

MC/18/1307

Date Received: 30 April 2018

Location: Bakersfield Phase 2 Station Road Rainham Gillingham

Proposal: Construction of 27 3-bedroom dwellings with access works, associated parking and landscaping

Applicant Mr Ivan Kingsley-Smith

Agent Mr A Moger
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Ward: Rainham North 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 13th February 2019.

Recommendation - Approved Subject to:

- A. A Section 106 Agreement under the terms of the Town and Country Planning Act 1990 being entered into to secure the following developer's contributions:
- i. A minimum of 25% (equal to 7) affordable dwelling houses.
 - ii. A contribution of £24,710.40 towards nursery school provision for one or more of Riverside Primary School, St Thomas of Canterbury, Thamesview Primary, or Mierscourt Primary School. The funding will be utilised at the appropriate school from the list at the time of receipt of the contribution.
 - iii. A contribution of £ 60,652.80 towards primary school provision for one or more of Riverside Primary School (2 to 3 FE) and/or St Thomas of Canterbury (1 to 2FE and/or Thamesview Primary (2 to 3FE) or Mierscourt Primary School (2 to 3FE). The funding will be utilised at the appropriate school from the list at the time of receipt of the contribution.

- iv. A contribution of £ 49,083.84 towards secondary school facilities in the Rainham Mark Grammar School class bases and/or a new free school in the area.
- v. A contribution of £ 67,222.71 to improve provision at Cozenton Park and to Great Lines Heritage to enhance open space facilities.
- vi. A contribution of £1577.68 towards provision of Youth Service to offer personal and social development opportunities for young people in Rainham area.
- vii. A contribution of £12,634.65 towards the improvement of Red Suite Rainham Healthy Living Centre.
- viii. A contribution of £4,510.00 towards offsetting the increase footfall impact on the Public Rights of Way GB8 which provides a direct link into a very popular part of the regional trail 'The Saxon Shore Way'.
- ix. A contribution of £4,221.5 towards Waste and recycling to provide household containers for the collection of Recycling – use once bags and 240ltr wheeled brown bins to each property for the collection of food and garden waste.
- x. A contribution of £6,472.17 towards bird mitigation measures.

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:
 - 01 Rev A, 001 Rev R, 200 Rev D, v2001 Rev C, 2002 Rev C, 2003 Rev D received 30/04/2018 and 22/01/2019.

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

- 3 No development above slab level shall take place until detail drawing(s) showing ridge, eaves, verge, dormers, entrance, recess soffits and cill of window openings at a scale of 1:20 for the proposed houses together with 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.

- 4 Prior to the first occupation of any dwelling within the development herein approved, full details of both hard and soft landscape works and a timetable for implementation shall be submitted to and approved in writing by the Local Planning Authority. The landscaping within the amenity area north of plot 1 shall provide orchard plants to enhance biodiversity in the locality. The development shall be implemented 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.

- 5 A landscape management plan, including long term design objectives, management responsibilities and maintenance schedules for all landscape areas and green infrastructure, other than small, privately owned, domestic gardens, shall be submitted to and approved in writing by the Local Planning Authority 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.

- 6 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. The boundary treatment shall be completed in accordance with the approved details before any dwelling and/or building 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.

- 7 Prior to the first occupation of any of the dwelling houses, details of the following mitigation measures, amongst other options to mitigate impacts on air quality shall be submitted to and approved in writing by the Local Planning Authority :

- All gas-fired boilers to meet a minimum standard of <40mgNO_x/kWh
- 1 Electric Vehicle rapid charge point per dwelling house (dwelling with dedicated parking) which shall include that the details of charging points for electric cars ensure that the accessible parking spaces have the wall mounted charging point.

The approved details shall be provided prior to the occupation of the dwellings and subsequently retained for that purposes.

Reason: To mitigate the impact on air quality in compliance with Policy BNE24 of the Local Plan.

- 8 Prior to the commencement of the development a Construction Environmental Management Plan (CEMP) shall be 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 including delivery/collection times from the site; measures to prevent vehicles from idling when not in use/waiting; measures to control noise affecting nearby residents; parking plan for any associated vehicles; 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: In the interests of amenities of the surrounding residents and highway safety and in compliance with Policies BNE2 and T1 of the Local Plan.

