

MC/18/2437

Date Received: 16 August 2018

Location: Land West Of 65 Layfield Road Gillingham Kent ME7 2QY

Proposal: Construction of five 3 bedroom houses with carports, associated parking and access driveway together with parking spaces retained for use of the residents

Applicant Mr Breaker

Agent Mr Jonathan Williams Grove Dairy Farm Business Centre
Bobbing Hill
Bobbing
Sittingbourne
ME9 8NY

Ward: Gillingham North Ward

Case Officer: Karen Cronin

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 24th April 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:
- i. £1198.05 towards designated habitats mitigation
 - ii. Retention of area to the west of the site as open space
- 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 16.10.SK.01, 16.10.1000 and 16.10.10 received 16 August 2018.

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

- 3 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.

- 4 Prior to the first occupation of any dwelling herein approved, full details of both hard and soft landscape works for the areas outside of the curtilage of the dwellinghouses, details of the management of these areas and a timetable for implementation shall be submitted to and approved in writing by the Local Planning Authority. 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 Prior to vegetation clearance and the reptile translocation commencing on the development site a report demonstrating that the reptile receptor site has sufficient habitat established to support the reptile population shall be submitted to and approved in writing by the Local Planning Authority. The reptile translocation and any vegetation clearance may only commence once the receptor site has sufficient habitat to support the reptile population.

Reason: Required before commencement of development to avoid any irreversible detrimental impact on protected species and in accordance with Policies BNE37, BNE38 and BNE39 Medway Local Plan 2003.

- 6 No development shall take place until a "bat sensitive lighting plan" for the site boundaries has been submitted to and approved in writing by the Local Planning Authority. The lighting plan shall:

A) Identify those areas/features on site that are particularly sensitive for bats and that are likely to cause 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.

All external lighting shall be installed in accordance with the specifications and locations set out in the plan and these shall be maintained thereafter in accordance with the approved plan.

Reason: Required before commencement of development to avoid any irreversible detrimental impact on protected species and in accordance with Policies BNE37, BNE38 and BNE39 Medway Local Plan 2003.

- 7 Prior to the first occupation of any dwelling herein approved, an Ecological Enhancement Plan must be submitted to and approved in writing by the Local Planning Authority. The development shall include the following information:

- Site plan of the public open space - demonstrating the habitats to be retained/created to provide habitat for biodiversity
- Ecological Management Plan, written by an ecologist, of the area of public open space
- Details of ecological enhancements to be incorporated in to the residential area
- Timetable and Implementation Plan for the provision of the creation of habitat for biodiversity and ecological enhancements.

The development shall be implemented and retained in accordance with the approved details.

Reason: To incorporate biodiversity improvement in and around the development in accordance with paragraph 175 of the NPPF.

- 8 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 in accordance with details submitted to and approved in writing by the Local Planning Authority. 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 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 in accordance with Policy T13 of the Medway Local Plan 2003

- 9 The dwellings herein approved shall not be occupied until details of secure private cycle parking provision in the form of individual lockers have been submitted to and approved in writing by the Local Planning Authority. The cycle parking shall be implemented in accordance with the approved and shall thereafter be retained.

Reason: To ensure the provision and permanent retention of bicycle spaces in accordance with Policy T4 of the Medway Local Plan 2003.

- 10 No development shall take place until a Construction Environmental Management Plan (CEMP) that describes measures to control, amongst other matters, hours of working, deliveries to the site, noise, dust and lighting arising from the construction phase of the development has been submitted to and approved in writing by the Local Planning Authority. The construction works shall be undertaken in accordance with this approved plan.

Reason: Required before commencement of development in order to minimise the impact of the construction period on the amenities of local residents, the countryside, wildlife and habitat and with regard to BNE37 and BNE39 of the Medway Local Plan 2003.

- 11 No development shall take place until an Air Quality Emissions Mitigation Statement has been submitted to and approved in writing by the Local Planning Authority. The Statement shall be prepared in accordance with the Medway Air Quality Planning Guidance (April 2016), and shall specify the measures that will be implemented as part of the development to mitigate the air quality impacts of development related emissions. The total monetary value of the mitigation to be provided shall be demonstrated to be equivalent to, or greater than, the total damage cost values calculated as part of the approved Air Quality Emissions Mitigation Assessment. The development shall be implemented, and thereafter maintained, entirely in accordance with the measures set out in the approved Air Quality Emissions Mitigation Statement.

