

MC/19/0086

Date Received: 11 January 2019

Location: 104A,B,C Poplar Road Strood Rochester ME2 2NS

Proposal: Construction of a terrace of three 3 bedroom houses, two 2 bedroom chalet bungalows and one 1 bedroom bungalow (demolition of bungalows) - resubmission of MC/17/1342

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Ward: Strood South Ward

Case Officer: Wendy Simpson

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Recommendation of Officers to the Planning Committee, to be considered and determined by the Planning Committee at a meeting to be held on 24th April 2019.

Recommendation - Refusal

- 1 By virtue of the small size and layout of the private gardens of the proposed houses, the proposal would fail to provide high quality housing, and would lead to pressure to enclose the front and side garden spaces with high level fencing to provide additional private garden space, which as a consequence would create enclosure of the public footpath running through the site and obscure visibility from one end of the footpath to the other and fail to provide a safe walking environment for members of the public using the public footpath. The close proximity of the habitable room windows of the three proposed bungalows to the public footpath through the site would result in a lack of privacy to these rooms and the possibility that the curtains of these rooms being kept drawn to provide privacy, but in doing so would result in a loss of daylight to and outlook from these rooms and also negate natural surveillance of the public footpath. The proposal is considered to be contrary to Policies BNE1, BNE2 and BNE8 of the Medway Local Plan 2003 and paragraph 127 of the National Planning Policy Framework 2019.

- 2 The application fails to address the impact of the proposal on the Special Protection Areas of the Thames Estuary and Marshes and the Medway Estuary and Marshes through either the submission of details to allow the undertaking of an Appropriate Assessment or via a contribution towards strategic mitigation measures. In the absence of such information or contribution, the proposal fails to comply with the requirement of the Conservation of Habitat and Species Regulations 2010 and is contrary to paragraphs 175 and 176 of the National Planning Policy Framework and Policy BNE35 of the Medway Local Plan 2003.

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

Proposal

This application seeks full planning permission for the demolition of the existing bungalows on the site and the construction of:

- A terrace of three x 3 bedroom houses;
- Two x 2 bedroom chalet bungalows;
- One x 1 bedroom bungalow (demolition of bungalows).

The terrace would be located between the existing properties at Nos. 104 and 106 Poplar Road. The terrace would comprise of a group of three, two-storey houses in a staggered layout in an east-west arrangement – with their front elevation facing south. The end house on the east would be adjacent to Nos. 104. Between the end house on the west and no.106 would be a gap of about 16.5m, through which would be retained the existing footpath that runs diagonally through the site.

Behind the terrace is proposed a one-bedroom bungalow orientated facing west and on the northwestern side of the proposed terrace would be a pair of semi-detached bungalows facing southeast.

The proposed terrace dwellings would be constructed with a gabled roof form and with ridge height matching those on neighbouring terraces. The external materials palette is of smooth render with areas of horizontal fibre-cement cladding boards and concrete roof tiles. Two of the terraced dwellings would have a split level garden of about 7m depth and with the upper level about 1.5m higher than the lower level. The westernmost dwelling would have a split level garden, enclosed by 2m high fencing that would be partly triangular in shape. This dwelling would also have a triangular side garden that would be enclosed by a low level hedge. Internally the terraced dwellings would comprise of a kitchen/dining/living room, W.C and hallway on the ground floor and two double bedrooms, a single bedroom and a bathroom on the first floor.

The one-bedroom bungalow, behind the proposed terrace, would be mostly clad externally with some areas of render, concrete tiles and a gabled roof form. The plans show a raised deck area to its southern side of about 2.5m depth onto a 2m high close-

boarded fence. A small triangular area to its frontage would be at a lower level and enclosed by a low level hedge. Internally the bungalow would comprise a double bedroom with an en-suite bathroom and kitchen/living/dining room. This dwelling would have a small deck area and small lower front garden area enclosed by low hedging.

The proposed chalet bungalows would have a gabled roof form and rooflights would be fitted in both the front and rear roof planes to serve the rooms proposed within the roofspace. The main body of these bungalows would be clad and the bedroom 'wings' of red brick. Concrete roof tiles are also proposed to the gabled roof. These dwellings would have a patio and planted slope to the rear, enclosed with 2m high fencing and a side/front garden enclosed by low level hedging. Internally they would comprise of a kitchen/living/dining room, with a bedroom off it, and a bathroom off the hallway at ground floor level and stairs up to a first floor bedroom with en-suite shower room.

