

MC/18/0175

Date Received: 16 January 2018

Location: Land East Of Formby Road (Adjacent And Rear Of 1-12 Formby Terrace) Halling Rochester Kent

Proposal: Construction of 7 no. dwelling houses (comprising a pair of demi detached and a terrace of 5 dwelling houses) with associated parking, access, infrastructure and landscaping works

Applicant N/A

Agent Mr Collins Dha Planning
Eclipse House
Eclipse Park
Sittingbourne Road, Maidstone
ME14 3EN

Ward: Cuxton And Halling Ward

Case Officer: Majid Harouni

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 29th August 2018.

Recommendation - Approval subject to:

A. The submission of a Unilateral Undertaking to secure £1677.27 (£239.61 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:

17/9907/DWG/AJ/2 Rev G, 17/9907/DWG/AJ/50 Rev B, 17/9907/DWG/AJ/51 Rev B, 17/9907/DWG/AJ/60 Rev A, 17/9907/DWG/AJ/61 Rev A 12413-H-01 Rev P1 received 11/04/2018 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 boundaries of the site and between dwellings have been submitted to and approved in writing by the Local Planning Authority. The boundary treatment shall be completed in accordance with the approved details before any of the dwellings 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 above ground floor slab level 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 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.

- 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 within Schedule 2, Part 1, Classes A, B, C, D, E and F 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.

- 8 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 dwelling where parking is allocated and 1 per 10 dwelling where parking is communal 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 dwellings 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.

- 9 None of the dwellings hereby permitted shall be occupied until the vehicle parking spaces associated with the dwellings as shown on the drawing 17/9907/DWG/AJ 2 Rev G have been constructed in accordance with the approved plan. The parking spaces and turning area 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.

- 10 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, including a timetable for implementation. The approved Method Statement must be carried out in accordance with its terms..

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

- 11 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.

- 12 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.

- 13 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.

- 14 No development shall take place until a "lighting design strategy for biodiversity" for the site boundaries has been submitted to and approved in writing by the local planning authority. The lighting strategy shall:

- A) Identify those areas/features on site that are particularly sensitive for badgers and bats and that are likely to cause a disturbance in or around their breeding sites and resting places or along important routes used to access key areas of their territory;
- B) Show how and where external lighting will be installed so that it can be clearly demonstrated that areas to be lit will not disturb or prevent the above species using their territory.

Reason: In the interests of wildlife habitats and in compliance with Policy BNE37 of the Local Plan.

- 15 All external lighting shall be installed in accordance with the specifications and locations set out in the strategy approved under condition 14 and these shall be maintained thereafter in accordance with the strategy.

Reason: In the interests of wildlife habitats and in compliance with Policy BNE37 of the Local Plan.

- 16 No development above ground floor slab level shall take place until additional details of how the development will enhance biodiversity have been submitted to and approved in writing by the Local Planning Authority. These shall include the installation of bat and bird nesting boxes along with the provision of generous native planting where possible. The approved details will be implemented prior to first occupation of any dwelling to which the measures relate and thereafter retained.

Reason: In order to compensate for the present potential wild life and birds nest sites in accordance with Policy 37 of the Local Plan.

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

Proposal

This application is for the construction of 7no dwelling houses comprising:

- A pair of 3 bedroom semi-detached houses to the north of Formby terrace fronting onto the Cemex access. The houses will have rooms in the roof space involving a dormer to the front and a roof light to the rear.
- A terrace of 5no 3 bedroom houses to the south of and perpendicular to Formby terrace. These houses will also have rooms in the roof space involving a front dormer and roof light to the rear.
- Provision for 22 car parking spaces including visitors,
- Refuse storage areas
- Associated access road and infrastructure and landscaping work.
- The existing signalised toucan crossing is to be relocated further north within the vicinity of Formby Terrace houses.

The proposed access road would be jointly used by the occupiers of Formby Terrace and industrial units proposed under ref MC/18/0121(on this agenda).

Site Area/Density

Site Area: 0.326 hectares (.336 acres)

Site Density: 21dph (7.5 dpa)

Relevant Planning History

MC/18/0121	Construction of a street works facility with associated officer and store area as well as additional B1 and B8 start up business units, associated vehicular access, parking and landscaping on the land to the east of the A228. 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/17/4048	Construction of 24 Flats with associated car parking Decision Refused Decided 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

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

Decision Approval With Conditions

Decided 01/10/2009

MC/12/1791

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

Decision Approval With Conditions

Decided 29 August 2013

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.

The Environment Agency, Natural England, Southern Water has also been consulted.

13 letters of representations have been received expressing objections with regard to the following points:

- Increased volume of traffic joining and using the A228.
- Increased pressure on existing school and doctor's surgery.
- Increase noise pollution and harm the air quality.

- Loss of employment land.
- Loss of privacy, light, views and noise disturbance

CEMEX has also expressed concern about the proposed residential development within employment designated area and the adverse impact from the poor relationship of the proposed residential development with the existing industrial use to the east due to noise and disturbance from HGV activities to and from the nearby employment use. **CEMEX** have written in addition to their letter of objection and following consideration of the officers report. Their email is attached as an appendix.

