

MC/18/0121

Date Received: 15 January 2018

Location: Land East West And North Of Formby Road And Rear Of 5-10 Formby Terrace Halling Rochester

Proposal: Construction of a street works facility with workshop, office and store area as well as additional B1 and B8 start-up business units, associated access, parking and landscaping on the land to the east of the A228 Formby Road

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Ward: Cuxton And Halling Ward

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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 4th July 2018.**

**Recommendation - Approval with 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:

17-48-01A, 17-48-05, 17-48-06B, 17-48-07 , 12413-H-01 Rev P1received 15/01/2018, 29/03/2018 and 03/05/2018

Reason: In the interests of proper planning and development of the site.

- 3 No development above ground floor slab level of any part of the development hereby approved shall commence until a schedule/sample of the materials and finishes to be used in the construction of the external walls, roofs, windows, doors and guttering of the buildings hereby permitted have been submitted to and approved in writing by the Local Planning Authority. 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 Local Plan.

- 4 No building shall be occupied until a plan indicating the positions, design, materials and type of boundary treatment to be erected along the eastern, northern, southern boundaries of the site together with means of enclosure around the open storage areas adjacent to units 1 and 4 have been submitted to and approved in writing by the Local Planning Authority. The boundary treatment and enclosures shall be completed in accordance with the approved details before any of the industrial units and ancillary open storage areas are 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.

- 5 No development shall take place until there has been submitted to and approved by the Local Planning Authority a scheme of landscaping (hard and soft). All planting, seeding and turfing comprised in the approved scheme of landscaping shall be implemented during the first planting season following occupation of the buildings or completion of the development, whichever is the earlier. Any trees or plants which within 5 years of planting are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless the Authority gives written consent to any variation.

Reason: Pursuant to condition 197 of the Town and Country Planning Act 1990 and to protect and enhance the appearance and character of the site and locality, in accordance with Policy BNE1 and BNE6 of the Medway Local Plan 2003.

- 6 No development above ground floor slab level of any part of the development hereby approved shall commence until a landscape management plan, including long term design objectives, management responsibilities and maintenance schedules for all landscape areas shall be submitted to the Local Planning Authority for approval in writing prior to the first occupation of the development. The landscape management plan shall be carried out as approved.

Reason: Pursuant to condition 197 of the Town and Country Planning Act 1990 and to protect and enhance the appearance and character of the site and locality, in accordance with Policies BNE1 and BNE6 of the Medway Local Plan 2003.

- 7 No development shall take place until a Construction Environmental Management Plan (CEMP) has been submitted to and approved in writing by the Local Planning Authority. The CEMP shall include amongst other matters details of: hours of construction working; measures for wheel cleaning/chassis cleaning facilities; dust control measures; pollution incident control and site contact details in case of complaints. The construction works shall thereafter be carried out at all times in accordance with the approved Construction Environmental Management Plan, unless any variations are otherwise first submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reason: In the interests of highway safety and amenity of the area and in compliance with Policies BNE2 and T1 of Local Plan.

- 8 No external lighting or illumination of any part of any building or the site shall be installed or operated unless and until details of such lighting or illumination have been submitted to and approved in writing by the Local Planning Authority, and such works, and use of that lighting and/or illumination, shall be carried out and operated only in full accordance with those approved details.

Reason: To ensure that any lighting is designed so as not to detrimentally affect the amenities of the occupiers of nearby properties in accordance with Policy BNE2 and of the local plan.

- 9 No development above ground floor slab level of any part of the development hereby approved shall commence until details of the electric vehicle charging points at the ratio of 1 charging point per industrial unit have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details prior to the first occupation of the industrial units and thereafter, the charging points shall remain available for use at all times.

Reason: In the interests of creating a more sustainable development and improving air quality in accordance with Policies BNE2 and BNE24 the Local Plan and the National Planning Policy Framework.

- 10 None of the industrial units hereby permitted shall be occupied until the vehicle parking spaces associated with the industrial units and turning circle area as shown on the drawing 17-48-06B have been constructed in accordance with the approved plan. The parking spaces and turning circle shall thereafter be retained at all times for their designated purpose.

Reason: In the interests of residential amenities and highway safety and in compliance with Policies BNE2 and T13 of the Local Plan.

