

MC/19/0286

Date Received: 2 February 2019

Location: Garage Site Adjacent To 1-7 Alfred Close And Garage Site Adjacent To 72-75 Maida Road Luton Chatham Kent

Proposal: Demolition of 17 garages and construction of two 1-bed and three 2-bed flats with associated works at Alfred Close and the demolition of two garages and formation of 8 car parking spaces at Maida Road.

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Ward: Luton And Wayfield Ward

Case Officer: Madeline Mead

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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 - Approval with 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 10.107.03 Rev A, 10.107.04 Rev A, 10.107.05 Rev A, 10.107.09 Rev A, and 10.107.12 received 4 February 2019; 18.107.14 and

10.107.15 received on 4 March 2019; 18.107.06 Rev B, 10.107.07 Rev B, 10.107.08 Rev B and 10.107.10 Rev B received on 25 March 2019; and 18.107.13 Rev A received on 26 March 2019.

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

- 3 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 take place until conditions 4 to 6 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 3 has been complied with in relation to that contamination.

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

- 4 No development shall take place until an investigation and risk assessment, in addition to any assessment provided with the planning application, has been completed in accordance with a scheme to assess the nature and extent of any contamination on the site, including risks to groundwater, whether or not it originates on the site. The scheme shall be submitted to and approved in writing by the Local Planning Authority prior to commencement of the development. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report shall be submitted to and approved by the Local Planning Authority prior to the commencement of development. The report of the findings must include:

(i) a survey of the extent, scale and nature of contamination;

(ii) an assessment of the potential risks to:

- Health
- Property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes.
- Adjoining land,
- Groundwaters and surface waters,
- Ecological systems,
- Archaeological sites and ancient monuments;

(iii) an appraisal of remedial options, and proposal of the preferred option(s).

This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'.

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

- 5 No development shall take place until a detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment has been prepared and submitted to and approved in writing by the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

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

- 6 No development shall take place (other than development required to enable the remediation process to be implemented) until the approved remediation scheme has been carried out in accordance with its terms. The Local Planning Authority must be given not less than two weeks written notification prior to the commencement of the remediation scheme works.

Following completion of the measures identified in the approved remediation scheme, a verification report that demonstrates the effectiveness of the remediation carried out must be produced, and submitted to and approved in writing by the Local Planning Authority prior to the bringing into use of the development.

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

- 7 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 4 and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 5 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 5 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 6.

Reason: To ensure that the development is undertaken in a manner which acknowledges interests of amenity and safety in accordance with Policy BNE23 of the Medway Local Plan 2003.

- 8 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 BNE2 of the Medway Local Plan 2003.

- 9 No development shall take place until the details in (c) and (d) below have been submitted to and approved in writing by the Local Planning Authority.

In this Condition "retained tree" means the existing tree shown on the drawings titled "Existing & Proposed Tree Sections" and dated 4/3/2019. Paragraphs a) and b) below shall have effect until the expiration of 5 years from the date of occupation of the building for its permitted use.

- A) No retained tree shall be cut down, uprooted or destroyed, nor shall any retained tree be pruned other than in accordance with the approved plans and particulars. Any pruning approved shall be carried out in accordance with British Standard 3998 (Tree Work - Recommendations).
- B) If any retained tree is removed, uprooted or destroyed or dies, another tree shall be planted at the same place and that tree shall be of such size and species, and shall be planted at such time as may be specified in writing by the Local Planning Authority.
- C) The submission of details relating to tree protection measures, which comply with the recommendations contained in British Standard 5837:2012 'Trees in relation to design, demolition and construction - Recommendations.

- D) The submission of site specific method statements addressing removal of the retaining wall, the infilling of ground, the installation of services, the installation of drainage or any other works within the root protection area of retained trees as prescribed by the recommendations contained in British Standard 5837:2012 'Trees in relation to design, demolition and construction - Recommendations.
- E) The erection of ground protection and fencing for the protection of any retained tree shall be undertaken in accordance with the approved plans and particulars before any equipment, machinery or materials are brought on to the site for the purposes of the development, and shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed in any area protected in accordance with this Condition and the ground levels within those areas shall not be altered, nor shall any excavation be made other than those set out in the arboricultural method statements without the written approval of the Local Planning Authority.