Southern gas has no objection

Kent Police requests that an Informative be included on any approval to request the applicant to contact the police in order to design out any crime related design issue.

Southern Water advise that their 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 and informative in relation to protected species, trees and lighting.

The Environment Agency has no objection provided there is no living accommodation on the ground floor areas of these dwellings due to potential flooding within the application site.

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 area of land to the north, east and south of a row of two storey terraced residential properties known as Formby Terrace which fronts onto the A228.

Formby Terrace comprises 12 two-storey houses with first-floor window on the southern and northern flank elevation and small front gardens. These houses have recently undergone extensive refurbishment and modernisation. Also, under MC/17/4048 permission was granted for a new access from the south side of Formby Terrace and provision for 24 car parking spaces within part of the rear gardens of Formby Terrace houses.

During 1960 the land was used as part of Cemex and included buildings and open storage, however, post-1990 the land was used for car parking in association with Cemex activities. The land was previously used as an employment land by Cemex and is considered as a brownfield site.

As part of the MC/12/1791 permission and the approved parameter plan, the application site and the land to the west, east and north were identified for employment purposes and the land to the south of the proposed access area for sports pitches uses.

Principle

The site falls outside of the defined urban area and is covered by Policy ED1 of the Local Plan. Policy ED1 lists the site as an Existing Employment Area where only B1, B2 and B8 uses will be permitted. This policy states that proposals for development on the sites that result in the loss of existing industrial, business or storage and distribution development to other uses will not be permitted.

The local plan Policy H11 says that unless the site is allocated for housing development in the local plan, or an exceptional justification can be made, housing development in rural areas will be restricted to minor development within the confines of the settlements. This Policy and the site definition applied in 2003 when the cement works were in operation and Formby Terrace was an isolated pocket of residential units outside the settlement of Halling. It is noted that since then the cement works have ceased and planning permission has been granted for the residential development of St Andrews Park, which included the application site for employment use, under planning reference MC/12/1791. As such therefore the settlement boundary of Halling and Policy H11 is considered to be out of date in the context of recent development outside the 2003 defined settlement boundary for Halling.

The 2012 approved application proposal for this site as an employment/ commercial use therefore complied with Policy ED1. The current application proposes residential use of the site and therefore would be in conflict with Policy ED1 of the Local Plan and the parameter plan that formed part of the Wider St Andrew Park development.

The proposal for 7 dwellings is submitted alongside MC/18/0121 for the construction of 4 industrial units for B1 and B8 uses to the east of the application site and western side the railway line.

Although both Policy ED1 and parameter plan have identified both these two application sites for employment-related (B1, B2 and B8) uses, it is considered that given the road frontage of the site and its proximity to the adjoining Formby Terrace houses, residential development of the application site would be more appropriate and less detrimental to the amenities of the occupiers of the Formby Terrace, street scene and wider character of the area. In addition, the application site would represent a small fraction of the Council's total employment land and as such, the loss of the application site to residential use would not adversely impact on the employment allocation in the Medway area.

Moreover, although the site falls outside the defined settlement boundaries, it is considered that residential development at St Andrew's Park in recent years has significantly and materially altered the character and appearance of the western side of Formby Road from industrial to that of residential. As such residential development and uses in this location would be more sympathetic and in harmony with the character of the area.

In light of the historical use of the land, it is considered the land is a brownfield site and the proposed redevelopment would accord with bullet point 8 of Paragraph 17 of the NPPF.

The fact that the Council is also unable to demonstrate a 5 years house land supply also counts in favour of development, as does NPPF policy which talks against protecting employment land from residential development, if that employment use is unlikely to come forward, which it isn't in this instance due to retention of Formby Terrace .

Overall, it is considered that the principle of development would be in compliance with Policies S1, ED1 and H11 of the local plan and as such is acceptable, subject to the detail consideration of the remaining issues relating to the design, amenities and highway safety.

Design

Local Plan Policies S4 and BNE1 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 56 of the NPPF promotes good design and the achievement of high quality and inclusive design for all development, including individual buildings and public and private spaces.

The proposed terrace of 5 houses would be 2.5 storeys with front dormers and perpendicular to the Formby Terrace houses and have a dual western and southern aspect frontages that make the development relate well with Formby Road and Formby Terrace and provide an active elevation to the southern side of Formby Terrace when viewed from the south.

It is considered the siting and orientation of the proposed terrace houses would not detract from the eastern side of the Formby Road street scene and character and would relate well with recent development and St Andrew's Park on the west side of Formby Road.

With respect to the pair of the semi-detached houses on the northern side of Formby Terrace, these also would be 2.5 storeys with front dormers and rear roof lights. These houses would front the access road to the Cemex industrial area to the east of railway bridge and would relate well with the northern flank elevation of Formby Terrace, the street scene and the character of the locality.

The proposed development would accord with Policies BNE1 and S2(i) of the Local Plan.