- 9 No development shall take place until a scheme showing details of 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 has been submitted to and approved in writing by the Local Planning Authority. Those details shall include a timetable for its implementation (including phased implementation where applicable).

Reason: To manage surface water during and post construction and for the lifetime of the development as outlined at Paragraph 165 of NPPF.

- 10 Prior to occupation of the approved dwelling houses, a Sustainable Drainage management and maintenance plan for the lifetime of the development shall be submitted to and approved in writing by the Local Planning Authority in consultation with the Lead Local Flood Authority 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 as outlined at Paragraph 165 of NPPF.

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

Reason: This condition is sought in accordance with paragraph 165 of the NPPF to ensure that suitable surface water drainage scheme is designed and fully implemented so as to not increase flood risk onsite or elsewhere.

- 12 Construction of the dwelling houses on plots 19 to 27 inclusive (as shown in drawing 001 Rev R received on 22/01/2019) shall not commence until a scheme to address/resolve the surface water flooding that affects these dwelling houses has been submitted to and approved in writing by the Local Planning Authority. The approved flood management scheme shall be implemented in full prior to the occupation of the said dwelling houses.

Reason: This condition is sought in accordance with paragraph 155 of the NPPF to ensure that the risk of flooding is avoided by directing development away from areas of highest risk (whether existing or future) and ensuring the development is safe for its lifetime.

- 13 No development above ground floor slab level shall commence until details of ecological mitigation have been submitted to and approved in writing by the Local Planning Authority. The details to be submitted pursuant to the requirements of this condition shall include details of:

- i. Provision of bird boxes on new buildings
- ii. Native species within the landscape planting specification;
- iii. Landscape planting that provides food and replacement nesting opportunities for birds;

The development shall not be occupied until the ecological mitigation has been provided in accordance the approved details.

Reason: To protect and enhance the natural environment in accordance with Policy BNE37 of the local plan and section 15 of the National Planning policy Framework

- 14 Prior to any works starting on site a detailed reptile mitigation strategy shall be submitted to and approved in writing by the Local Planning Authority. The mitigation strategy must provide the following information:

- A. Translocation methodology in accordance with good practice guidelines
- B. Map with location of the proposed receptor sites with preferred option and specific details of size, land owner, connectivity to further habitats, explanation of why this is a sufficient carrying capacity habitat for the present reptile that will be translocated to it, take into account any anticipated impact from recreational activities from residents, secured long-term through a management regime and be free from future development
- C. Reptile surveys of the chosen receptor site (to start now and to be updated next spring)
- D. Details of ecological enhancements to increase carrying capacity of the receptor site and location on a map. The receptor site must be prepared and managed appropriately prior to any translocation, and thereafter retained.
- E. Map with detailed boundaries location of the construction works to start prior to reptile translocation exercise, including detailed location where the reptile exclusion fencing and Heras fencing will be set up to protect reptiles present on site

- F. Timetable of the whole mitigation strategy including the proposed construction work phases, the reptile surveys, the translocation exercise and the monitoring of the reptile population

All works must be carried out in accordance with the approved mitigation strategy and any mitigation measures shall be retained throughout the life of the development site.

The map with the detailed boundaries location of the construction works to start prior to reptile translocation exercise will be included in the Construction Environmental Management Plan and a tool box talk will be undertaken to contractors involved in the construction works.

Construction works on site may commence prior to the reptile translocation exercise only in the delimited boundaries area where reptiles have not been recorded (centre of the fields) in accordance with the approved mitigation strategy.

Reason: In the interests or protection of wildlife and protected species and in compliance with Policies BNE37 and BNE39 of the Local Plan.

- 15 Prior to the first occupation of each individual dwelling house of the development hereby approved details of bicycle storage facilities for each dwelling shall be submitted to and approved in writing by the Local Planning Authority. The approved bicycle storage facility shall be provided before individual dwelling houses are occupied and the bicycle storage building shall be retained thereafter.

Reason: In the interests of visual amenity and to ensure a satisfactory provision for refuse and recycling in accordance with Policy T4 of the Local Plan.

- 16 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development)(England) Order 2015 (or any order amending, revoking and re-enacting that Order with or without modification) no development shall be carried out within Class (A, B, C and D) of Part 1 of Schedule 2 of that Order unless planning permission has been granted on an application relating thereto.

Reason: To enable the Local Planning Authority to control such development in the interests of amenity, in accordance with Policies BNE1 and BNE2 of the Local Plan.