Reason: 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.

- 10 No development above slab level shall take place until details and samples of all materials to be used externally, including details of the balcony screening, 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.

- 11 The dwellings herein approved shall not be occupied until the areas shown on the submitted layout as vehicle parking, within Alfred Road and Maida Road, have been provided, surfaced and drained. Thereafter it shall be kept available for such use and no permanent development, whether or not permitted by the Town and Country Planning (General Permitted Development) Order 2015 (or any order amending, revoking or re-enacting that Order) shall be carried out on the land so shown or in such a position as to preclude vehicular access to these parking spaces.

Reason: Development without provision of adequate accommodation for the parking or garaging of vehicles is likely to lead to hazardous on-street parking and in accordance with Policies T1 and T13 of the Medway Local Plan 2003.

- 12 No dwelling shall be occupied until details of secure private cycle parking provision in the form of individual lockers has been submitted to and approved in writing by

the Local Planning Authority. The cycle parking shall be implemented in accordance with the approved details before any dwelling is occupied 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.

- 13 No development above slab level shall take place until elevations and materials of the bin and cycle storage building have been submitted to and approved in writing by the Local Planning Authority. The bin and cycle storage building shall be implemented in accordance with the approved scheme 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.

- 14 Prior to the occupation of any dwelling herein approved, details of all boundary treatments including a plan indicating the positions, design, materials and type of boundary treatment to be erected shall be submitted to and approved in writing by the Local Planning Authority. The boundary treatment shall be completed in accordance with the approved details before the occupation of any flat herein approved 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.

- 15 Prior to the occupation of any dwelling herein approved details of a scheme of hard and soft landscaping and a permeable surface for the parking areas at both the Alfred Road and Maida Road sites shall be submitted to and approved in writing by the Local Planning Authority. The landscaping shall be implemented in accordance with the approved details prior to the occupation of any dwelling herein approved and shall be maintained thereafter.

Reason: To protect and enhance the appearance and character of the site and locality, in accordance with paragraph 175 of the NPPF and Policies BNE1 and BNE6 of the Medway Local Plan 2003.

- 16 Prior to occupation of any dwelling herein approved details of any lighting to be installed within the site 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 thereafter maintained.

Reason: To safeguard conditions of amenity within the scheme of development permitted in accordance with Policy BNE2 of the Medway Local Plan 2003.

## **Recommendation - Approval with conditions**

### **Proposal**

The application proposes the demolition of 17 garages at Alfred Close and the construction of a two/three storey block comprising three 2-bedroom and two 1-bedroom flats. The 1-bedroom flats would provide kitchen/living/dining, bathroom and bedroom and the 2-bedroom flats the same but with a further bedroom.

An enclosed refuse and cycle storage area is proposed, within a detached building to the side of the building.

To the rear of the site, eight car parking spaces are proposed.

Two garages within Maida Road are to be demolished and eight car parking spaces created.

### **Site Area/Density**

Site Area: 0.11 hectares (0.29 acres)

Site Density: 45.45 dph (17.24 dpa)

### **Representations**

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

**Four** letters of objection have been received with the following comments:

- Loss of parking.
- Rear wall of garages should be replaced with adequate screening to protect amenity of occupiers of Alfred Close.
- Noise.
- Loss of soft landscaping.

**One** letter of support has been received.

### **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**

### *Principle*

The site is located within an urban area of Chatham. Policy H4 of the Local Plan states that the use of vacant land or change of use of buildings no longer required for non-residential use will be permitted for residential development subject to clear improvement in the local environment. Paragraph 11 of the NPPF advises that housing applications should be considered in the context of the presumption in favour of sustainable development. Subject to compliance with the detailed matters of these policies which are subject to assessment below, the principle of the site for residential development is considered acceptable given the residential character of the area.

