

MC/18/0560

Date Received: 16 February 2018

Location: Land Rear Of 769 Lower Rainham Road Rainham Gillingham ME8 7UB

Proposal: Construction of 1x four bedroom dwelling with associated landscaping and parking - Demolition of existing garage/workshop

Applicant Mr Cahill

Agent Mr Kemp 37 Albany Rd
Sittingbourne
ME10 1EB

Ward: Rainham North Ward

Case Officer: Mary Smith

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 4th July 2018.

Recommendation - Refusal

- 1 The proposed development, which would be clearly visible from adjacent rural areas as well as from the rear of the existing linear development in this part of Lower Rainham Road, would appear intrusive, out of character and harmful to its surroundings in this location on this rural edge. This would be contrary to Policies H9, BNE1, BNE25 and BNE34 of the Medway Local Plan 2003, Paragraphs 56 and 113 of the National Planning Policy Framework 2012 and to the advice in the Medway Landscape Character Assessment 2011 (character area 5 Riverside Marshes).

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

Proposal

It is proposed to demolish a garage/workshop which is located at the current end of the rear garden of the bungalow at 769 Lower Rainham Road and to construct a four

bedroom two storey house in its place. The rear garden of no. 769 would be reduced to 11m in length (from its rearmost elevation) and there would be a further 11m to the nearest part of the front elevation of the new dwelling, this area would contain two parking spaces, a bike shed and garden store and an electric car charging point. Parking for no. 769 would be retained within its own frontage. Access to the site would be via an existing access track to the side of no. 769 which continues on past the site providing vehicular access to the land at the rear.

The design of the proposed house incorporates stepped front and rear elevations with a double gable to both ends.

This together with the window design which includes glazing into the gables and the use of slate tiles, solar PV panels to the roof and white render walls is intended to give a modern feel to a traditional form of building.

Initially the application included a rear garden for the proposed house which extended across the land to the rear of no. 765 immediately to the west. However it has now been amended so that the proposed rear garden, which would be 16m in depth and 13m in width, would only be to the rear of the current plot of no. 769a. In addition it is highlighted that the proposal would include the extinguishing of a current lawful use for the storage and maintenance of ten banger racing cars in this rear area. This use is not currently active but does benefit from a Lawful Development Certificate. It is stated that the applicant is prepared to clear a wider area of adjoining land of structures, rubble and hardstandings and to undertake landscaping subject to first seeking the advice of an ecologist.

Site Area/Density

Site Area: 0.063hectares (0.155acres)

Site Density: 15.9 dph (6.5 dpa)

Relevant Planning History

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|------------|---|
| GL/96/0572 | Application for a Certificate of Lawful Development for the use of land for storage and maintenance of 10No banger racing cars Decision Approval Decided 05/12/1997 |
| GL/96/0571 | Application for a Certificate of Lawful Development for the use of land as a country & western re-enactment club Decision Approval Decided 25/07/1997 |
| GL/78/315A | Application for an Established Use certificate for use of dwelling - house and land adjoining known as 769 Lower |

Rainham Road for the storage, recovery and sale of scrap metal including motor vehicles
Decision Refused
Appeal Dismissed

GL/78/315

Change of use from agricultural land to agricultural land and land for the storage and breaking of motor vehicles associated with a car breakers business and sale of parts of cars associated with the business.
Decision Refused
Decided 01/12/1978

Representations

The application has been advertised on site and by individual neighbour notification to the owners and occupiers of neighbouring properties. The Environment Agency and KCC Biodiversity have also been consulted.

The **Environment Agency** has no objection subject to a condition regarding previously unidentified contamination and to an informative regarding the treatment of any contaminated soil.

Two letters of objection have been received, in summary raising the following concerns:

- Detrimental visual impact to existing line of dwellings and to scenic landscape character;
- Out of character, garden grabbing;
- Overdevelopment and precedent to higher density housing;
- Loss of privacy and light, including as boundary to no. 765 is not over 6ft; and
- Registered smallholding at no. 765 may result in issues between animals and occupants of the proposed house.