No on-site parking is proposed.

Site Area/Density

Site Area: 0.127 hectares (0.3 acres)

Site Density: 47dph (20 dpa)

Relevant Planning History

MC/17/1342 Construction of a terrace of six 2-bedroomed dwellings (demolition of existing bungalows) (Refused. Dismissed on appeal)

75/856 Erection of three space way dwellings for sheltered accommodation (Approved)

Representations

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

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

Southern Water advises that the layout of the development needs amending, following the exact location of the infrastructure being determined on site, so:

- There would be 3m either side of the sewer to protect it from construction works and allow for future access for maintenance;
- No trees, within this 3 m area no development, tree planting or tanked permeable paving is allowed;
- No soakaway, ponds or swales is permitted within 5m of the public sewer;

- In respect to the public water main Southern Water must issue its consent for any excavation, mounding or tree planting within 6m of it.
- The Southern Water plan shows that the anticipated line of the sewer and public water main is through the site close to the front of the one-bedroom bungalow and under the proposed terrace.

The **Environment Agency** advise that the proposal is low risk and they do not wish to make any comments.

Natural England advise that no objection is raised subject to securing appropriate mitigation for the cumulative impact to the Thames/Medway Marshes RAMSAR sites.

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

Seven letters (from six people) have been received from residents of five addresses on Poplar Road and Laburnum Road raising the following objections:

- Increased parking pressure
- Overshadowing of neighbouring gardens
- Loss of privacy
- Construction works will interfere with the use of the heavily used walkway

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

Application MC/17/1342 (Construction of a terrace of six 2-bedroomed dwellings) was refused planning permission for the following reasons:

1. The proposal constitutes overdevelopment of the site and therefore does not make adequate provision for parking for the proposed residents which would in turn result in exacerbating existing parking problems for residents in surrounding roads contrary to Policies BNE1, BNE2 and T13 of the Medway Local Plan 2003.
2. The dog leg design of the alley would result in the creation of a dark and hidden area that has the potential for loitering and anti-social behaviour as well as the

creating the perception of an unsafe route contrary to Policy BNE8 of the Medway Local Plan 2003.

At appeal the inspector dismissed the appeal for the reason that the proposal failed to provide an acceptable and safe walking environment for pedestrians and was therefore in conflict with the development plan.

Principle

Policy H4 of the Local Plan supports the redevelopment of existing residential areas and infilling in such areas. The NPPF seeks, in the first instance, the delivery of sustainable development on brownfield sites in an appropriate use. In this case the dwellings would fall within a residential area within the urban area of Strood and therefore in principle a residential use is considered acceptable, but the details of the development need to be considered.

The planning inspector was minded at the appeal on the previous application (terrace of six dwellings) that the additional three dwellings would fulfil a housing need and the terrace of six dwellings proposed represent a more efficient use of the land – although the proposal was still deemed unacceptable in respect to the footpath realignment and failing to provide a safe walking environment.

Design

The Government attaches great importance to the design of the built environment. Good design is considered a key aspect of sustainable development and is indivisible from good planning. Paragraph 127 is key to the achieving well designed places and requires that developments (in part) function well and add to the overall quality of the area, are visually attractive as a result of good architecture, layout and appropriate and effective landscaping; are sympathetic to local character and history, including the surrounding built environment and landscape setting.

In accordance with the NPPF, Saved Local Plan Policy BNE1 'General Principles for Built Development' requires the design of development to be appropriate in relation to the character, appearance and functioning of the built and natural environment. Policy BNE8 of the Local Plan relates to the design and layout of the place which it states should maximise personal safety and the security of property.

In this case the site is currently occupied by three, aged, prefabricated bungalows.

The site now proposes the erection of a terrace of three, two storey dwellings, on the eastern side of the site, fronting the street and between nos. 104 and 106 Poplar Road. The proposed terrace dwellings share similarities in design, scale and height to neighbouring and nearby terraces within the area. The building would be constructed with a gabled roof form and with ridge height matching those on neighbouring terraces and sit comfortably within the street scene.

The three bungalow dwellings are orientated to have a frontage onto the footpath that runs through the site and, whilst not visually unpleasing, are perhaps more reflective in their layout and relationship to the footpath to the 'out of character' existing prefabricated bungalows on the site, which are alien in their appearance and layout to the surrounding built form. It needs to be assessed if these bungalows would provide high quality housing that would, on balance, outweigh the uncharacteristic layout, given the existing bungalows on the site.