### *Design*

Paragraphs 124 and 127 of the NPPF emphasises the importance of good design and Policy BNE1 of the Local Plan states that development should be satisfactory in terms of scale and mass and should respect the visual amenity of the surrounding area.

The proposed block would sit between a terrace of two storey dwellings and a two storey block of flats. Both neighbouring properties are of pitched roof design.

The proposed building would be 2/3 storeys in height, with the 3 storey element being to the rear and would have a pitched roof design. Due to site constraints, the side of the building would front onto Alfred Close rather than the front of the building. This is not ideal, however, the appearance of the side elevation of the building is not too dissimilar to that of the neighbouring flats. Balconies are proposed to the side and rear elevations, with privacy screening and two oriel windows on the north eastern elevation.

Soft landscaping is proposed around the building and a detached refuse and cycle store is also proposed. No details of the design of the storage buildings have been submitted with the application and therefore it is considered that a condition is recommended requiring these details be submitted.

Overall, In terms of design the development is considered to be appropriate in relation to the character, appearance and functioning of the built and natural environment in terms of its use, scale, mass, layout and siting, It is also considered that the development would respect the scale, appearance and location of buildings, spaces and the visual amenity of the surrounding area in general conformity with the criteria set out in Policy BNE1 of the Local Plan and paragraphs 124 and 127 of the NPPF. A condition is also recommended for the materials to be submitted.

### *Amenity*

There are two main amenity considerations, firstly the impact of the proposed flat block on neighbours and secondly the living conditions which would be created for potential



occupants of the development itself. Policy BNE2 of the Local Plan and paragraph 127f of the NPPF relates to the protection of these amenities.

### Neighbouring Residential Amenity

The proposed development is bounded by flats to the north west and north east and a row of terrace houses to the south west. With regard to the impact of the development on the row of terrace houses, due to the siting of the proposed building it is not considered that it would have a detrimental impact on the occupiers in terms of daylight, sunlight, outlook and privacy.

A distance of approx. 15m would be retained from the rear elevation of the proposed building to the rear elevation of the flats to the rear of the site. The existing windows within the building to the north west appear to serve the communal stairwell, bathroom, kitchen, and set slightly further back, a habitable room window. Due to the separation distance and location of habitable room windows it not considered that the development would have a detrimental impact on the existing occupiers in terms of sunlight, daylight, outlook and privacy.

With regard to the existing flats to the north east, these are set in an “L” shaped block and have habitable and non-habitable windows facing the application site. The proposed windows on the elevation facing these flats are all high level except for two which serve bedrooms and would be oriel windows to restrict any overlooking of habitable room windows. The proposed building would have an increased impact, then the existing situation, on the shared amenity area, however, the impact is not considered to be detrimental to the occupiers of these flats. Overall it is not considered the proposed development would have a detrimental impact on existing occupiers of this building in terms of daylight, sunlight, outlook and privacy.

### Amenity of Future Occupiers

With regard to the amenities of the future occupiers, the proposed flats have been considered against the Technical housing standards - nationally described space standard dated March 2015.

The proposed flats would comprise two 1B2P units and three 2B4P units. The national described standards require a gross internal floor area of 50m<sup>2</sup> for a 1B2P and 70m<sup>2</sup> for a 2B4P. A single bedroom should have a floor area of at least 7.5m<sup>2</sup> and be at least 2.15m wide and a double bedroom floor area of 11.5m<sup>2</sup> and be at least 2.55m wide. All of the proposed flats would meet with this standard. The proposal is therefore considered to provide adequately sized living accommodation for future occupants of the units.

The development provides each of the flats with either a balcony or patio area that all measure approx. 6m<sup>2</sup>. The site is also in close proximity to Luton Millennium Green.

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

Overall, no objections are raised in terms of the impact on amenities of both the future occupiers and neighbours and the proposal is considered to comply with Policy BNE2 of the Local Plan and paragraph 127f of the NPPF.

