

MC/18/3545

Date Received: 10 December 2018

Location: Land Adjacent 1 Marshgate Cottages Main Road Cooling

Proposal: Construction of a two storey 3 bedroom residential dwelling, integral garage and associated parking and amenity space.

Applicant Messrs Filmer and Milner

Agent Mr Patrick Jordan
Wyndham Jordan Architects
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Faversham
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Ward: Peninsula Ward

Case Officer: Wendy Simpson

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 26th June 2019.

Recommendation – Approval subject to:

- 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 LC1842.01A, LC1842.02A, LC1842.03A, LC1842.04A and LC1842.05 received on 30 April 2019.

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

- 3 No development above foundation/slab level shall take place until details and samples of all materials to be used externally, including for the driveway hardstanding, 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 The access shall not be used until vision splays 43 metres x 2 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.

- 5 The dwelling herein approved shall not be occupied until the area shown on layout drawing LC1842.01A as vehicle parking space has 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 this reserved parking space/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 Policies T1 and T13 of the Medway Local Plan 2003.

- 6 The dwelling herein approved shall not be occupied until details of secure cycle parking have been submitted to and approved in writing by the Local Planning Authority. The approved cycle parking shall be provided prior to the first occupation of the dwelling herein approved and retained thereafter.

Reason : To encourage alternative forms of travel to the car and accord with Policy T13 of the Medway Local Plan 2003.

- 7 The clearance of trees and scrub from the site shall only take place outside of bird nesting season, which runs 1st March and 31st August inclusive.

Reason : To protect nesting birds from harm with the removal of habitat in accordance with Policy BNE39 of the Medway Local Plan 2003.

- 8 No development shall commence above foundation/slab level until details of how the development will enhance biodiversity have been submitted to and approved in writing by the Local Planning Authority. These details shall include clear ecological enhancement for breeding birds and bats and shall include provision of bat boxes and bird boxes (including being built into the structure of the dwelling herein approved) and native planting, particularly within the front garden area. The approved details will be implemented in full prior to the first occupation of the dwelling hereby approved and retained as such thereafter.

Reason : To ensure biodiversity enhancement of the site is secured in accordance with Policies BNE37 and BNE39 of the Medway Local Plan 2003.

- 9 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, D, E and F 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.

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

Proposal

This proposal is for the construction of a two-storey detached dwelling, with a room in the roof space, on a site that was formerly garden area for 1 Marshgate Cottages. The proposal includes the removal of an old garage type building from the site and the construction of a new vehicle access onto Main Road, which runs through the village.

The site is triangular in shape with a frontage of about 22m width and the depth of the site about 26.5m. The house would be set back about 7.5m back into the site and would be about 1m off the eastern side boundary of the site and between 3m and nearly 8m off the western side boundary of the site.

To the front of the proposed house would be provided a hardstanding parking area for two cars and the remainder of the frontage area would be soft planted. Recreational garden space would be provided both to the rear and side of the house.

The proposed house would have a total floor area of about 118.2m² and would provide at ground floor level a living room, kitchen/diner, utility room, and w.c., at first floor level two double bedrooms and a family bathroom and within the roof space a further double bedroom with en-suite shower room.

The house design is of a traditional/rural flavour with a steeply pitched slate roof, brickwork with a plinth and brick band course, a two storey bay on the front elevation and a chimney. More contemporary elements within the design include a first floor balcony within the front gable, Juliette balcony to the rear and two large bi-fold doors into the garden.

The design of the dwelling has been amended significantly during the course of the application involving the removal of a garage, relocation of the dwelling within the site and the reduction of its size, including the removal of a single storey rear extension with a rooftop balcony.

The site is located within the settlement boundary of Cooling and within the North Kent Marshes Special Landscape Area.

Site Area/Density

Site Area: 0.03hectares (0.074 acres)

Site Density: 33.33 dph (13.51 dpa)

Relevant Planning History

1 Marshgate Cottages

MC/18/3146 Construction of a detached garage to side
Approval with conditions

Representations

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

6 letters have been received raising the following objections:

- loss of privacy from front and rear balconies
- vehicles concerned with waste disposal/cesspit could block or obscure vision in the street
- the rural road network cannot cope with the resultant additional traffic
- balconies are out of character to the area
- insufficient parking provision to be provided
- loss of light to 1 Marshgate Cottages
- the proposed house is of a disproportionate scale to the adjacent housing
- overshadowing of the garden of 1 Marshgate Cottages
- lack of sufficient garden amenity space

Dickens Country Protection Society – Object as overdeveloped and would result in a cramped form of development.