In terms of the inspector's comment at the last appeal it needs also to be considered if this re-organised development overcomes the inspector's concerns in terms of the overall layout of the site and how the footpath functions in terms of pedestrian safety through the site. This is discussed in the 'Amenity' section below.

Amenity

Policy BNE2 of the Local Plan and paragraph 127 of the NPPF require the amenities of both neighbours and future occupiers of these units be taken into account. Policy BNE8 of the Local Plan, in relation to person safety and the security of property, is also relevant.

Amenity for Future Occupiers

Each dwelling would comply with the Technical Housing Standard and would provide an acceptable internal space for the level of occupation proposed.

In terms of the garden depth, the Medway Housing Design Standards (MHDS) is used as a guide as the national standard only relates to internal floorspace. The MHDS sets a garden depth of 10m, reducing to 7m in urban areas *"only on constrained sites where it is demonstrated that adequate visual privacy to every home is achieved. Private gardens with a minimum length of 10m will otherwise be expected"*.

In this case it is not considered that the western end terrace meets with this minimum requirement for private garden space. The private rear garden space proposed is greatly reduced to under 7m depth for most of its depth as it tapers significantly, following the alignment of the adjacent foot path. The additional side garden allocated to this western terrace is enclosed only by a low level hedge, as a borrowed visual 'open area' for users of the public footpath that runs through the site. To compensate for the lack of adequate private rear garden space for this property there would be significant pressure for any occupiers to enclose the side garden area with high level fencing to create an additional private garden space – but this would cause a sense of enclosure of the pedestrian footpath running through the site and make it feel unsafe to use, contrary to requirement of Policy BNE8.

Furthermore, the proposed garden depth of these three terraced dwellings is further 'reduced' from this minimum 7m depth by the need to include steep steps within the garden space as the gardens are split level, with the upper level about 1.5m above the patio level. The significant split level nature of these small garden spaces (only 7m depth)

makes them impractical to serve homes intended as family homes. These gardens are not considered able to suitably accommodate sheds (needed for cycle and large item storage), washing line, and play and recreation space for the size of dwellings they would serve. Overall the rear gardens of the terraced dwellings are considered to be too small and impractical due to the significant silt level to serve the proposed family sized dwellings.

The one bedroom rear bungalow would have only a very small private outdoor space, in the form of a raised deck area of about 2.5m depth by 8m width, enclosed on its southern and eastern sides by 2m high fencing– and for security and privacy reasons over time also enclosed as such by occupiers on its western side. Therefore whilst being private space it would feel very enclosed. On its own this is not considered to warrant the refusal of the application however it is also noted that the sole bedroom window for this dwelling is hard onto the public footpath running through the site and for privacy and security reasons would likely remain closed with curtains drawn. These matters are considered to be symptomatic of an overdeveloped nature of the site, whilst seeking to retain the public footpath in its current position through the site, as are the issues of the inadequate private garden space for the terraced houses.

The proposed chalet bungalows likewise have very small private rear gardens, where only the patio area is useable as the soft planted area is steeply sloped and tapered and is therefore unusable. These fall short of the requirements of the Medway Housing Standards of a minimum garden depth for private garden space of 7m and again there would be significant pressure for the side and front garden areas of the chalet bungalows to be enclosed with high fencing to create additional private garden space. To do so would make the public footpath running through the site feel very enclosed for the public users of that route, which would fail to overcome the inspectors concerns in their dismissal of the last appeal.

It is also noted that the first floor bedrooms of the proposed chalet bungalows would only have an outlook of the sky due to the height the rooflights are proposed to be set in the roof. The front roof plane rooflights cannot be lowered as there would then occur overlooking of the gardens of the proposed terraced houses, but the rear roof plane rooflights could be lowered to overcome this lack of outlook from future occupiers. This could be required by planning condition.

Existing Residential Amenity

The proposed terrace would be located between the existing terraces to the east and west. The side elevations of the end house to the east would be set in from the side boundary with No. 104, but with a distance of approx. 16.5m to No. 10. There would be no windows in these side elevations. Taking account of the siting and orientation of the properties in the terrace in relation to existing properties and that there would be no windows in the side elevations, it is considered that there would be no detrimental impact on existing residents in terms of loss outlook, daylight, privacy and overshadowing.

Sections through the plots site show that the difference in height between the patio area of the terraced properties and the upper garden area is about 1.5m. There is therefore concern that the upper garden level of the easternmost terrace would potentially overlook the rear garden of No. 104 and into rear windows. This could be overcome by reducing the upper garden level and the use of screening and a condition be used to require final levels of the land to be submitted and approved in conjunction with boundary treatment.