### Maida Road

The removal of the two garages and formation of eight car parking spaces would bring two of the car parking spaces closer to a property within Maida Road, however, a public footpath and approx. 4m in distance would separate the front elevation of the property to the first parking space. Overall it is not considered that the use of these parking spaces would cause a detrimental impact on the occupier of this property in terms of noise from the comings and goings of vehicles in these spaces.

### *Bin Storage*

Bin storage is proposed to be located in a detached building, adjacent to the block of flats, towards the front of the site. The area of storage provided is adequate to serve the five flats and therefore no objection is raised.

### *Contamination*

The former use of the site could give rise to contamination. Policy BNE23 of the Local Plan and paragraph 178a of the NPPF requires that proposals for development of land likely to be contaminated be accompanied by the findings of a site examination, which identifies contaminants. A Phase 1 Desk Study and Site Reconnaissance has been submitted with the application. The report is in line with current guidance and recommends an intrusive investigation including ground gas monitoring be carried out due to the contamination risk from previous land use. It is considered that contamination issues can be adequately controlled by way of appropriately worded conditions. Subject to conditions to control contamination the application is considered to be acceptable and in accordance with paragraph 178a of the NPPF and Policy BNE23 of the Local Plan.

### *Trees*

To the front of the application site are two trees that are to be retained. A drawing submitted with the application also shows two further trees, also to the front of the site, that are to be removed. At the time of the officers site visit, the trees identified on the plan to be removed, had already been removed.

No tree survey or constraints documents were submitted with the application, however, site sections were submitted that show how the existing and proposed land levels around

the retained trees would be managed.

The two trees to the front of the site that have been identified to be retained are not protected, however, in the absence of an impact assessment and measures to protect the trees during construction it is considered that a condition be attached to any forthcoming planning permission.

Subject to the condition, the application is considered to be in accordance with paragraph 170 of the NPPF and Policy BNE43 of the Local Plan.

### *Highways*

The Medway Council's Interim Residential Parking Standards require the provision of a minimum of one parking space per unit for a 1-bedroom flat and 1.5 parking spaces per 2-bedroom unit, making a requirement of a minimum of six parking spaces to serve the future residents. The proposed development would provide six parking spaces for the future occupants of the development and two car parking spaces for the loss of the two garages at the Maida Road site. No visitor parking spaces would be provided. Whilst the amount of parking proposed would fall slightly short of the Medway's Parking Standards, in terms of no visitor parking provided, given its sustainable location, no objection would be raised.

Two garages on the Maida Road site are proposed to be demolished and 8 parking spaces to be formed to the front of the garage site.

The development would result in the loss of 17 garages on the Alfred Close site and 2 garages on the Maida Road site. Details submitted with the application have advised that the existing parking situation at both sites is 33 garages, of which 9 are empty and therefore leaving 24 garages in use. The proposed parking over the two sites would retain 14 garages, create 8 new car parking spaces in Maida Road and create 2 further car parking spaces on the development site at Alfred Close. This would result in the loss of 9 garages, which is the amount that it is advised are currently empty.

In terms of impact to the highway network, given that the proposal is only for five residential units, no objection would be raised.

The application is considered to be acceptable in respect of the transport and parking Policies T1, T2 and T13 of the Local Plan and paragraphs 105 and 108 of 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 paid this tariff and have completed the SAMMs mitigation contribution agreement form. 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.

### **Conclusions and Reasons for Approval**

The proposal is considered acceptable in terms of design, amenity and highway aspects and with regard to all other material planning considerations. The proposal accords with the provisions of Policies BNE1, BNE2, BNE23, BNE35, BNE43, H4, S6, T1, T2 and T13 of the Local Plan and Paragraphs 11, 105, 108, 124, 127, 127F, 175, 176, 177 and 178a of the NPPF, the application is accordingly recommended for approval.

The application would normally be determined under delegated powers but is being referred for Committee determination due to the number of representations received expressing a view contrary to officer's recommendation.

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### **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/>