Reason: Required prior to commencement of development to ensure there is no detrimental harm caused with regard to residential amenity and to minimise air pollution in accordance with Policy BNE24 of the Medway Local Plan 2003.

- 12 No development shall take place until an acoustic assessment has been undertaken to determine the impact of noise from transport related sources and shall be made in accordance with BS8233 2014: Guidance on Sound Insulation and Noise Reduction for Buildings. The results of the assessment and details of a scheme of acoustic protection shall be submitted to and approved in writing by

the Local Planning Authority. The scheme shall include details of acoustic protection sufficient to ensure internal noise levels (LAeq,T) no greater than 30dB in bedrooms and 35dB in living rooms with windows closed and a maximum noise level (LAmax) of no more than 45dB(A) with windows closed. Where the internal noise levels will be exceeded with windows open, the scheme shall incorporate appropriate acoustically screened mechanical ventilation. The scheme shall include details of acoustic protection sufficient to ensure amenity/garden noise levels of not more than 55dB (LAeq,T). All works, which form part of the approved scheme, shall be completed before any part of the development is occupied and shall thereafter be maintained in accordance with the approved details.

Reason: Required prior to commencement of development to ensure no detrimental harm to residential amenity and to accord with Policy BNE2 of the Medway Local Plan 2003

- 13 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order amending, revoking and re-enacting that Order with or without modification) no development shall be carried out within Schedule 2, Part 1, Classes A, B, C and E 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 visual and neighbouring amenity in accordance with Policies BNE1 and BNE2 of the Medway Local Plan 2003.

- 14 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order amending, revoking and re-enacting that Order with or without modification) all dwellinghouses herein approved shall remain in use as a dwellinghouse falling within Class C3 only of the Town and Country Planning (Use Classes) Order 1987 (as amended) (or any order amending, revoking and re-enacting that Order with or without modification) and no change of use shall be carried out 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 Policy BNE2 of the Medway Local Plan 2003.

- 15 The areas shown to the front of the dwellings on drawing number 16.10.SK.01 for soft landscaping shall be kept available as such 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.

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.

- 16 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 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.

- 17 Prior to the first occupation of any dwelling herein approved refuse storage arrangements for the dwellings, including provision for the storage of recyclable materials, shall be provided on site and all 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.

- 18 The access shall not be used until vision splays 34 metres x 1.5 metres have been provided on both sides of the vehicular access point(s) and no obstruction of sight, including any boundary treatment, more than 0.6m above carriageway level shall be permitted within the splays thereafter.

Reason: To ensure that the development permitted does not prejudice conditions of highway safety or efficiency in accordance with Policy T1 of the Medway Local Plan 2003.

Proposal

Construction of five 3-bedroom link detached houses each with an associated garage, parking spaces, access driveway and landscaping. The houses will be served by a new access created at the end of Layfield Road.

The area to the front of the site is currently used as residents parking, although this land is in private ownership and does not form part of the public highway. The development proposes 4 parking spaces next to the access to be retained for use of the residents.

The land to the west of the site is proposed to be kept open and has been offered as public open space. This would also be the location of the reptile receptor site.

Site Area/Density

Site Area: 0.18 hectares (0.44 acres)

Site Density: 27.7 dph (11.24 dpa)

Relevant Planning History

MC/17/2376 Construction of five 3 bedroom houses with carports, associated parking and access driveway together with parking spaces retained for use of the residents
Withdrawn by applicant

Representations

The application has been advertised on site and by individual neighbour notification to the owners and occupiers of neighbouring properties. Natural England, Kent Wildlife Trust and KCC Ecology have also been consulted.

27 letters have been received raising the following objections:

- Loss of parking for residents/Further parking issues
- No turning area for vehicles on this single lane road
- Loss of privacy to No. 65
- Overdevelopment of the site
- Traffic and congestion issues
- Lack of access for construction vehicles, emergency vehicles and refuse vehicles
- Impact on wildlife including protected species and damage to habitat
- Increase in noise and disruption
- Harm to the Conservation Area

Natural England have made the following comments:

No objection. 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 from recreational disturbance on the over-wintering bird interest. Subject to the appropriate financial contribution being secured, Natural England is satisfied that the proposal will mitigate against the potential recreational impacts of the development on the site.

