TZ

Ward Luton and Wayfield

Case Officer Katherine Parkin

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 17 January 2018.

Recommendation: Approval subject to;

A) The submission of a Unilateral Undertaking under Section 106 of the Town and Country Planning Act 1990 to secure £223.58 per new dwelling towards Designated Habitats 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 2454(02)1250, 2454(09)500, 2454(02)001, 2454(09)001, 2454(09)002 and 2454(09)003

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

3 Prior to the first occupation of the dwelling hereby permitted, 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 approved boundary treatment shall be completed before the dwelling hereby permitted is 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.

- 4 No development shall take place above slab level until details and samples of **all** materials to be used externally, including the retaining wall, 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.

- 5 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification) no windows or similar openings shall be constructed in the flank elevations of the building without the prior written approval of the Local Planning Authority.

Reason: To enable the Local Planning Authority to regulate and control any such development in the interests of amenity and privacy of adjoining properties, in accordance with Policy BNE2 of the Medway Local Plan 2003.

- 6 Prior to first occupation of the dwelling hereby approved the bathroom window on the first floor rear 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 window 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.

- 7 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order amending, revoking and re-enacting that Order with or without modification) no development shall be carried out within Class A, B, D and E of Part 1 of Schedule 2 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.

- 8 No development shall take place above slab level until details of the surfacing and drainage of the vehicle parking area have been submitted to and approved in writing by the Local Planning Authority. The works shall be carried

out in accordance with the approved details before the parking area is brought into use and shall be so retained at all times thereafter.

Reason: To ensure that the development permitted does not prejudice conditions of amenity and highway safety in accordance with Policy BNE2 and T1 of the Medway Local Plan 2003.

- 9 The area shown on the permitted drawings for vehicle parking shall be kept available for such use and no permanent development, whether permitted by the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order) or not, shall be carried out on the land so shown or in such a position as to preclude vehicular access to this reserved parking space.

Reason: To ensure that the development permitted does not prejudice conditions of highway safety, efficiency or amenity in accordance with policies BNE2 and T1 of the Medway Local Plan 2003.

- 10 The construction works shall be carried out at all times in accordance with the Construction Environmental Management Plan (CEMP) dated August 2017 as submitted with the application, unless any variations are otherwise first submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of amenities and highway safety and in compliance with Policies BNE1 and T1 of the Medway Local Plan 2003.

- 11 The recommendations made in the Reptile Survey Report dated 19/09/17 as submitted with the application shall be implemented in accordance with the approved details to the satisfaction of the Local Planning Authority, and any variations should be submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of protection of protected species and in compliance with BNE37 and BNE39 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

The application is for the construction of a 2-bedroomed dwelling with associated parking.

The dwelling would be sited between Nos. 37 and 39A Dagmar Road. It would be part two and part single storey at the rear. The building would be 8.44m high to the topmost point of the ridge, 5.29m high to eaves level, 4.43m wide and 11.47m deep. It would be set a minimum of 200mm off the boundary with No. 39A and 800mm off the boundary with No. 37. Internally, there would be an open plan kitchen/dining room, WC and living room on the ground floor, and 2 bedrooms and a bathroom on the first floor.

Externally, the rear garden would be 6m deep, and due to its steep gradient would incorporate a retaining wall. The plans indicate 1.8m high fencing around the boundary; all replacement fencing to the rear garden would be featheredge fencing. The front garden would be 4.8m deep, incorporating one parking space perpendicular to the road.