- 17 Prior to the first occupation of any dwelling/the development herein approved, full details of a lighting scheme for the street and all external public areas shall be submitted to and approved in writing by the Local Planning Authority. The approved lighting shall be installed prior to the first occupation of the dwelling houses and shall thereafter be retained.

Reason: To ensure a satisfactory external appearance and provision for landscaping in accordance with Policies BNE1 and BNE2 of the Medway Local Plan 2003.

- 18 Prior to the first occupation of each individual building of the development hereby permitted details of the refuse storage arrangements for that building, including provision for the storage of recyclable materials, shall be submitted to and approved in writing by the Local Planning Authority. Except with the prior written approval of the Local Planning Authority, no building shall be occupied until the approved refuse storage arrangements for that building are in place and all approved storage arrangements shall thereafter be retained.

Reason: In the interests of visual amenity and to ensure a satisfactory provision for refuse and recycling in accordance with Policy BNE2 of the Medway Local Plan 2003.

- 19 No development shall take place until the applicant, or their agents or successors in title, has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation and timetable which has been submitted to and approved by the local planning authority. Development shall be carried out in accordance with the approved specification.

Reason: To ensure that features of archaeological interest are properly examined and recorded.

- 20 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that Order with or without modification) no windows or similar openings shall be constructed in the south flank elevation of the dwellings on plot 8 and 9 as shown on drawing 001 Rev R without the prior written approval of the Local Planning Authority.

Reason: To regulate and control any such further development in the interests of amenity and protection of privacy for neighbouring properties, in accordance with Policy BNE2 of the Medway Local Plan 2003.

- 21 The dwelling houses shall not be occupied, until the areas shown on the submitted layout drawing 001 Rev R as vehicle parking space to serve each relevant dwelling house and visitors have been provided, surfaced and drained. Thereafter the parking spaces shall be kept available for such use and no permanent development, whether or not permitted by the Town and Country Planning (General Permitted Development) (England) 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 and garaging.

Reason: Development without provision of adequate accommodation for the parking or garaging of vehicles is likely to lead to hazardous on-street parking and to accord with Policy T13.

- 22 Unless otherwise agreed by the Local Planning Authority, development other than that required to be carried out as part of an approved scheme of remediation must not commence until conditions 23 to 26 have been complied with. If unexpected contamination is found after development has begun, development must be halted on that part of the site affected by the unexpected contamination to the extent specified in writing by the Local Planning Authority until condition 27 has been complied with in relation to that contamination.

Reason: To ensure that the development does not contribute to, or is not put at unacceptable risk from, or adversely affected by, unacceptable levels of water pollution in line with paragraph 170 of the National Planning Policy Framework.

- 23 An intrusive site investigation, in addition to any assessment provided with the planning application, must be 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,
- Groundwater's and surface waters,
- Ecological systems,
- Archeological 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: To ensure that the development does not contribute to, or is not put at unacceptable risk from, or adversely affected by, unacceptable levels of water pollution in line with paragraph 170 of the National Planning Policy Framework.

- 24 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 must be prepared, and submitted to and approved in writing by the Local Planning Authority prior to commencement of the development. 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: To ensure that the development does not contribute to, or is not put at unacceptable risk from, or adversely affected by, unacceptable levels of water pollution in line with paragraph 170 of the National Planning Policy Framework.

- 25 The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of any development (other than development required to enable the remediation process to be implemented) unless otherwise agreed in writing by the Local Planning Authority. 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: To ensure that the development does not contribute to, or is not put at unacceptable risk from, or adversely affected by, unacceptable levels of water pollution in line with paragraph 170 of the National Planning Policy Framework.

- 26 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 23, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 24, 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 24 are 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 25.

Reason: To ensure that the development does not contribute to, or is not put at unacceptable risk from, or adversely affected by, unacceptable levels of water pollution in line with paragraph 170 of the National Planning Policy Framework.

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 27 3-bedroom houses comprising 7 semi-detached 2 storey houses and 3 terraces of 3 and 1 terrace of 4, two and a half storey dwelling houses and 54 associated car parking spaces. The proposal also makes provision for 4 visitor parking spaces, bicycle storage sheds, and refuse storage in the rear garden of the individual dwellings.

Vehicle and pedestrian access to the development is through the approved Bakersfield residential development currently under construction and its access to Station Road.