- 11 If, during development, contamination not previously identified is found to be present at the site then no further development shall be carried out until the developer has submitted a method statement, and obtained written approval from the Local Planning Authority. The Method Statement must detail how this unsuspected contamination shall be dealt with.

Reason: In the interests of amenities of the future occupier of these industrial units and in compliance with Policy BNE23 of the Local Plan.

- 12 No development shall take place until a scheme showing details for the disposal of surface water, based on sustainable drainage principles, including details of the design, implementation, maintenance and management of the surface water drainage scheme have been submitted to and approved in writing by the Local Planning Authority.

Those details shall include (if applicable):

- i. a timetable for its implementation, and
- ii. a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public body or statutory undertaker, or any other arrangements to secure the operation of the sustainable drainage scheme throughout its lifetime.

Reason: To manage surface water during and post construction and for the lifetime of the development.

- 13 Prior to occupation of the development, a signed verification report carried out by a qualified drainage engineer (or equivalent) must be submitted to and approved by the Local Planning Authority to confirm that the Sustainable Drainage System has been constructed as per the agreed scheme and plans.

Reason: To manage surface water during and post construction and for the lifetime of the development.

- 14 No development shall commence until the existing toucan crossing has been relocated in accordance with the details as shown in the drawing 12413-H-01 Rev P1 and made fully operational to the satisfaction of the Local Highway Authority.

Reason: In the interest of amenity and highway safety and in compliance with Policies BNE2 and T3 of the Local Plan.

- 15 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) (Order) 2015 as amended no development

within Schedule 2, Part 3, Class I(b) shall be carried out without the permission of the Local Planning Authority.

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.

- 16 No open storage outside the open storage areas to the north of unit 1 and south of unit 4 shall take place and no stored materials, machineries or equipment shall be stored or stacked exceeding 3m in height.

Reason: In the interests of visual amenities of the area and in compliance with Policy BNE2 of the local plan..

- 17 The acoustic fence along the western boundary of the site hereby approved shall be installed in full prior to the occupation of any of the industrial units hereby permitted. The installed acoustic fence shall be retained as such thereafter.

Reason: To enable the Local Planning Authority to control such development in the interests of amenity, in accordance with Policies BNE2 and BNE3 of the Medway Local Plan 2003.

- 18 The B1 and B8 uses hereby permitted shall only operate between the hours of 7.00 to 19.00 hours Mondays to Fridays inclusive and between the hours of 7.30; to 13.00 on Saturdays and none at all on Sundays and Public Holidays.

Reason: To ensure that the development does not prejudice the amenities of neighbouring property 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 is for the construction of a terrace of 4 industrial units to be used for B1 (Office/light industrial) and/or B8 (storage and distribution) start up units comprising:

- Unit 1- with ground floor area of 147.4 m<sup>2</sup> and mezzanine floor area of 41.6m<sup>2</sup>; total floor area of 189m<sup>2</sup> and overall height of 7m. Together with ancillary open storage area of 80m<sup>2</sup> to the north.
- Unit 2- with ground floor area of 168.4m<sup>2</sup> and mezzanine floor area of 48.6m<sup>2</sup>; total floor area of 217m<sup>2</sup> and overall height of 8m.
- Unit 3- with ground floor area of 189.3 and mezzanine floor area of 55.6m<sup>2</sup>; total floor area of 244.9 m<sup>2</sup>. And overall height of 9m.

- Unit 4- with ground floor area of 189.3 and mezzanine floor area of 55.6m<sup>2</sup>; total floor area of 244.9 m<sup>2</sup>. and overall height of 9m. Together with ancillary open storage area of 132m<sup>2</sup> to the south.
- A new vehicular access to the industrial units from A228. This will be shared by the occupiers of residential dwellings proposed under ref MC/18/0175 and the car parking provision associated with the existing Formby Terrace houses.
- Relocation of the existing toucan crossing further to the north.
- Erection of no less than 2 m high an acoustic fence to separate the industrial units, associated open storage areas and the car parking area from the residential units to the west.
- On site car parking provision for 20 cars, bicycle storage area and turning area for commercial vehicles.