Site Area/Density

Site Area: 0.0128 hectares (0.0316 acres)

Site Density: 78 dph (31 dpa)

Relevant Planning History

MC/16/4425	Construction of a 2-bedroomed dwelling with associated parking Decision Approved with conditions Decided 24/01/2017
MC/09/1977	Outline application for construction of a 2-bedroomed house Decision Refusal Decided 18/02/2010 Appeal dismissed 20 July 2010
MC/07/1971	Outline application for construction of a 2-bedroomed house Decision Refusal Decided 06/03/2008
MC/07/1336	Outline application for construction of one dwelling Decision Refusal Decided 21/09/2007
MC/06/0089	Outline application for the construction of one dwelling Decision Withdrawn by applicant Decided 14/03/2006

Representations

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

3 letters have been received from neighbours raising the following objections:

- The site is too small for the proposed house despite the slight decrease in the size of the building. It is a cramped overdevelopment of the site.
- Building one house on the garden and drive of No. 37 will not solve the housebuilding crisis.
- The design of the house is poor and cheap.
- The proposal would impact on outlook and light to No. 39A.
- Parking is already difficult on the road and will be worsened with the addition of

another house, which will displace parking for No. 37.

- The proposed car parking space is too small to park a car and would therefore overhang the pavement, hindering pedestrian access. It would also be difficult and hazardous to manoeuvre a car safely in and out of this space given the size of the space and the on-street parking.
- There is not enough space on the site or on the road to accommodate construction traffic and facilities, and access is difficult. Residents cars will be at risk of damage.
- The siting of the house will create an unlit alleyway, adding a security risk to No. 37.
- Planting on the site has already been cut down and the site littered.
- The loss of slow worms and other wildlife and planting on the site is regrettable.
- Groundworks are likely to undermine neighbouring gardens, and construction vibrations are likely to cause damage to properties.
- Permission will not be given for any encroachment onto neighbouring land during construction, and access to neighbouring properties is likely to be hindered by scaffolding.
- Noise pollution during construction will be harmful to quality of life and health.
- There is a mains sewer that runs across the site which would be underneath the proposed house, which has not been investigated.
- The proposal will place too much strain on local services including already overstretched hospitals, schools and GPs.
- Measurements of neighbouring houses are incorrect.

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 (NPPF) and are considered to conform.

Planning Appraisal

Background

As can be seen from the planning history, previous applications to erect a dwelling on this site were refused in 2007 and 2009, and an appeal against the 2009 refusal was dismissed in 2010. Subsequently, a further application that addressed the Planning Inspector's main concerns was approved in January 2017. The current application proposes various changes to the approved design.

Principle

The starting point for the consideration of this development is whether the principle of development in this location is acceptable. Paragraphs 49 and 50 of the NPPF encourage development for housing in urban areas (where appropriate), with a presumption in favour of good quality housing and choice where development would not cause harm to the local area. Policy H4 of the Local Plan allows for residential infilling in principle providing that a clear improvement in the local environment will result.

The site is located within the urban area of Chatham and therefore the principle of new housing as set out above is generally acceptable and in this case, the principle of a development of a house on this plot has already been established by the previous permission, and is in accordance with Paragraphs 49, 50, and 53 of the NPPF and Policy H4 of the Local Plan, subject to the consideration of the detailed matters set out below.

Design

Development Plan policy places considerable emphasis on the importance of achieving good design to ensure that all new developments are appropriate to the shape, size and location of the site. Paragraph 57 of the NPPF promotes the achievement of high quality and inclusive design for all development, including individual buildings and public and private spaces.

Local Plan Policy BNE1 seeks to ensure that the design of development is appropriate in relation to the character, appearance and functioning of the surrounding area. Policy H4 has the proviso that a clear improvement in the local environment must result from infilling.

The proposed detached house is of a standard appearance with a projecting front bay. The ridgeline has been designed to be of a height that complements the ridge heights of the adjacent terraces as the ridgelines step down the road. The footprint is marginally larger than the previously approved proposal; the single storey rear element is longer by approximately 1m, but the building is narrower by a minimum of approximately 50cm. The front building line is along approximately the same line as the previous proposal. The roof is less bulky at the rear compared to the previous proposal, as the main roof comprises a cat slide down to the single storey flat roof element at the rear (which previously had a long, low pitched roof), and the ridge of the two storey bathroom element at the rear is much lower than previously proposed by approximately 1.5m.