Site Area/Density

Site Area: 0.63 hectare (1.55 acres)

Site Density: 40.29 dph (17.4 dpa)

Relevant Planning History

MC/18/1796	Woolley's Orchard Land to the east of Bakersfield site and south of Lower Rainham Road, Rainham, Kent. Proposal: Outline Application with all matters reserved for future consideration except for the means of access for residential development comprising 202 dwellings To be determined
MC/17/1820	Bakersfield, Land at Station Road, Rainham, Kent ME8 7QZ Proposal: Approval of reserved matters (access, appearance, landscaping, layout and scale) pursuant to condition 1 of MC/14/0285 (APP/A2280/W/15/3002877) for outline planning permission with all matters reserved for future consideration, ref Outline application with all matters reserved for residential development comprising 90 dwellings. Approved 07/12/2017
MC/14/0285	Bakersfield, Land at Station Road, Outline Application with all matters reserved for future consideration, ref Outline application with all matters reserved for residential development comprising 90 dwellings Decision Refusal Decided 18/07/2014 Appeal Allowed with Conditions Decided 07/12/2015

Representations

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

Southern Water Services, Southern Gas Networks, EDF Energy, Kent and Medway Fire and Rescue Services, Kent Police and NHS Property Services England have also been consulted.

6 letters have been received raising the following objections:

- Movement of large and heavy construction vehicles along Lower Rainham Road causes highway problems and vibration, noise and disturbance to the residents.
- There is an aquifer below ground and the proposed development could lead to contamination of the aquifer.
- The site is subject to flooding and the proposal would add to this.
- No more than 2 storey should be built in this area.
- There is inadequate infrastructure to cope with these developments
- These proposals are not in the Local Plan.
- The proposed houses are ugly and not in keeping with the other houses in the area.
- Transport assessment should be based on recent figures and not 2012.
- There should be adequate on-site car parking for the development
- Vehicles will have difficulty leaving Bakersfield site.
- There is little to no pavement on the north side of Station Road with additional pedestrian and cyclist, horse riders, parents with pram and elderly, this situation is not acceptable.
- Traffic calming measures must be enforced around the development sites as lorries mount pavements.

Southern Water advise that there is insufficient capacity at manhole TQ82664903 for the foul discharge rate of 1.3l/s.

There is an increased risk of flooding unless network reinforcement is undertaken. This reinforcement will be provided through the New Infrastructure change however Southern Water will need to work with and understand the development program and to review if the delivery of network reinforcement aligns with the occupation of the development.

Southern Water requires that the occupation of the development to be phased to align with the delivery of sewerage infrastructure to prevent the increased risk of flooding.

However, there is currently adequate capacity in the local sewerage network to accommodate a foul flow at manhole ref TQ82664903 for the discharge at of 0.3l/s.

Initial investigations indicate that Southern Water can provide surface water disposal to service the proposed development at manhole refer TQ82664951 for the discharge rate of 1.2l/s. Southern Water requires a formal application for a connection to the public sewer to be made by the applicant or developer.

The applicant should contact the Southern Water to discuss increased capacity of the infrastructure.

Natural England advise that this application will result in a net increase in residential accommodation, and resultant impacts to the coastal Special Protection Area(s) and Ramsar Site(s) may result from increased recreational disturbance. As your authority has measures in place to manage these potential impacts through the agreed strategic solution, subject to the appropriate financial contribution being secured, Natural England is satisfied that the proposal will mitigate against the potential effects of the development on the site(s) and that the proposal should not result in a likely significant effect.

KCC Ecology advises that the conclusions of the submitted ecological surveys are satisfactory and no further ecological surveys are required prior to the determination of the planning application. The information has confirmed that grass snake and slow worms are present and that the site is likely to be used by breeding birds.

Under the current plans the area of orchard would be lost and therefore we would encourage that the site is redesigned to retain or create an area of traditional orchard within the site. In addition to ensuring the priority habitat is not lost the retention/creation of an area of traditional orchard would ensure that suitable habitat for reptiles and breeding birds can be retained on site.

Kent Police are pleased to note that Section 3.8 of the Design and Access Statement has applied Secure by Design. However, Kent Police had no communication with the applicant or his agent.

Kent police advise that an informative to be added to any permission to ensure their involvement and address crime prevention.

KCC Archaeology has no objection subject to appropriate condition regarding a programme of archaeological work.