## Relevant Planning History

MC/18/0175	Construction of no 7 dwelling houses with associated landscaping, car parking and vehicular access from A22 On this agenda.
MC/17/4048	Proposed off-street car parking area comprising 24no. spaces to the rear of Formby Terrace to provide improved parking arrangements for existing dwellings Decision Approval With Conditions Decided 18 January 2018
MC/17/1270	Construction of 24 Flats with associated car parking Decision Refused 14 February 2018
MC/16/3644	Application for non-material amendment to planning permission MC/14/1486 for variation to condition 2 (submission of reserved matters) and condition 37 (acoustic mitigation) Decision Approval Decided 2 November, 2016
MC/12/0801	Prior notification of proposed demolition of former office buildings (B1a) and canteen buildings ancillary to the previous industrial use of the main site east of A228 Decision Application Required Decided 27/04/2012

MC/07/2153	<p>Outline application for redevelopment of existing cement works and associated land to provide 3000sq metres of employment floors space (B1, B2 and B8); 550 dwellings; local centre to include 700sq metres of retail floors space; public house/restaurant; doctor's surgery; office/studio; vehicular access; new pedestrian/cycleway bridge across A228; alterations to public highway; ground modelling and earthworks; sports pitches; open space; nature conservation facilities and landscaping</p> <p>Decision Approval With Conditions</p> <p>Decided 01/10/2009</p>
MC/12/1791	<p>Hybrid application for outline details for demolition of existing buildings and provision of employment up to 3,000sqm floor space (B1, B2, B8), doctors surgery up to 1,000sqm (D1) and/or a 40 unit extra care facility, pub/restaurant up to 850sqm (A3/A4), new pedestrian/cycleway bridge across A228; alterations to public highway; sports pitches and ancillary structures including means of access with all other matters reserved. Full details for 385 residential dwellings including demolition of existing structures, vehicular access and landscaping; open space; nature conservation facilities; ground modelling and earthworks and ancillary buildings</p> <p>Decision Approval With Conditions</p> <p>Decided 29 August 2013</p>

## Representations

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

**Two Letters** of representation have been received stating the followings:

- The land to the south is to be used for a sport facility,
- There will be more traffic, noise and poor air quality.
- Lack of amenity for the residents of Halling as yet more houses are proposed.
- The location of the foot bridge is inappropriate and is not suitable for buggies and wheel chairs.

**Southern Water** Our initial investigations indicate that there are no public surface water sewers in the area to serve this development. Alternative means of draining surface water from this development are required. This should not involve disposal to a public foul sewer.

**KCC Ecology** has no objection subject to appropriate conditions being imposed in relation to protected species, trees and lighting.

**The Environment Agency** has no objection.

## **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*

The site comprises an irregular area of land of approximately 0.94 hectares and is situated to the west of railway line and east of Formby terrace.

Formby Terrace comprises 12 two-storey houses with first-floor windows on the southern and northern flank elevations of the end terraces and small front gardens. These houses have recently undergone extensive refurbishment and modernisation. Also, under MC/17/4048 permission has been granted for a new access from the south side of the end terrace and provision for 24 car parking spaces and turning area to the rear of these houses incorporating part of their former rear gardens. This permission has been implemented.

If permission is granted for this development and/or MC/18/0175 (residential development for 7no dwelling houses) then this will amend the access and parking arrangements approved under MC/17/404.

During 1960 the application site formed part of Cemex operational area and included buildings and open storage, however, post-1990, the land was used for car parking in association with Cemex activities; therefore the land has been used as an employment land by Cemex.

Vehicular access to the site has always been from the Cemex private road to the north. This access is no longer available to the applicant; hence the new access proposed from the A228.

As part of the MC/12/1791 permission and the approved parameter plan the application site and the land to the west and north were identified for employment purposes and the land to the south of the proposed access for sports uses. The retention of Formby Terrace and the provision of the access and parking area has effectively amended that parameter plan in part.



### *Principle*

The site has been used for employment purposes and is situated within an area designated for employment purpose. The Policy S1 of The Medway Local Plan 2003 (the Local Plan) prioritises development in the urban area of Medway and Policy ED1 lists the site as an Existing Employment Area where B1, B2 (general industrial) and B8 uses will be permitted. This policy states that proposals for development on these sites that results in the loss of existing industrial, business or storage and distribution development to other uses will not be permitted. In addition Policy BNE26 deals with business development within or on the edge of rural settlements. Bullet point 1 of this policy would only allow development when it is either small in scale, appropriate to the size of the settlement and without detriment to the amenity, character or setting of the village and the second bullet point only allows business development ...having minimal detrimental impact on the character and amenity of the settlement; not result in volumes of traffic that would significantly damage rural amenity; and is accessible by public transport, walking and cycling.