Overall, the revised scale, design and form of the proposal is still considered in keeping with the mixed character and appearance of other houses in the road, and is considered acceptable with regards to paragraph 57 of the NPPF and Policies BNE1 and H4 of the Local Plan.

Amenity

One of the core planning principles of the NPPF at paragraph 17 is to seek a good standard of amenity for all existing and future occupiers of land and buildings. This is reflected in Local Plan Policy BNE2, which states all development should secure the amenities of its future occupants and protect those amenities enjoyed by neighbouring properties. The design of the development should have regard to privacy, daylight and sunlight, noise, vibration, light, heat, smell and airborne emissions and activity levels and traffic generation.

With regard to the impact on neighbours, the closest properties that would be affected by the proposal are Nos. 37 and 39A. At the previous appeal, the Inspector was

particularly concerned with the impact of the proposal on outlook and daylight to these properties.

There are flank wall windows at No. 37 that serve the kitchen/dining room and landing that will undoubtedly be affected by the proposal. The proposed house has been designed to be part two and part single storey, and under the current application it would be sited slightly further away from the boundary with No. 37, plus the bulk of the main roof and rear first floor bathroom element is reduced further, which would in turn further minimise the impact on No. 37. There will inevitably be some loss of outlook and daylight to the windows through the siting of the proposed house; however, the landing window does not relate to a habitable room and the kitchen/dining room is served by a set of French doors to the rear of the property. There are no flank windows on the proposed house. On this basis, and as concluded under both the previous appeal and subsequent planning permission, it is considered that the loss of outlook and daylight to a non-habitable room window and a secondary window would not be so significant to warrant refusing the scheme.

In terms of the impact at the rear, under the current proposal the design of the single storey element has changed from the previously approved scheme to comprise a flat roof that would be 2.75m high, would extend 1m further to the rear, and would be set in a minimum of 1m away from the boundary with No. 37. As before, whilst the single storey element would be visible from the garden of No. 37, it would not create an adverse impact with regard to loss of outlook, dominance, or light due to fact that the extension would be seen above a 2m high solid boundary fence. No significant concerns were raised previously with regards the single storey rear element of the proposal, and the changes proposed under the current scheme are not substantially different to what has already been approved. It is therefore considered that this element of the proposal in relation to No. 37 is acceptable.

One of the main concerns that the Inspector raised about impact of the dismissed 2009 scheme on No. 39A related to the siting of the proposed house so far forward of No. 39A. To address the issues raised, under the approved 2016 scheme the proposed dwellinghouse was sited further back into the site so that it was only slightly forward of No. 39A. The main front building line is approximately the same under the current application, with minimal changes to the positioning of the bay. Moreover, No. 39A has no fenestration along its north-eastern flank wall, except for the front door that forms part of the front bay/porch where outlook/daylight is already restricted by an overgrown shrub, and therefore no habitable rooms would be affected by the proposed house in terms of loss of light or outlook. Furthermore, the proposed dwelling would not project beyond No. 39A at the rear. Overall, it is considered that the proposal would not detract from the amenities of No. 39A.

The bottom section of the rear garden of No. 39A extends partly across the rear of the application site, and there may be the potential for some overlooking of this area from the proposed first floor window, although it will serve a bathroom. However, this issue has not been previously been raised as a concern. Nevertheless, this window could be conditioned appropriately to protect privacy. Boundary treatment will also help in this regard. The proposed plans mention replacement featheredge fencing but it is not clear where this is proposed, and therefore a condition requiring boundary treatment details should be imposed.

It is also necessary to consider whether adequate habitable space would be provided for the future occupiers of the proposed dwelling in compliance with the Technical Housing Standards - Nationally Described Space Standards (March 2015).