Development Plan

The Development Plan for the area comprises the Medway Local Plan 2003. The policies referred to within this document and used in the processing of this application have been assessed against the National Planning Policy Framework 2018 and are considered to conform.

Planning Appraisal

Background

The application site is a small relatively flat area of land consisting of a traditional orchard area to the north and west, and a scrub area along the eastern and southern boundaries.

The site is enclosed from the east by Woolley's Orchard, from the north and west by the properties fronting Lower Rainham Road and Station Road respectively and from the south by the Bakersfield development currently under construction.

Access to the application site would be through the car park courtyard along the northeast corner of Bakersfield development linking the site via Bakersfield estate ring road to Station Road.

The site is outside of the built confines of Rainham settlement area and is within the Countryside and Area of Local Landscape Importance as identified on the Proposal Map of the Medway Local Plan 2003.

Principle

Paragraph 47 of the NPPF and Section 38(6) of the Planning and Compulsory Purchase Act 2004 provides that all planning applications must be determined in accordance with the Development Plan unless other material considerations indicate otherwise. Bearing this in mind, the relevant starting point would be the consideration of the general principles of the development when assessed against the Government's National Planning Policy Framework (The Framework), The Government's National Planning Practice Guidance Notes (NPPG) and the relevant saved policies of the Medway Local Plan 2003.

Paragraph 11 of the NPPF sets out a clear presumption in favour of sustainable development. For decision making this means approving development that accords with an up to date development plan or (paragraph 11d) where the policies in the development plan are out of date because the LPA cannot demonstrate a 5 year supply of deliverable housing sites, assessing proposed sites in terms of their sustainability.

Paragraph 8 of the NPPF sets out the 3 overarching objectives of sustainability – economic, social and environmental.

The application site is outside of the built confines of Rainham and within an Area of Local Landscape Importance. Policies BNE25 and BNE34 of the Local Plan therefore apply. Those elements of the policies which seek to control the supply of land for housing are considered to be out of date, as the LPA cannot demonstrate a 5 year supply of deliverable housing land. However, those parts of the policies which seek to set out particular landscape characteristics that should be protected are relevant.

Taking the 3 objectives of sustainable development in turn:

Economic – the proposal will provide employment during construction and will bring new people into the area with additional spend to help support existing services and facilities. In relation to impact on existing infrastructure, including roads and services such as schools and health, these will be considered in detail in later paragraphs but in principle can be addressed through S106 contributions.

Social – the proposal will provide much needed housing including policy compliant affordable housing. In principle a well designed and healthy scheme can be provided but the details will be considered in later paragraphs.

Environmental – While the site is outside of the built up area of Rainham and within an ALLI, it is bounded to the North and West by residential development in Lower

Rainham Road and Station Road respectively and by the Bakers Field development currently under construction to the South. To the East is land known as Wooleys Orchard, which is itself bounded by residential development to the East and South, by Lower Rainham Road to the North and in part to the West by the Bakers Field development. The impact of the proposed development in landscape terms is therefore relatively limited and acceptable.

In traditional sustainability terms the site is well linked through the Bakersfield development to Station Road, which has a bus service, and from there is relatively close to Rainham Town Centre and the facilities there.

Notwithstanding the above, the application site is close to the North Kent Marshes SPA/Ramsar Sites, and the proposal for 27 new dwellings is likely to have some 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. As a consequence of the recent European Court case (People v's Wind) an Appropriate Assessment is required to be undertaken to consider the impact and need for mitigation.

Paragraph 177 of the NPPF states that the presumption in favour of sustainable development does not apply where development requires an appropriate assessment because of its potential impact on a habitats site being planned or determined.

MHCLG consulted on amendments to this paragraph late last year as the European Court case has raised unintended consequences for the presumption where impact can be mitigated – in this case Natural England are happy with the proposed mitigation which is the “bird contribution”

The weight that should be attached to the consultation is not clear. The Secretary of State in determining the Gladman appeal at Town Road Cliffe Woods applied little or no weight to the consultation – Gladman are judicially reviewing this decision. However, in a more recent appeal decision for a retirement development, literally 400m away in Cliffe Woods, the Inspector applied significant weight to the consultation and allowed the appeal.