The proposal is considered to be small in scale, and would provide business provision for small business operators. In addition, the NPPF seeks to ensure the building of a strong, competitive economy and in this respect the provision of small start-up units would be consistent.

As stated in the background section, the application site has extant outline permission for development of the land for employment purposes under ref MC/12/1791 as part of a larger development (The parameter plan associated with the St Andrews Park development which identified the application site for employment use).

It is considered that the principle of the employment use of the land has already been established by reason of the historical use of the land and the outline permission granted under MC/12/1791. As such the proposal for B1 and B8 uses would comply with Policies ED1 and BNE26 of the local plan and the proposal is acceptable subject to the detail consideration of the remaining issues relating to the design, amenities and highway safety.

### *Design*

Whilst the development would have greater mass, scale and built form than the previous uses, the overall scale of the development would not appear disproportionate in relation to the wider surroundings.

Policy BNE1 of the local plan requires that all development be appropriate in relation to the character, appearance and functioning of the built and natural environment, in terms of scale, mass, proportion, layout and appearance.

The buildings are designed to be functional and are typical of what is usually expected of commercial building for B1 and B8 uses.

The design of the individual units comprise double height roller shutter doors with double door at a lower level and a single window at a high level to the front elevation of the units except for unit no 2 that would have two roller shutters on the front aspect. The rear elevation facing the railway embankment would comprise first floor windows serving the mezzanine floor area and a back access door (fire escape) at the ground floor level. The units would have shallow pitched roof with varying overall height ranging from 7m for the smallest unit to the north and 9m for the largest unit towards the southern end.

No details about the external finish materials have been provided. To ensure the external appearance of these buildings would be in keeping with the materials used in the locality, an appropriate condition is recommended.

A noise assessment has been submitted which recommends erection, at a height of no less than a 2m high, an acoustic fence along the entire western boundary of the application site. This is considered to be acceptable in visual terms.

Overall, the proposed development is considered to be acceptable and accords with Policies S1 and BNE1 and BNE26 of the local plan and the NPPF.

### *Amenity*

The proposed development is located in close proximity to residential properties to the west and, as indicated above, the proposed use is not dissimilar to the use of the site by cemex as open storage and associated buildings. The proposed buildings would not cause any undue impact on the visual amenities of neighbouring residents by reason of overlooking or over shadowing or the prospective occupiers of the houses proposed as part of MC/18/0175. A condition is recommended regarding the height of any storage within the proposed storage areas in the interests of visual amenity

As indicated above this land has been historically used for employment purposes and this has been reaffirmed by the outline permission granted under ref MC/12/1791 and as such the use of the land for employment purpose would not introduce a new use in this locality.

To ensure that these units and the associated yard are not in used during unsocial hours and deliveries are carried out during opening hours a condition is recommended to restrict the days and the hours of the use of these units.

The proposed vehicular access to these industrial units would be shared by the occupiers of the Formby Terrace and 7 new houses proposed under ref MC/18/0175. It is considered that the dominant use of the access would be by the occupiers of these 19 dwellings and the associated visitors and the vehicular movement associated with the industrial use would not significantly harm the amenities of the occupiers of these houses subject to the above recommended condition controlling the opening hours of the businesses.

To ensure that the amenities of the local residents are not adversely impact during the construction period a Construction Environmental Management Plan condition is recommended.

In terms of noise impact from the industrial use, the proposed acoustic fence will protect residential amenity, although there will be a small area of noise breakout when the access gate to the industrial units is open. However, this will only be for short periods while vehicles pass through it, while the dwellings proposed under MC/18/0175, will themselves provide a noise buffer to rear garden areas.

The proposed development, therefore, complies with the Policies BNE2, BNE3, BNE24 and BNE26 of the Local Plan.

### *Highways*

The applicant has prepared a Transport Statement and Travel Plan to support their application.

The new vehicular access drive would serve these industrial units and the residential units to the west.

The proposal makes provision for 20 car parking bays and cycle parking. It is also considered that the site is accessible by public transport and the nearest bus stop is less than 100m away.

