

MC/18/0155

Date Received: 16 January 2018

Location: Former Timber Merchants And Land Behind 13-15 Borough Road
Gillingham ME7 4LS

Proposal: Development of 8 residential properties comprising 2 x 3 bed & 6 x 2 bed houses, accessed by new shared surface with associated parking, covered parking and landscaping

Applicant Mr Azad

Agent Mr Appleby 223 Napier Road
Leonard
Gillingham
ME7 4HN

Ward: Gillingham South Ward

Case Officer: Madeline Mead

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 1st August 2018.

Recommendation - Approved Subject to S106 :

A. The completion of a Unilateral Undertaking to secure a contribution of £223.58 (per dwelling) towards bird mitigation in North Kent:

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 1013-110 received 16 January 2018; 1013-120 Revision A, 1013-140 Revision A, 1013-180 Revision A received 18 June 2018; 1013-25 Revision B, 1013-40 Revision B, 1013-50 Revision B, 1013-60 Revision B, 1013-150 Revision B, 1013-160 Revision B and 1013-170 Revision B received on 13 July 2018.

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

- 3 No development shall take place until an investigation and risk assessment, in addition to any assessment provided with the planning application, has been 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 before commencement of development to avoid any irreversible detrimental impact on human health and/or water courses as a result of the potential mobilising of contamination and in accordance with Policy BNE23 of the Medway Local Plan 2003.

- 4 No development shall take place until 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 has been prepared and submitted to and approved in writing by the

Local Planning Authority. 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 before commencement of development to avoid any irreversible detrimental impact on human health and/or water courses as a result of the potential mobilising of contamination and in accordance with Policy BNE23 of the Medway Local Plan 2003.

- 5 No development shall take place (other than development required to enable the remediation process to be implemented) until the approved remediation scheme has been carried out in accordance with its terms. 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 before commencement of development to avoid any irreversible detrimental impact on human health and/or water courses as a result of the potential mobilising of contamination and in accordance with Policy BNE23 of the Medway Local Plan 2003.

- 6 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 3, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 4, 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 4 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 5.

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.

- 7 No development, shall take place until a Construction Environmental Management Plan has been submitted to and approved in writing by the Local Planning Authority. The Construction Environmental Management Plan shall include amongst other matters details of: hours of construction working; measures to control noise affecting nearby residents; 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.

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.

- 8 No development above slab level shall take place until details and 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 implemented 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.

- 9 No dwelling shall be occupied until a plan indicating the positions, design, materials and type of boundary treatment to be erected has been submitted to and approved in writing by The Local Planning Authority in accordance with the approved details before any dwelling 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.

- 10 No dwelling shall be occupied until the alleyway to the rear of the properties on Napier Road and shown on drawing number 1013-25 Rev B, has been reinstated and fenced off from the development in accordance with details to be submitted and approved under condition 9.

Reason: To ensure rear access remains to the properties in Napier Road.

- 11 No development above slab level shall take place until drawings of the bin storage enclosures adjacent to plot 1 have been submitted to and approved in writing by the Local Planning Authority. No dwelling hereby approved shall be occupied until the approved refuse storage arrangements are in place and all approved storage

arrangements shall thereafter be retained. The residents shall thereafter present to the collection point only on the day of refuse collection.

Reason: To ensure that refuse vehicles do not have to enter the site to collect refuse in accordance with Policy T1 of the Medway Local Plan 2003.

- 12 Prior to the first occupation of any dwelling herein approved, full details of both hard and soft landscape works, a timetable for implementation and details of maintenance arrangements shall be submitted to and approved in writing by the Local Planning Authority. The development shall be implemented and maintained in accordance with the approved details and 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.

Reason: To ensure a satisfactory external appearance and provision for landscaping in accordance with Policies BNE1 and BNE6 of the Medway Local Plan 2003.

- 13 No dwelling herein approved shall be occupied until the area shown on the submitted layout as vehicle parking space has been provided, surfaced and drained. Thereafter it shall be kept available for such use and no permanent development, whether or not permitted by the Town and Country Planning (General Permitted Development) Order 2015 (or any order amending, revoking or re-enacting that Order) 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: Development without provision of adequate accommodation for the parking or garaging of vehicles is likely to lead to hazardous on-street parking and in accordance with Policies T1 and T13 of the Medway Local Plan 2003.

- 14 No development shall take place until a tree impact assessment and measures to protect and prune trees T1 & T2 as marked on the Arboricultural survey and constraints report dated 29 November 2017, has been submitted to and approved in writing by the Local Planning Authority. The works shall then be carried out in accordance with the approved details and any protection measures shall remain in place throughout the duration of the construction phase.

Reason: Required prior to commencement to protect the trees, in accordance with Policies BNE1 and BNE6 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 proposes the construction of a pair of 3-bedroom semi-detached houses and three pairs of 2-bedroom semi-detached houses. The dwellings are two storey in height with parking located within a parking area in the middle of the site or adjacent to plot 2. The parking areas within the middle of the site are covered parking areas.