KCC Ecology have made the following comments:

The receptor site for slow worms to be provided next to the application site is sufficient space to support the reptile population. The proposed ecological enhancements must be implemented and the site be sufficiently established to support the reptile population prior to any reptile translocation commencing.

It is likely that bats are foraging/commuting within the site and there is a need to ensure that any lighting proposed for the development is designed to be sensitive and avoids impacting the area of public open space.

The area for public open space provides opportunities to create and enhance habitat for biodiversity. It is recommended that the applicant's ecologist is involved in the design of the area of public open space.

The residential area of the proposed development also provides opportunities to incorporate features into the design which are beneficial to wildlife. It is recommended that measures to enhance biodiversity within both the open space and the residential area are secured as a condition of any granted planning permission.

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 2019 and are considered to conform.

Planning Appraisal

Background

This application is a resubmission of the previously withdrawn application MC/17/2376. The previous application was withdrawn because of the need for a reptile survey. There are no changes to the scheme when compared with the previous application but additional ecological information and surveys have been submitted as part of the current application.

Principle

The application site is an undeveloped, overgrown section of land at the culmination of Layfield Road, sloping down towards Pier Road. The site is located within the urban area of Gillingham, within the Conservation Area, defined on the Local Plan Proposals Map that accompanies the Local Plan and it is on a parcel of land earmarked as proposed open space under Policy L6.

Policy L6 of the Local Plan seeks to safeguard land for the provision of informal public open space. However, the land is in private ownership and not publicly accessible, as such it is unlikely to come forward for that purpose. The applicant has offered to make land in their ownership available for open space. It is noted that there is a significant provision of open space in the locality and the loss of the land would not lead to a deficiency in provision, as such it could be made available for an alternative use.

As Medway Council do not currently have a five year housing supply, this policy to protect open space is not entirely consistent with the NPPF and therefore cannot, in its own right, warrant refusal of the application. The offer of the area of land to the west of the site as public open space would be secured by s106 agreement. In its current state, the site unempt. This would be improved by the redevelopment of the site.

In line with paragraph 117 of the NPPF, Policy S1 of the Local Plan sets out the development strategy for the plan area. It states that the development strategy is to prioritise re-investment in the urban fabric, which will include the redevelopment and recycling of under- used and derelict land within the urban area. It further states that the focus will be on a number of areas including Gillingham. The proposed development would accord with this broad strategy. It is noted that this land was allocated within the SHLAA as suitable, deliverable and available for housing.

Policy H4 of the Local Plan says that infilling in such areas will be permitted providing that a clear improvement in the local environment will result. The impact on the local environment will be addressed below but in principle there is no overriding objection to the development with regard to this Policy. In this particular case, the site is bordered by residential development to the east and south. It could therefore be considered that this effectively is an infill site.

Paragraph 68 of the NPPF highlights that small and medium sized sites can make an important contribution to meeting housing requirements. LPAs are therefore encouraged to promote a good mix of sites, including supporting development on sites less than 1ha and the development of windfall sites, giving great weight to the benefits of using suitable sites within existing settlements for homes. This proposal is consistent with these policies.

Given that the presumption in favour set out in Paragraphs 10 and 11 of the NPPF applies to 'sustainable development', it is necessary first to consider whether this proposal does comprise sustainable development and to consider the impact of the development on the character of the area and the importance of the site in landscape terms. The NPPF definition at Paragraph 8 refers to sustainable development having an economic, a social and an environmental role, which are interdependent and need to be pursued in mutually supportive ways. This means that weight has to be given to the benefits of the supply of housing; both social benefits in meeting housing needs and economic benefits in terms of providing jobs and boosting the local economy during construction phase and providing the increased workforce that enables continued economic growth in the longer term.

The redevelopment of the site for residential purposes is accepted in principle in accordance with Policy S1, BNE12, H4 and L6 of the Local Plan and Paragraphs 8, 10, 11, 12, 49 and 68 of the NPPF.