It is considered that, in this instance, the size of the development is small, any environmental impact would be negligible and any adverse impact would be minor. Furthermore, Natural England has undertaken an assessment of potential impact of the development and to mitigate the harm resulting from recreational use of the habitats by the future residents of the development has asked for a financial contribution of £239.71 per dwelling (see section 106, developer's contribution below).

It is therefore considered that having regard to the above the proposal in this location is capable of forming a sustainable development that would be in accordance with NPPF guidance and is therefore acceptable in principle.

Layout, scale and appearance

The proposed layout is of a “T” shape cul-de-sac design with a mix of 2 and 2.5 storey semi-detached and terraced houses. The semis are designed with butterfly/ V pitched roofs and the terraced houses with pitched roof and dormer windows to the front.

The houses would be facing inward into the estate and have east, west and north facing back gardens. An amenity space of around 500m² is also proposed to the north of the plot 1.

The overall design, scale and external appearance of the proposed houses follow the style of the houses approved for the Bakersfield development. As such therefore the proposed development would not be out of character and ensure the development integrates well with the Bakersfield development.

The two storey houses with V roof would have maximum height of 8m and the terraced houses would have total height of 10m to the ridge.

The proposal is considered to be in compliance with Policies S4, BNE1 of the local plan and paragraphs 124 and 127 of the NPPF.

Residential Amenity

Policy BNE2 of the Medway Local Plan 2003 seeks to ensure an adequate level of amenity is afforded to the future occupiers of new development as well as protecting the amenities of existing surrounding residents. The main issue to consider for the future occupiers of the development is whether adequate space has been allowed for within the new dwelling houses. The Technical Housing Standards – nationally described space standard 2015 sets out the Government’s internal standards for new residential development. This is used as a guide for assessment. The table below shows the proposal against these standards.

Plot no	House type	Proposed gross internal floor area m²	National Standard m²
1, 2, 12 to 15	2 storey 3 bed 4 person	87	84
3 to 11 & 16 to 27	3 storey 3 bed 5 person	102	93

The proposal would clearly meet the gross internal area for each property and on this basis, it is considered that there would be adequate internal amenity space for the future residents of the proposed dwellings.

With respect to outdoor garden space the nationally described standard does not provide any guidance. However, the Medway Housing Design Standards 2011 document does provide guidance in this regard and recommends a garden depth of 10m. Each of the dwelling houses proposed would have a rear private garden depth of 10m or more.

Policy BNE2 of the local plan requires that there be no unacceptable loss of privacy from overlooking of adjoining houses and/or their gardens.

An assessment has been made of the impact of the proposed development on neighbouring properties. It is considered that having regard to the back to back distance of the proposed dwellings with the surrounding houses which would exceed 20m, there would not be any unacceptable overlooking, loss of light or loss of outlook.

With adequate internal and external space being provided, no objection is, raised in this regard in considering the proposal against Policy BNE2 of the Medway Local Plan 2003.

Highways

The proposed development would link via Bakersfield inner ring road and pedestrian infrastructure to the Station Road.

The proposed link access via a parking court yard along the northeast corner of the site would not result any loss of the car parking spaces already approved for the Bakersfield development.

The development makes provision for 2 car parking spaces per dwelling and 4 visitors. It is considered that this level of car parking provision would be adequate for the size of the dwellings proposed in this development.

The proposal would be in compliance with Policies T1, T2, T3 and T13 of the local plan and acceptable subject to a condition that no dwelling shall be occupied until the car parking provision are made available prior to the occupation of the dwellings.

Ecology

An Ecological Appraisal was submitted with the application. The report looked at the potential of the site with regard to flora, birds, bats, reptiles and dormouse. The report recommended further investigation with regard to bats and reptiles. Birds may be nesting in trees and appropriate care is needed to ensure that they are not disturbed during site clearance.

KCC ecology has also suggested that some traditional orchard feature/planting be retained on site in order to assist with the biodiversity of the locality. This is achievable as part of the landscaping of the site within the identified amenity area.

Subject to appropriate conditions to address the above, no objection is raised under Policy BNE39 of the Medway Local Plan 2003 and Paragraph 175 of the NPPF.

Contamination

A site investigation was submitted with the application. Due to the previous use of the site and potentially contamination appropriate conditions are recommended to be imposed on any approval. Subject to these no objection is raised under Policy BNE23 of the Medway Local Plan 2003 and Paragraph 178 of the NPPF

Flooding

A drainage impact and flood risk assessment report has been submitted with the application. The site is situated within an area considered to be at risk of surface water flooding.