The pair of semi-detached 3-bedroom houses would provide a kitchen, living/dining and w.c. at ground floor level and three bedrooms, one with en suite and a bathroom at first floor level.

The three pairs of 2-bedroom semi-detached houses would provide a kitchen, living/dining and w.c. at ground floor and two bedrooms and a bathroom at first floor level.

The proposed development would be accessed via an existing vehicular crossover on Borough Road and provide a shared access for the development.

The layout of the development would be a pair of semi-detached fronting onto Borough Road with the other dwellings positioned in a row at the rear of the site.

Site Area/Density

Site Area: 0.21 hectares (0.51 acres)

Site Density: 38 dph (16 dpa)

Relevant Planning History

MC/15/0937 Change of use from A1 to a 'Hand Car Wash Service' class B1/B2.
Decision: Withdrawn
Decided: 11 June 2015

MC/13/1748 Prior notification for demolition of single storey building
Decision: Approved with Conditions
Decided: 14 August 2013

Representations

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

Seventeen letters have been received from 12 different properties raising the following concerns:

- Concern over the demolition of the existing building.
- Limited on street parking in the vicinity.

- Further demand for on street parking.
- Existing alley to the rear of Napier Road properties has been removed.
- Proposed flat over parking spaces would be too high and cause overshadowing.
- View will be blocked by concrete wall.
- Type of residency for the properties.
- Loss of privacy
- Overlooking
- Impact this application will have along with the adjoining development site.
- Safety of vehicular access onto Borough Road.

Amended drawings were submitted showing the following:

- Flat above the parking area removed.
- 2/3 storey high terraced dwellings at the rear of the application site amended to three pairs of 2 storey high semi detached houses.
- Alley that provides rear access to properties in Napier Road retained.

Two further letters have been received following reconsultation on the amended drawings with the following comments:

- Not objecting to the loss of the alley as it is now shown on the proposed drawings.
- Flat removed from above car parking so no overshadowing.
- Better outlook.
- Concern that a road may run in the future from Borough Road through to Napier Road.

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

Principle

Paragraph 49 of the NPPF and Policy H4 of the Local Plan support the provision of housing development in urban areas and on previously developed land. The application site lies within the urban area of Gillingham. This site and the area to the north are designated as housing allocation (Policy H1) in the Local Plan. This application proposes to develop a quarter of the allocated site, approx. 0.20 hectares.

The Local Plan gives a nominal capacity for this site in its entirety at 25 dwelling units;

however, this is only a nominal figure. This application proposes 8 new dwelling units on this application site, achieving a density of 38 dwellings per hectare which is slightly lower than that put forward in the Local Plan for this specific allocation (41.66 dwellings per hectare across the whole site).

Policy H1 of the Local Plan stipulates that access should only be taken from Borough Road. This application proposes access from Borough Road and is therefore in accordance with the allocation within the Local Plan.

It should be noted that because of the location to the rear of existing properties, the proposal also constitutes backland development. Policy H9 of the Local Plan states that in some cases it may be acceptable to develop such “backland” sites for housing subject to a number of criteria. There will be a need to provide a proper means of access, suitable provision for parking and sufficient space between the existing and proposed buildings to preserve the amenity of the area and avoid overlooking. Sensitive design and landscaping will also be required, including the retention of any valuable existing natural features (such as trees).

Finally, Policy H1 of the Local Plan also states that relocation/re-siting of the existing commercial business is required. It is unclear to which business that this statement relates, it could relate to the commercial premises on Borough Road (which has been demolished under application reference MC/13/1748) or to the warehouse at 142a Napier Road, which has permission to be demolished under application MC/15/0576.

Subject to the consideration of the detailed matters set out in Policy H9 which are set out below, the principle of developing the site for housing is considered acceptable.

Design

Paragraph 56 of the NPPF attaches great importance to the design of the built environment and Local Plan Policy BNE1 advises that the design of development should be appropriate in relation to the character, appearance and functioning of the built environment.

The pair of semi-detached dwellings fronting Borough Road would be similar in design to the terraced properties within this road. They would retain the same square bay window feature at ground and first floor level with a pitched roof above and the main roof is gable ended. The properties to the rear of the development site are also in keeping with the existing terraced properties. They also have the square bay window with pitched roof over, although this feature is split between the two properties and are also of gable ended design.

The access road would run between plot 2 and number 11 Borough Road, to the side of plot 2 bin storage and four parking spaces are proposed. To the rear of plot 2 are two covered parking areas. The covered parking areas are open on all four sides and would have pitched roofs. Small areas of landscaping are proposed around the site to help

soften the impact of the hardstanding areas. A footpath that runs along the rear boundary fences of properties within Napier Road is to be retained and closed off from the development by 2m high fencing.

In terms of the design of the development, this is considered to be appropriate in relation to the character, appearance and functioning of the built and natural environment in terms of its use, scale, mass, layout and siting, It is also considered that the development would respect the scale, appearance and location of buildings, spaces and the visual amenity of the surrounding area in general conformity with the criteria set out in Policy BNE1 of the Local Plan and Paragraph 56 of the NPPF. A condition is recommended for the materials to be submitted.