Design

The NPPF attaches great importance to the design of the built environment. Paragraph 124 advises that good design is a key aspect of sustainable development, creates better

places to live and work and helps make development acceptable to communities. Good design is also a requirement of Policy BNE1 of the Local Plan.

The site is located within the Gillingham Green Conservation Area. Policy BNE12 of the Local Plan states that special attention needs to be paid to the preservation and enhancement of the character and appearance of Conservation Areas.

The scheme is for five uniform three bedroom, two storey, link detached houses, in a linear formation. The positioning and orientation of the proposed dwellings has been done to best utilise the land, whilst maximising the distance between them and the existing house at No. 65 Layfield Road, using the rear gardens as a buffer. The scheme has been designed to create an appealing visual aspect out on to the existing and proposed open space to the west of the site and enhancing the setting with further landscaping.

The buildings are of a high quality design that would maintain the aesthetic of the surrounding area and enhance landscape views of the site. The two storey buildings will not exceed the scale of the surrounding buildings ensuring that the development blends in as an extension to the existing built form. The spacing between buildings and bulk of the buildings is also in keeping with the surrounding area. The appearance, architectural features and materials are more closely related to the newer developments at Christmas Street to create an interesting and dynamic street scene while remaining in keeping with the character and appearance of the area.

The proposal is considered to have a high quality, contemporary design in keeping with the surrounding area and as such the development would be in accordance with Policies S1, BNE1, BNE12 and H4 of the Local Plan and paragraphs 124, 127 and 128 of the NPPF.

Amenity

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

Impact on neighbours'

There are neighbouring properties to the east of the site that are considered to be sufficient distance away that there would be no impact on amenity in terms of daylight, sunlight, outlook and privacy. There would be no overlooking of private spaces and no direct overlooking into habitable rooms from the new development. There is potential during the construction stage for there to be an impact from noise, vibration, smell and airborne emissions and a condition relating to a Construction Environmental Management Plan is recommended.

The proposed development is not considered to have an unacceptable impact on neighbouring amenity in terms of daylight, sunlight, outlook and privacy and as such the application accords with Policy BNE2 of the Local Plan and paragraph 127 of the NPPF.

Impact for future residents

The development has been assessed with regard to the Medway Housing Design Standards (interim) November 2011 and the Government's Technical Housing Standards 2015 and meets these standards and as such the objectives of Policy BNE2 of the Local Plan. The dwellings are all in accordance with the Government's Technical Housing Standards 2015. Private external amenity areas have been provided in accordance with Medway standards.

The proposed development is considered acceptable in terms of the impact on the amenity of the future occupiers of the proposed dwellings in terms of daylight, sunlight, outlook and privacy and as such, the application accords with Policy BNE2 of the Local Plan and paragraph 127 of the NPPF. However to ensure that the amenity areas remain adequate, it is recommended that a condition removing permitted development rights for enlargement in particular to extensions, including roof enlargements, and outbuildings be appended.

Air Quality

The site is located within the Pier Road, Gillingham Air Quality Management Area, which has been declared for exceedances of the NO₂ annual mean objective since June 2010, therefore it is recommended that a scheme of mitigation be required pursuant to a condition. Mitigation should include the provision of electric vehicle charging points and low NO_x boilers.

Subject to the imposition of condition the development would be in accordance with Policy BNE24 of the Local Plan and paragraphs 170 and 181 of the NPPF.

Noise

The main source of noise to the site is from Pier Road to the north of the site. An Acoustic Assessment will need to be submitted to demonstrate that acceptable internal noise levels are likely to be achieved with suitably specific glazing and means of ventilation. This can be covered by a condition on any permission.

Subject to the imposition of the suggested condition the development would be in accordance with Policy BNE2 of the Local Plan and paragraphs 170 and 180 of the NPPF.

Highways

The vehicular access point to the development site consists of a simple bellmouth proposed to the southern boundary of the site. Although Layfield Road is narrow it is considered sufficient to cope with the increase in minor residential traffic. There is no objection to the access providing that adequate visibility splays are maintained and vegetation adjacent to the retained parking spaces is cut back. The landscaping will be conditioned but planting will need to be restricted to make sure visibility is not blocked

when entering or exiting the site. The development meets the Council's residential parking standards. Secure cycle storage will need to be provided.