The table below shows the minimum gross internal floor area expected against the proposed dwelling floor areas:

	Number of bedrooms	Number of bed spaces (person)	2 storey dwellings (m2)
Standard	2b	3p	61
Proposed	2b	3p	73.7

In light of the above the proposed dwelling would comply with the Technical Housing Standards, and it is therefore considered that the new dwelling would provide a satisfactory living space.

The proposed development would provide a rear garden with a minimum depth of 6m, which is slightly smaller than would generally be acceptable, but given what has already been permitted it is considered to be satisfactory for this small two bedroom dwelling house. However, it is recommended that a condition is added to ensure that permitted development rights are removed to ensure that the garden area does not become further reduced in the future.

In summary, it is considered that the proposed house is acceptable in relation to its impact on the amenities of neighbouring properties and will offer an acceptable level of accommodation for future occupiers. Therefore the proposal is in accordance with the fourth core planning principle in paragraph 17 of the NPPF and Policy BNE2 of the Local Plan.

Highways

There is a dropped kerb in front of the site and the front most part of the site has a hard surface that has been used for car parking. The proposal includes the provision of a parking space in front of the proposed dwelling, perpendicular to the road.

It was previously considered that the use of the front garden for parking would not be materially any different to the current use of the site and as such there would not be any issue with regard to the proposed car parking provision or impact on the highway. This situation is no different with the current application.

In this respect, the proposal is considered to be in accordance with the provisions of Policies T1 and T13 of the Local Plan.

Ecology

Paragraph 118 of the NPPF expects local authorities to conserve and enhance biodiversity. Policy BNE37 of the Local Plan relates to the protection of wildlife habitats, and Policy BNE39 concerns protected species.

Neighbours have drawn attention to the presence of wildlife on the site, including slow worms. A Reptile Survey Report dated 19/09/17 has been submitted with the application, which found a low population of slow worms on the site, and makes recommendations for their translocation. It is considered appropriate to impose a condition to ensure the recommendations are implemented. On this basis, the application is considered acceptable in terms of its nature conservation impact, under the provisions of Paragraph 118 of the NPPF and Policies BNE37 and BNE39 of the Local Plan.

Construction

The neighbour objections received are particularly concerned with the impact of the development during the construction phase. A Construction Environmental Management Plan (CEMP) dated August 2017 has been submitted with the application, and includes hours of work, measures to control noise, wheel cleaning/chassis cleaning facilities, dust control measures, pollution incident control and site contact details in case of complaints. This was also a condition of the previous permission but in order to ensure it is implemented an appropriate condition is recommended. On this basis, the proposal is considered to be in accordance with the provisions of paragraph 17 of the NPPF and Policy BNE2 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.

S106 Matters

The Community Infrastructure Levy Regulations 2010 provide that in relation to any decision on whether or not to grant planning permission to be made after 6 April 2010, a planning obligation (a s106 agreement) may only be taken in to account if the obligation is (a) necessary to make the development acceptable in planning terms;(b) directly related to the development; and (c) fairly and reasonably related in scale and kind to the development. The obligations proposed comply with these tests for the reasons explained in the previous section.

Local Finance Considerations

There are no local finance considerations relevant to this development.

Conclusions and Reasons for Approval

It is considered that the proposed development is acceptable in that it does not differ significantly from the previously approved scheme, and in relation to design, and the impact on the amenities of neighbouring properties and future occupiers, and on parking and highway safety. Matters relating to ecology and construction can be appropriately controlled. As such the proposal is considered to be in accordance with the provisions set out in paragraphs 17, 49, 50, 53, 57, 109 and 118 of the National Planning Policy Framework, and the Medway Local Plan 2003, including Policies S6, BNE1, BNE2, BNE35, BNE37, BNE39, H4, T1 and T13. Therefore the application is recommended for approval subject to conditions.

The application would normally fall under Officer delegated powers for determination, but is being reported to Committee due to the number of 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/>