KCC Biodiversity advised that no ecological information was submitted with this application but further information is required as to the potential for ecological impacts to arise as a result of the proposed development.

A preliminary ecological appraisal has been submitted, which concludes replacement planting and enhancement of the site is required but no further surveys are required.

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 NPPF definition of 'previously developed land' excludes 'land in built-up areas such as residential gardens...'. Paragraph 70 of the NPPF states that 'Plans should consider the case for setting out policies to resist inappropriate development of residential gardens, for example where development would cause harm to the local area.' It is arguable whether a rural settlement is a 'built up area' for the purposes of the NPPF definition. Notwithstanding this, at this time the Council does not have a policy within the local plan to specifically resist development in residential gardens but the assessment of 'harm' of development is within other policies and will be considered in the report below.

In respect to policies governing new residential developments within the rural area, both the NPPF and Local Plan would allow for new housing only in very restricted circumstances. Paragraph 170 of the NPPF states that decisions should protect and enhanced valued landscapes.

Policy H11 of the Local Plan directs that housing development in the rural area will be restricted to minor development within the village or settlement, the list of which includes Cooling. Policy BNE25 of the Local Plan states that development in the countryside will only be permitted if it maintains, and wherever possible enhances, the character, amenity and functioning of the countryside and is one of a list of scenarios including 'a re-use or redevelopment of the existing built-up area of...developed land in a lawful use..'. In this case the site is within the defined settlement boundary for Cooling and is considered to be 'infilling' development within the existing settlement.

The principle theme of the NPPF is the support of sustainable development. Paragraph 78 of the NPPF promotes sustainable development in rural areas and that housing should be located 'where it will enhance or maintain the vitality of rural communities'. In this case, the site is within the confines of the village but the village has limited services and employment accessibility and not within a reasonable walking distance of rural settlements in the area that have local amenities. Therefore there would be a reliance on

the car journeys, however there remains a need for new housing within the rural area and policy directs new housing to the existing settlements, as is proposed in this case.

Therefore, on balance there is no objection in principle to the development but the details of the development need to be considered further in respect to an assessment of 'harm' of development under other policies.

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, Local Plan Policy BNE1 requires the design of development to be appropriate in relation to the character, appearance and functioning of the built and natural environment.

Policy BNE33 of the Local Plan states that no new development will be allowed within the Special Landscape Area [SLA] unless it conserves and enhances the natural beauty of the area or, the economic or social benefits are so important that they outweigh the county priority to conserve the natural beauty of the area's landscape.

Medway Landscape Character Assessment (2011) identifies this site as falling within the 'Hoo Peninsula Farmland' character area highlights that one of the threats to the character of this area is 'suburbanisation of villages and small settlements (particularly along road side edges', which the assessment says should be resisted.

In this case the design and scale of the proposed dwelling is considered to be sympathetic to its rural settlement location and it would sit comfortably within the row of existing houses. The frontage of the site is to retain significant areas of soft planting and permitted development rights can be removed to ensure the frontage of the site is not later given over to large hardstanding areas, which would result in hardening of the streetscene and harm to the appearance of the SLA, and an overall loss of biodiversity.

Subject to conditions related to materials, landscaping and removal of permitted development rights under Schedule 2, Part 1 Class F of the GPDO., no objection is raised in respect to the design of the propose development.

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.

Future occupiers

The house has a generous internal space and exceeds the minimum space requirements of the Government's nationally Described Space Standards. The garden space is non-standard, providing a triangular shaped private garden space to the rear of the house of about 9m maximum depth by 9m maximum width and an enclosed triangular side garden area of about 9m maximum width by about 9.5m maximum depth. Between the two garden spaces the proposal provides sufficient outdoor amenity space for the occupants of a three bedroom dwelling.

Neighbours'

In terms of privacy the site is within a row of existing dwellings and will be facing residential dwellings on the other side of Main Road. No loss of privacy will occur to dwellings on the opposite side of Main Road. To the rear the garden of 1 Main Road, will be overlooked in part by the proposed dwelling as it is both to the rear and side of that dwelling and, due to the triangular shape of the application site, is also to the rear of the rear garden of the proposed dwelling. However, the area of garden to the rear of 1 Main Road will not be overlooked from the proposed dwelling. The overlooking of the side garden area of 1 Main Road is not considered to warrant the refusal of the planning application as mutual overlooking of some garden area is common from neighbouring two storey dwellings.

Due to the relative location and scale of the proposed and existing dwellings and the orientation of the plots, the proposed development would not result in harm to the neighbours' amenities in terms of loss of outlook, daylight or overshadowing.