In relation to the bungalows the 2m high fences around the private raised deck and garden spaces, together with the high level location of the roof lights in the front roof plane of the chalet bungalows, would prevent overlooking of neighbours' gardens.

The layout of the proposed dwellings would not result in a loss of outlook from or daylight to neighbouring dwellings nor result in overshadowing of an extent or duration that would be harmful to neighbours' living conditions.

In respect to the impact of construction, due to noise, dust etc, on neighbours' living conditions a planning condition could be used so such details are agreed in a Construction Environmental Management Plan (CEMP).

Highways

Paragraph 127 of the National Planning Policy Framework requires that new development functions well within the area in which it is situated and policy T13 relates to the council's adopted vehicle parking standards.

The proposal will lead to an overall increase in 3 dwellings on the site with no on-site parking for the dwellings being provided. The previous planning application MC/17/1342 was refused planning permission in part due to the perceived inadequacy of parking provision on the area to be able to accommodate the additional parking requirements. However the planning inspector did not agree with this refusal reason and was minded that the parking survey evidence provided showed that there was sufficient spare capacity within a 200m stretch along Poplar Road to be able to accommodate the parking associated with the additional three dwellings.

The proposal is therefore no objection is raised under policy T13 of the Local Plan or paragraph 127 of the National Planning Policy Framework.

Other matters

It has been raised by Southern Water that there are mains sewer and public water infrastructure running through the site which may mean that the proposed layout of housing is not possible to be constructed as it conflicts with the parameters for development under Southern Water restrictions.

Whilst it is right that these matters should be brought to the applicant's attention at this time it is not a reason for the refusal of planning permission as this would fall under the remit of Southern Water powers and Building Regulations.

Bird Mitigation

As the application site is within 6km of the North Kent Marshes SPA/Ramsar Sites, the proposed development is likely to have a significant effect, either alone or in-combination, on the coastal North Kent Special Protection Areas (SPAs)/Ramsar sites from recreational disturbance on the over-wintering bird interest. Natural England has advised that an appropriate tariff of £223.58 per dwelling (excluding legal and monitoring officer's costs, which separately total £550) should be collected to fund strategic measures across the Thames, Medway and Swale Estuaries. The strategic measures are in the process of being developed, but are likely to be in accordance with the Category A measures identified in the Thames, Medway & Swale Estuaries Strategic Access Management and Monitoring Strategy (SAMM) produced by Footprint Ecology in July 2014. The interim tariff stated above should be collected for new dwellings, either as new builds or conversions (which includes HMOs and student accommodation), in anticipation of:

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

In this case, whilst the applicant has provided paperwork to pay this tariff no payment has been received to date. Without this agreement in place and in the absence of information for an appropriate assessment to be undertaken, the Local Planning Authority cannot be satisfied that the proposal would put in place adequate measures to mitigate potential significant adverse effects on the North Kent Marshes SPA which is contrary Paragraphs 175 and 176 of the NPPF and Policies S6 and BNE35 of the Local Plan.

Local Finance Considerations

None relevant to this application.

Conclusions and Reasons for Refusal

The proposal is acceptable in principle, making more efficient use of land in the urban area, however the layout and design of the development would not provide dwellings with adequate size and layout of private garden space to serve the proposed dwellings.

The inadequate size and layout of the various private garden spaces would lead to significant pressure to enclose the proposed front and side garden spaces with high level

fencing, however to do so would create enclosure of the public footpath running through the site and screen visibility from one end of the footpath to the other. The close proximity of the habitable room windows of the three proposed bungalows to the public footpath would likely lead to the curtains of these rooms being kept drawn to prevent a loss of privacy, but by doing so negate natural surveillance of the public footpath.

As such the layout and design of the development is not considered to provide high quality homes with acceptable ancillary space and fails to provide a safe walking environment for members of the public using the public footpath running through the site.

In addition the applicant has not made payment to mitigate the cumulative impact of additional residential development on the North Kent Marshes SPA, without significant adverse effects would occur.

The proposal is considered to be contrary to Policies BNE1, BNE2, BNE8, S6 and BNE35 of the Medway Local Plan 2003 and paragraphs 127, 175 and 176 of the National Planning Policy Framework 2019.

The application would normally be determined under delegated powers but is being referred to the Planning Committee as the application is a resubmission of a previous development on the site that was determined at planning 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/>