Due to highway hazard associated with reversing on to A228 and to prevent commercial vehicles obstructing access to the residential car parking area to the rear of Formby Terrace, a further condition is recommended requiring the gates on the south west corner of the industrial compound be designed to provide a recessed refuge parking area within the turning area and outside the gates of the industrial yard there should be a space for a commercial delivery vehicle in case one arrives outside the opening hours of the industrial units.

The existing toucan crossing is situated directly in front of the vehicular access point to the application site and it would be necessary for this to be relocated further to the north as shown on drawing 12413-H-01 Rev P1. To ensure that the removal of the toucan crossing would not be prejudicial to the amenities of the local residents it is recommended that a Grampian condition be imposed requiring that the toucan crossing be relocated prior to the commencement of any part of the developments under applications MC/18/0121 and MC/18/0175.

Having regard to the above it is considered that the proposed access and the level of car parking and cycle parking provision provided is acceptable and the proposal would be in compliance with Policies T1, T2, T4 and T13 of the local plan subject to the recommended conditions.

### *Contamination*

Due to the former commercial activity on this site, there is potential for contamination to be present on the site. The potential contamination issues would require further assessment.

As a desk top study has been submitted with the planning application and the report recommends a phase 2 investigation be under taken it is recommended that an appropriate condition be imposed. The proposal would accord with Paragraph 121 of the NPPF and Policy BNE23 of the Medway Local Plan 2003.

### *Flood Risk*

A flood risk and surface water management report has been submitted with the application. The report confirms that the site falls within flood zones level 2 and 3 on the Environment Agency Flood Map.

Policy CF13 states that in a Tidal Flood Risk Area development will not be permitted if it harms the integrity of the flood defence and fails to provide a means of escape for people in the event of a flood.

The proposal will not result in concerns regarding flooding and the Environment Agency have not raised any objections as a result.

### *Surface water management*

The recommended preferred option would be the use of infiltration. As long as there are no groundwater conditions which would preclude the use of infiltration, soakaways may be acceptable subject to further infiltration and geotechnical testing. British Geological Survey data suggests there are ground stability areas which would need to be explored further.

If it is proposed to discharge to the local sewer network, flows should be restricted to that stipulated by Southern Water. Due to the proximity of the development location to the tidal River Medway, it may be necessary to attenuate flows as long as there is sufficient capacity in the existing sewer system.

This could be considered alongside the use of source controls to account for the first flush principle, whereby the first (m5-60) portion of rainfall is intercepted and treated on site, for example via permeable paving (or a lined system where infiltration is not possible).

It is also recommended that rainwater harvesting, grey water recycling and water butts be used where practicable in order to provide an additional means of surface water attenuation as well as reduced demand on potable water supplies.

It should be ensured that there is a maintenance schedule in place for the lifetime of the development to maintain any SuDs which serve it.

The proposal is considered acceptable subject to the recommended conditions to deal with the disposal of surface water and a verification report confirming that the approved scheme has been implemented in full prior to the occupation of the development so as to not increase flood risk onsite or elsewhere.

The proposal therefore would accord with policy CF13 of the local plan.

#### *Air quality*

An air quality assessment report has been submitted with the application. The report has concluded that the A228 is a significant source of road vehicle exhaust emissions. The report also considers the potential impact of fugitive dust emission on the air quality during the construction phase.

It is considered that the proposed development and the level of traffic associated with it would not significantly increase the level of nitrogen dioxide and particulate matter at any sensitive location within the proposed development site. In addition it is considered, given the nature of the development proposed, that the uses would not significantly impact on the air quality of the local residents.

The proposal has not made any provision for electric vehicle charging points within the site. It is therefore recommended that a condition be imposed requiring at least one electricity charging point be provided per industrial unit.

The proposal therefore would accord with policy BNE24 of the local plan.

#### *Local Finance Considerations*

None

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

The proposed development will result in the redevelopment of a derelict site within an employment area. The development represents a sustainable form of development in the economic, environmental and social dimensions as required by the NPPF and is in compliance with Policies S1 and BNE26 of the Local Plan.

The proposed new industrial units would, in terms of its scale and design, be in keeping with its surroundings and would not cause any amenity or highway issue and as such accord with Policies S1 ED1, BNE1, BNE2, BNE3, MNE23, BNE24, BNE26, T1, T2, T4 and T13 of the Local Plan.

The proposed development is therefore considered to be acceptable and is recommended for approval.

This application would normally be determined under delegated authority but is being

reported to planning committee due to a member interest in the land.

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