The proposal has been considered in the light of the level of proposed parking provision, the access and egress in relation to the existing access arrangement and highway and pedestrian safety generally. It is noted that the application has attracted a number of objections regarding the loss of on street parking, however it appears that the land currently used as off road parking is under the ownership of the applicant and therefore if he so wished he could block access onto this land via a boundary treatment which could be erected under permitted development rights and thus remove the parking in any case. Therefore, whilst it is considered that the loss of parking have an impact in amenity terms, given the circumstances, it is not sufficient grounds to refuse the application.

The application is considered to be acceptable in respect of the transport and parking Policies T1, T2, T4 and T13 of the Local Plan and paragraph 109 of NPPF.

Ecology

An Ecology Appraisal has been submitted as part of this application. The report finds that reptiles may be present on the site. A further reptile mitigation strategy and receptor site was requested, which has now been submitted. Conditions are recommended relating to the reptile surveys and ecological enhancement.

The application provides opportunities to incorporate features into the design which are beneficial to wildlife and recommendations are provided within the report. Measures to enhance biodiversity can be secured by condition.

Subject to the imposition of conditions and carrying out of a reptile survey, appropriate mitigation and ecological enhancements the development would be in accordance with Policy BNE37 and BNE39 of the Local Plan and paragraph 175 of the NPPF.

Bird Mitigation

As the application site is within 6km of the North Kent Marshes SPA/Ramsar Sites, the proposed development is likely to have a significant effect, either alone or in-combination, on the coastal North Kent Special Protection Areas (SPAs)/Ramsar sites from recreational disturbance on the over-wintering bird interest. Natural England has advised that an appropriate tariff of £239.61 per dwelling (excluding legal and monitoring officer's costs, which separately total £550) should be collected to fund strategic measures across the Thames, Medway and Swale Estuaries. The strategic measures are in the process of being developed, but are likely to be in accordance with the Category A measures identified in the Thames, Medway & Swale Estuaries Strategic Access Management and Monitoring Strategy (SAMM) produced by Footprint Ecology in July 2014. The interim tariff stated above should be collected for new dwellings, either as new builds or conversions (which includes HMOs and student accommodation), in anticipation of:

- An administrative body being identified to manage the strategic tariff collected by the local authorities;
- A memorandum of understanding or legal agreement between the local authorities and administrative body to underpin the strategic approach;
- Ensure that a delivery mechanism for the agreed SAMM measures is secured and the SAMM strategy is being implemented from the first occupation of the dwellings, proportionate to the level of the housing development.

The applicants have agreed to pay this tariff and are in the process of submitting a unilateral undertaking. Natural England have agreed the appropriate assessment and indicated that there would be no adverse effect on the integrity of the European protected sites, subsequently the presumption of sustainable development still applies in accordance with paragraph 177 of the NPPF. No objection is therefore raised under Policies S6 and BNE35 of the Local Plan and paragraphs 175, 176 and 177 of the NPPF.

Local Finance Considerations

There are no local finance considerations.

Conclusions and Reasons for Approval

The proposed development of 5 dwellings is within an area allocated as proposed open space however this is not sufficient reason to warrant refusal given the Council's position with regard to the five year housing supply. The proposal will also bring forward an area of open space to the west of the development site. The principle of development is accepted as the impact of the development in landscape quality terms is limited and the scheme is supported by the NPPF in terms of sustainability.

The design of the proposed development is appropriate in terms of size, scale, siting and in keeping with the character and appearance of the Conservation Area and street scene. The proposed development is not considered to have an unacceptable impact on future occupier or neighbouring amenity in terms of daylight, sunlight, outlook and privacy and would not cause any detriment to the existing highway network.

The proposal is in accordance with Policies S1, S6, BNE1, BNE2, BNE12, BNE24, BNE35, BNE37, BNE39, H4, L6, T1, T2, T4 and T13 of the Medway Local Plan 2003 and paragraphs 8, 10, 11, 12, 17, 49, 68, 109, 110, 124, 127, 128, 130, 170, 175, 176, 177, 180 and 181 of the NPPF.

The application would normally be determined under delegated powers but is being referred for Committee determination due to the number of 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/>