Amenity

There are two main amenity considerations, firstly the impact of the proposed development on neighbours and secondly the living conditions which would be created for potential occupants of the development itself. Policy BNE2 of the Local Plan and bullet point 4 of paragraph 17 of the NPPF relates to the protection of these amenities.

Neighbours Amenity

Due to the siting of the pair of semi-detached dwellings fronting Borough Road it is not considered that they would have any detrimental impact on neighbouring properties in terms of daylight, sunlight, outlook and privacy.

The three semi-detached properties to the rear of the site would be, from the nearest proposed dwelling, approx. 32m from the rear elevation of properties in Napier Road, approx. 40m from the rear elevation of properties in Nelson Road and approx. 27m from the rear elevation of properties within Borough Road. Due to these distances it is not considered that the proposed development would have a detrimental impact in terms of daylight, sunlight, outlook and privacy.

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.

The proposed dwellings as stated on the plans would comprise two 3b5p dwellings and six 2b3p dwellings. The space standards require a gross internal floor area of 93m² for the 3b5p and 70m² for the 2b3p dwellings.

The two 3b5p dwellings would meet the 93m² gross internal floor area as required by the space standards and the six 2b3p dwellings would also meet the 70m² gross internal floor area as required by the space standards.

The proposal is therefore considered to provide adequately sized living accommodation for future occupants of the units.

The Medway Housing Design Standards requires a depth of 10m for private amenity space. All of the dwellings are provided with rear gardens and side access to these gardens. The three pairs of semi detached houses to the rear of the site would have gardens over 10m in depth. The two properties to the front of the site would have part of the gardens shorter than the depth required with the remaining part of the garden being approx. 12.5m in depth. Overall, given the urban location of the site, it is considered that adequate amenity space would be provided.

The construction of the development itself could lead to noise and dust emissions to nearby residential properties and therefore it is recommended that a condition is imposed requiring the submission of a Construction Environmental Management Plan.

Overall, 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.

Bin Storage

Bin storage can be provided within the rear garden areas of the proposed properties. The access road does not provide sufficient turning area for refuse vehicles to exit the development in a forward gear and therefore it has been proposed for refuse storage areas to be provided adjacent to plot 2 and be presented to the kerbside on the collection day.

Contamination

The former use of the site could have given rise to contamination. Policy BNE23 of the Local Plan and paragraph 121 of the NPPF requires that proposals for development of land likely to be contaminated be accompanied by the findings of a site examination, which identifies contaminants. A Phase 1 Environmental Report has been submitted with the application. The report is in line with current guidance and recommends an intrusive investigation be carried out due to the contamination risk from previous land use. It is considered that contamination issues can be adequately controlled by way of an appropriately worded condition. Subject to a condition to control contamination the application is considered to be acceptable and in accordance with paragraph 121 of the NPPF and Policy BNE23 of the Local Plan.

Trees

There are no trees within the application site, however, as identified on the arboricultural survey and constraints document submitted with the application there are trees and hedges within either neighbouring properties gardens or the adjacent development site.

The Leyland Cypress hedge, forms the boundary of the development site to the north (MC/18/0176 - 142 Napier Road). Within that application it is proposed for these to be removed and no objection was raised.

Trees T1 & T2, as identified on the survey, grow off site and are the trees most at risk from the proposed development. These trees are not protected, however, in the absence of an impact assessment and measures to protect the trees during construction it is considered that a condition be attached to any forthcoming planning permission.

Subject to the condition, the application is considered to be in accordance with Policy BNE43 of the Local Plan.

Highways

The details submitted indicate that the existing access from Borough Road will serve the proposed development. This access previously served a commercial building that operated as a timber merchants. Taking the number of vehicle movements that were associated with this previous use it is considered that the proposed houses would not generate a substantial amount of traffic above that and as such is considered acceptable.

The access driveway is approx. 5.5 metres wide, which allows two vehicles to pass each other and is suitable for shared use with pedestrians.

A vehicle emerging from the access will have visibility of least 43 metres along Borough Road in each direction, which accords with guidance, and there is acceptable visibility of pedestrians approaching on the footway.

It is proposed for 15 car parking spaces to be provided within the site. Medway Council's Parking Standards would require 13 parking spaces for the occupiers of the dwellings and 2 car parking spaces for visitors. The proposed development therefore provides sufficient parking for the proposed development.

It is considered that the proposed development would comply with 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 £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.

Conclusions and Reasons for Approval

The proposal is considered acceptable in terms of design, amenity and highway aspects and with regard to all other material planning considerations. The proposal accords with the provisions of Policies H1, H4, H9, BNE1, BNE2, BNE23, BNE35, BNE43, H1, S6, T1 and T13 of the Local Plan and Paragraphs 17, 56, 109, 118 and 121 of the NPPF, the application is accordingly recommended for approval.

The application would normally be determined under delegated powers but is being referred for Committee determination due to the number of the representations received expressing a view contrary to officer's 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://publicaccess1.medway.gov.uk/online-applications/>