Development Plan

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

Planning Appraisal

Background

During the 1970's applications were submitted in relation to the use of the land behind the Lower Rainham Road frontage dwellings for a car breakers business however these were refused. In 1997 two lawful development certificates (LDC's) were granted for uses which

had occurred (for in excess of ten years) and had therefore become lawful by the passage of time – the use of land for the storage and maintenance of 10 banger racing cars on land to the rear of the existing curtilages of 765 and 769 Lower Rainham Road and the use of land as a country & western re-enactment club on land some distance to the northwest of this. These uses are not currently active but relate to land in the ownership of the current applicant, who purchased the land relatively recently. In respect of the current proposal pre-application advice was sought. This set out the relevant policy framework it did not clearly indicate that development of the nature proposed would be unlikely to be acceptable in this location.

Principle

The existing curtilage of no. 769 is located within the rural settlement of Lower Rainham as defined by Policy H11 of the Local Plan. The area to the rear of this is shown as a rural area allocated as a country park by Policy L9 (although it is not part of the Riverside Country Park area) and as an Area of Local Landscape Importance by Policy BNE34 of the Local Plan. Policy BNE25 also provides advice on development in rural areas. The proposed dwelling and its frontage would be within the area of the settlement and its rear garden would be within the rural area. Also of relevance is Policy H9 of the Local Plan which gives advice on backland and tandem development. In effect the proposal is for a tandem development, consisting of one house immediately behind another, sharing the same access, although the access also provides access to the land further to the rear.

Policy H9 of the Local Plan says that tandem development will not be permitted. This is on the grounds that such arrangements generally cause disturbance and loss of privacy to the house at the front. However of greater concern in this particular location is that the proposed dwelling would be clearly visible from adjacent rural areas, particularly when approaching from the east along Lower Rainham Road, and that it would appear intrusive, out of character and at odds with the existing linear pattern of development along the road frontage. This would also be harmful to the character and appearance of the adjoining rural area, which the garden would project into. It is considered that such development would be contrary to Policies H9, BNE1 and BNE25 of the Local Plan. Although paragraph 49 of the NPPF says that housing applications should be considered in the context of the presumption in favour of sustainable development, paragraph 53 refers to local planning authorities setting out policies for resisting inappropriate development of residential gardens, for example where development would cause harm to the local area. In the current case it is considered that the harm identified overrides the general presumption in favour of the addition of new dwellings.

Following the above concerns which have been raised with the applicant an additional submission has been made. This proposes landscaping and ecological enhancement works to the rear part of the site as well as to a much larger area behind. This includes the enhancement of the area of land subject of the LDC for the storage and maintenance of 10 bangers racing cars, saying that whilst this use is not active at the moment they are willing to legally extinguish this current right. At present this is a fairly unkempt area consisting mainly of hardsurfacing, the overgrown remains of structures and rough

habitat. The applicant is willing to clear the land of buildings, rubble and hardstandings and to landscape the area following consultation with an ecologist. However whilst it is recognised that such works could have a positive impact on this land it is not considered that this would outweigh the harm which would result from the new dwelling, as identified above. It is considered that the new dwelling would have a greater impact, particularly from a visual perspective, than the proposed enhancement works. In addition although the extinguishment of the LDC could be achieved it is unlikely that the use for storage of banger racing cars, which has not been in operation for many years, is likely to resume in any case, reducing the potential benefit of this suggestion.

Design and Landscape Impact

This section of Lower Rainham Road has a mix of dwelling design include both single and two storeys. The design of the proposed two storey house has taken a modern approach with a dual gabled slate roof, white rendered walls and large areas of glazing including within the gables. Whilst the design in itself may well be considered attractive, as stated above, it is considered that in this rear garden location on the rural edge it would appear intrusive and out of keeping with its surroundings. It is recognised that it would replace existing outbuildings which are not of visual merit, however these are single storey and subservient to the main Lower Rainham Road frontage development and so currently have a very limited visual impact.

The rear of the site is located within an ALLI and the whole of the site is within character area 5, Riverside Marshes, of the Medway Landscape Character Assessment 2011 (MLCA). The MLCA describes the landscape as urban fringe in moderate condition and of moderate sensitivity. It notes the importance of the buffer between the urban edge of Gillingham and the wildlife sites to the north, the issues including the urban fringe degradation and threats to loss of distinctive character and the guidelines including the need to ensure that new development proposals protect the area from adverse visual and landscape character impacts. It is considered that the position of the proposed house, behind the line of existing development, would be harmful to the character and appearance of this area.