However, given the unusual shape of the site and the close location of the dwelling to its boundaries it is considered necessary and reasonable to remove permitted development rights to extend the dwelling to ensure no harm to neighbour's amenities would occur and ensure sufficient garden space is retained for future occupiers.

No objection is raised under paragraph 127 of the NPPF and Policy BNE2 of the Local Plan subject to the removal of permitted development rights.

Highways

Paragraph 127 of the NPPF requires that new development functions well within the area in which it is situated and Policy T13 of the Local Plan relates to the Council's adopted vehicle parking standards.

The application intends to provide a new crossover to serve the development. Therefore whilst there would be a slight increase in movements, it is not considered to result in severe impact to highway safety or the resultant trips would significantly impact the highway network. However sight lines of 43 metres x 2.4 metres should be provided on each side of the access, which could be required by planning condition.

The proposal would provide 2 car parking spaces, which would meet the Medway Interim Parking Standards. Cycle parking can be provided within the site and required by planning condition.

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

Ecology

Policy BNE37 of the Local Plan states that development will not be permitted which would cause a loss of important wildlife habitats and features unless: there is an overriding need for the development that outweighs the importance of these wildlife resources; and the development is designed to minimise the loss; and appropriate compensatory measures are provided. Policy BNE38 of the Local Plan is concerned with the provision of wildlife habitats in new developments that link into wider wildlife networks. Consistent with statutory duties Policy BNE39 of the Local Plan states that "Development will not be permitted if statutorily protected species and/or their habitats will be harmed" and requires conditions or obligations to be attached to permissions to "ensure that protected species and/or their habitats are safely guarded and maintained". NPPF Paragraph 175 states that 'the planning system should contribute to and enhance the natural and local environment by...minimising impacts on biodiversity and delivering net gains in biodiversity where possible.'

The proposal does result in the removal of significant amounts of vegetation, most particularly hedgerow around the perimeter of the site.

In this case an ecological habitat appraisal has been submitted which concludes that no species are present on the site that are protected under the Wildlife and Countryside Act 1981. The recommendations of the habitat survey are that all hedges and trees to be removed should take place outside of the bird nesting season and that the net loss of habitat for nesting birds can be compensated by the use of nesting boxes together with the addition of bat roost boxes onto the new building and trees at suitable heights. Notwithstanding the report conclusions, no trees will remain on the site that would be suitable either for bird boxes or bat boxes and as such a series of both bat and bird boxes/bricks should be built into the fabric of the new building so as to be permanent features. It would also appear that the front garden area presents a significant opportunity to carry out a planting scheme that would encourage biodiversity.

Therefore, subject to conditions related to the timing of removing vegetation, and a scheme of biodiversity enhancement measures no objection is raised in respect to ecology matters under Policies BNE37, BNE38 and BNE39 of the Local Plan and the provisions of the NPPF including paragraph 175 in particular.

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 as such no objection is therefore raised under Paragraphs 175 and 176 of the NPPF and Policies S6 and BNE35 of the Local Plan.

Appropriate Assessment

Due to the location of the site within 6km of the Medway Estuary & Marshes SPA and Ramsar Site/ Thames Estuary & Marshes SPA and Ramsar Site the proposal needs to be considered by the competent authority under Appropriate Assessment under Regulation 63(1) of the Conservation of Habitats and Species Regulations 2017.

In this case, subject to the payment of the Bird Mitigation strategic tariff, the Council concluded that with mitigation, the development would have no adverse effect on the integrity of the European protected site(s).

Consultation has been undertaken with Natural England following Appropriate Assessment who advise agreement of the Council's assessment.

Local Finance Considerations

No local finance considerations.

Conclusions and Reasons for Approval

The proposal is for a single dwelling house of a sympathetic design within the settlement of Cooling as an infill dwelling on former garden land and is acceptable in principle, in terms of design and in terms of its impact on the rural area and North Kent Marshes Special Landscape Area. The proposal would not result in harm to neighbours' amenities, notwithstanding that a new situation of overlooking of some of the garden area of 1 Main Road will occur. The proposed development would provide a good living condition for future occupiers of the dwelling.

The proposal provides adequate parking and can be required by conditions to provide appropriate ecological mitigation and an enhancement measures. The proposal has mitigated harm to the Thames/Medway Marshes SPA/Ramsar as by the payment of the cumulative tariff.

Subject to suitably worded planning conditions the proposal complies with Policies S6, H11, BNE1, BNE2, BNE25, BNE33, BNE35, BNE37, BNE38, BNE39, T1, T2 and T13 of the Local Plan and paragraphs 8, 11, 70, 78, 127, 170, 175 and 176 of the National Planning Policy Framework 2019.

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/>