The Environment Agency's Risk of Flooding from Surface Water indicates that the north and western parts of the site are at risk of flooding.

Paragraph 163 of National Planning Policy Framework states that when determining planning applications, LPAs should ensure that flood risk is not increased elsewhere, and further, that it can be demonstrated that the most vulnerable development is located in areas of lowest flood risk unless there are other reasons to prefer to a different location.

That part of the proposed development to the north does raise concerns regarding the potential for flooding. While the buildings themselves can be designed with the use of voids to take the habitable areas above the flood area this will not address the gardens and surrounding areas.

If the adjacent site at Woolleys Orchard is developed this will incorporate SuDs and would then also address by consequence the flood risk to the northern part of this site as the flood risk to the application site currently results from flows from the Woolleys Orchard land.

It is recognised therefore that should the adjacent site come forward for development, there is potential scope for the construction of 27 dwellings. At this stage, should development commence on site before the construction of the adjacent site, development would only be permissible within the areas which are located outside of the medium surface water flood risk area, ensuring that there is no land raising at the site which alters the current site hydrology.

It has been recognised that there are wider planning considerations, and on this basis it has been agreed that a condition be added to any approval to provide flexibility for construction of all planned 27 dwellings, on receipt and review of evidence which demonstrates that the development will not increase flooding to or from the development. This does not seek to predetermine any future application for Woolleys Orchard, but only that this application site can only accommodate a more limited development unless an appropriate and acceptable drainage solution is proposed.

In terms of surface water drainage on the remainder of the site, it is considered that an acceptable solution can be achieved and an appropriate condition is recommended

The proposal is considered to be in compliance with Policy CF1 of the local plan and paragraph 163 of the NPPF and is recommended for approval subject to conditions.

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 should be collected to fund strategic measures across the Thames, Medway and Swale Estuaries, resulting in a contribution of £6,469.47 for the proposed development. 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 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 have submitted a unilateral undertaking. No objection is therefore raised under Paragraph 175 of the NPPF and Policies S6 and BNE35 of the Medway Local Plan 2003.

S106 matters

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

The obligations proposed comply with these tests because they are necessary to make the development acceptable in planning terms, they are directly related to the development and are fair and reasonable in scale and kind. The following contributions are sought:

- i) A minimum of 25% (equal to 7) affordable dwelling houses.
- ii) A contribution of £24,710.40 towards nursery school provision
- iii) A contribution of £60,652.80 towards primary school provision.
- iv) A contribution of £49,083.84 towards secondary school facilities.

v) A contribution of £67,222.71 to improve provision at Cozenton Park and Great Lines Heritage.

vi) A contribution of £1577.68 towards provision of Youth Service.

vii) A contribution of £12,634.65 towards the improvement of Red Suite Rainham Healthy Living Centre.

viii) A contribution of £4,510.00 towards offsetting the increase footfall impact on the Public Rights of Way.

ix) A contribution of £4,221.5 to waste and recycling.

x) A contribution of £6,472.17 towards bird mitigation measures.

Local Finance Considerations

There are no local finance considerations raised by this application.

Conclusions and Reasons for Approval

The proposal is considered to be in a sustainable location and principle of the proposed development is acceptable. No objection is raised in terms of design, siting, appearance, impact on residential amenity, highways and parking, the impact on ecology, contamination and flooding subject to appropriate conditions. Subject to the Section 106 contributions sought and the suggested conditions, no objection is raised under Paragraphs 47, 73, 78, 124, 127, 165, 175 and 178 of the NPPF and Policies S6, BNE1, BNE2, BNE6, BNE23, BNE25, BNE35, BNE39, BNE43, T1, T2, T3, T13 and CF13 of the Medway Local Plan 2003 and the application is recommended for approval.

This application would normally be determined under delegated authority but is being reported to planning committee due to the extent of local interest expressing a view contrary to the recommendation.

Background Papers

The relevant background papers relating to the individual applications comprise: the applications and all supporting documentation submitted therewith; and items identified in any Relevant History and Representations section within the report.

Any information referred to is available for inspection in the Planning Offices of Medway Council at Gun Wharf, Dock Road, Chatham ME4 4TR and here <http://publicaccess1.medway.gov.uk/online-applications/>