In summary the visual and landscape impact of the development is considered unacceptable including with regard to Policies BNE1 and BNE34 of the Local Plan, the advice in the MLCA and paragraphs 56 and 113 of the NPPF.

Amenity

There are two main amenity considerations, the impact on neighbours and the standard of amenity which would be experienced by potential residents of the site itself.

Aside from the applicant, who lives at no. 769, the neighbour most closely affected by the development is to the west, no. 765. The proposed dwelling would be set back from the closest part of no. 769 by 22m, a similar distance behind the rear of no. 765 although at an angle, 11m from the proposed (reduced) rear garden boundary of no. 769. Although the

relationship would not be ideal, the new house facing the rear of the existing dwellings, it is considered that this separation distance would be sufficient to mitigate loss of privacy. The side windows facing towards the rear garden of no. 765 would serve a bathroom and en-suite and so would be obscure glazed. Enhanced boundary treatment could be secured by condition to mitigate the impact of the proposed ground floor store and utility doors to this side.

With regard to light and overbearing impact the proposed dwelling would be located to the north of the existing dwellings and would be set back by some 22m. On balance this relationship is therefore considered acceptable, although as detailed above concerns are raised regarding the impact of the rear garden setting on the overall character of the area. A neighbour has raised concern as animals are kept at no. 765 as part of a registered smallholding (there is a stable type outbuilding at the rear of its back garden). However it is not considered that this relationship with the proposed house need be unacceptable, including as the rear garden for the house would not adjoin the rear garden/outbuilding of no. 765 but would be sited further back.

The siting of a dwelling to the rear of the existing development in Lower Rainham Road would introduce additional activity and traffic movements into this rear area, including along the track to the side of no. 769. The proposed parking for the house would also be close to the back of the reduced rear garden of no. 769. This would not be ideal and would be as a result of the development being at odds with the existing pattern of dwellings in the area.

With regard to the amenities of future occupants of the development itself the proposals have been assessed against the technical housing standards – nationally described space standard (the national standard) and, for matters not covered by this, with regard to the Medway Housing Standards 2011 (MHS). The development would comply with the national standard and would also provide a garden in excess of the minimum size required by the MHS.

In summary whilst the development would be at odds with the character of the area, on balance, whilst not ideal, the amenity impacts of the development are considered satisfactory including with regard to Policy BNE2 of the Local Plan and Paragraph 17 (point 4) of the NPPF.

Highways

Two parking spaces would be required to meet the adopted parking standards and these are shown to be provided. There is also a parking area for the existing dwelling within its frontage. The access is considered to be satisfactory and no objections are raised with regard to Policies T1, T2 and T13 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 £239.61 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 in principle to pay this tariff but no unilateral undertaking has been submitted in view of the recommendation of refusal. No objection is raised under Paragraphs 109 and 118 of the NPPF and Policies S6 and BNE35 of the Local Plan.

Other matters

In view of the past use of the site a condition regarding potential contamination would be proposed if approval was to be recommended with regard to Policy BNE23 of the Local Plan and Paragraph 120 of the NPPF.

As part of the garden area would be in Flood Zone 2 the Environment Agency has been consulted on the application however no objection is raised in this respect.

Local Finance Considerations

There are no relevant local finance considerations.

Conclusions and Reasons for Refusal

In summary, it is considered that the siting and design of the proposed development would result in an intrusive appearance, out of character and harmful to the locality on this rural edge. Such development would be contrary to Policies H9, BNE1, BNE25 and BNE34 of the Local Plan and to Paragraphs 56 and 113 of the NPPF and it is not

considered that the environmental enhancements proposed would adequately mitigate this adverse effect. Refusal is therefore recommended.

The application would normally be determined under delegated powers but is being referred to Planning Committee as pre-application advice did not clearly indicate that planning permission was unlikely to be granted for a development of this nature.

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://publicaccess1.medway.gov.uk/online-applications/>