Amenity

Policy BNE2 of the local plan requires that all development to secure the amenities of its future occupiers and protect those amenities enjoyed by the nearby and adjoining properties and the development should have regard to the privacy, daylight and sunlight, noise , vibration, smell,... and traffic generation. In addition policy BNE3 requires that assessment of the proposal in terms of noise exposure.

Both the terrace of 5 dwellings and the semi detached dwellings have been sited in a way that will minimise the impact on the amenity of residents of Formby terrace, due to the layout both of the existing terrace buildings and the orientation and separation distances of the proposed houses. There will therefore be no unacceptable impacts in terms of overlooking or loss of outlook.

It is also necessary to consider whether adequate habitable space would be provided for the future occupier of the proposed dwelling units in compliance with the Technical housing

standards - nationally described space standards March 2015.

The tables below show minimum gross internal floor area expected against the proposed dwellings floor areas.

	Number of bedrooms	Number of bed spaces(person)	3 storey dwellings m2
standard	3b	5p	99
proposed dwelling houses 1 to 7	3b	5p	117

In light of the above, the proposed dwellings also comply with the Technical Housing Standards March 2015, with respect to bedrooms, lounge and kitchen size areas. It is therefore considered that the proposed new dwellings would provide a satisfactory living space for the future occupiers.

In terms of the relationship with the proposed industrial units to the east, the subject of the associated application on this agenda, subject to the imposition of conditions to protect residential amenity on that application relating to acoustic fence, operating hours, waiting area, and restrictions on open storage and height, there will be no unacceptable noise impacts on prospective residents of the proposed dwellings.

In summary, it is considered that the proposed development is acceptable and in accordance with the Policies BNE1, BNE2, BNE3 of the Local Plan and NPPF.

Highways

The proposed access point to the residential units and the proposed industrial development under MC/18/0121 would be directly from the position of the existing toucan signalised Pedestrian Crossing which was constructed as part of the St. Andrews Park development. To facilitate vehicular and pedestrian access to the site, the Transport Assessment initially proposed the removal of the Toucan crossing on the A228. This raised concern for the safe movement of pedestrians from St Andrews Park going to and from Halling for the school, doctors, village services and train station. Accordingly it is now proposed to retain the toucan crossing but to relocate it further to the north. An additional drawing showing the new location of signalised Pedestrian Crossing has been submitted. This is considered to be acceptable provided it is installed prior to the commencement of the development.

The proposal makes provision for 22 on-site car parking, equal to two parking spaces per dwelling plus 8 spaces for visitors. This is in addition to the 24 spaces to serve the existing Formby terrace although it will require some reconfiguring of those spaces. This is considered to be acceptable.

In addition, the proposed access to the site would be shared with the proposed new industrial units to the west of the railway line beyond the application site's eastern boundary (under MC/18/0121). The access will have the necessary visibility splays and width to allow 2 vehicles to pass and is therefore acceptable.

Having regard to the above it is considered that the proposed residential development would compliance with Policy T2 and T13 of the Local Plan.

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

Flood Risk

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 fails to provide a means of escape for people in the event of a flood or introduces residential living and sleeping accommodation below the estimated flood level. The ground floor of each house has been laid out for the provision of kitchen, utility, WC and storage with no habitable living accommodation at this level. The first-floor level, which comprises habitable residential accommodation, is proposed to set the finished floor levels to 7.5mAOD and 8.0mAOD, which is above the design flood level. The proposal, therefore, would accord with policy CF13 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 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 applicant has agreed to pay this tariff and has submitted a unilateral undertaking. No objection is therefore raised under Paragraph 118 of the NPPF and Policies S6 and BNE35 of the Local Plan.

S106 Matters

As the number of dwellings proposed has been reduced from the original 10no to 7no the development does not meet the number of units that would trigger possible S106 requirements as set out in the adopted developer contributions guide.

Local Finance Considerations

None

Conclusions and Reasons for approval

With the development of St Andrews Park and then the retention and refurbishment of Formby Terrace, the principle of the residential development herein proposed has been made acceptable and accords with the NPPF.

The development is acceptable in design, amenity, highways and flooding terms and therefore accords with the above mentioned development plan policies and the NPPF. The application is accordingly 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.

This application was reported to the Planning Committee on 4 July 2018 but was deferred by Members who wanted further information with respect to the following areas before making a decision.

- Street scene information that clearly shows the relationship of the proposed dwellings to the existing Formby terrace, particularly in relation to height.
- More information on how noise from the heavy vehicles using the CEMEX road can be mitigated to ensure a satisfactory internal amenity for residents of the proposed two properties adjacent to the access.
- Confirmation that the EA comments regarding flood have been satisfactorily addressed.

In relation to the final bullet point, the EA have no objection provided there is no living accommodation on the ground floor. The only accommodation on the ground floor relates to kitchen, utility, wc and store and this does not constitute living (habitable) accommodation in planning terms and on this basis EA has no objection.

In terms of the first two bullet points, further information is being sought from the applicants and will be included in both the supplementary agenda and presentation for Committee.

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/>