

MC/18/3347

Date Received: 19 November 2018

Location: Land Rear Of Walnut Tree Farm Grain Road Lower Stoke Rochester

Proposal: Construction of three 3-bedroom detached bungalows with associated parking/car ports (demolition of existing buildings) together with the erection of 2.2m high fencing (solid plus trellis) and an additional vehicular crossover

Applicant Mrs D Macdonald

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Ward: Peninsula 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 July 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: P885/5 received on 19 November 2018, P885/3 Rev A received on 17 December 2018, and P885/02L Rev A received on 28 June 2019.

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 No development shall commence until a Construction Environmental Management Plan that describes measures to control the traffic, noise, dust, lighting and the effect on wildlife and habitat impacts arising from the construction phase of the development has been submitted to and approved in writing by the Local Planning Authority and all construction works shall be undertaken in accordance with this approved plan. At no time shall construction traffic access the site via the eastern access as shown on the site location plan.

Reason: To protect the health and vitality of the trees within the front garden area of Walnut Tree Farm, to minimise the impact of the construction period on the amenities of local residents, the countryside, wildlife and habitat and with regard to Policies BNE2, BNE37, BNE39 and BNE43 of the Medway Local Plan 2003.

- 5 No development shall commence above slab level until details of the routing of all new/renewed buried infrastructure/services to serve the development hereby approved, and the surfacing of the eastern and western access roads, including no-dig construction (where necessary), informed by a tree survey/assessment, tree protection measures and implementation methodology, have been submitted to and agreed in writing by the Local Planning Authority. The accesses shall be constructed in accordance with the agreed details prior to the occupation of any of dwellings hereby approved and shall be retained as such thereafter.

Reason: To protect the health and vitality of the trees within the front garden area of Walnut Tree Farm to accord with Policy BNE43 of the Medway Local Plan 2003.

- 6 No buried infrastructure or services shall be installed under the eastern access road to the proposed houses.

Reason: To protect the health and vitality of the trees within the front garden area of Walnut Tree Farm to accord with Policy BNE43 of the Medway Local Plan 2003.

- 7 No dwelling hereby approved shall be occupied until the area shown on the submitted layout as vehicle parking/turning space for that dwelling has been provided and 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 the reserved 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 Policy T13 of the Medway Local Plan 2003.

- 8 All gas fired boilers installed within the development shall meet a minimum standard of <40mgNOx/kWh and prior to the first occupation of any of the dwellings hereby approved one electric vehicle charging point per property shall be provided.

Reason: To ensure air quality standards are not detrimentally impacted by the development in accordance with Policy BNE24 of the Medway Local Plan 2003.

- 9 The dwelling house 2, hereby approved shall not be occupied until the window on the southern elevation serving 'bedroom 1' has been fitted with obscure glass and apart from any top-hung light, that has a cill height of not less than 1.7 metres above the internal finished floor level of the room it serves, shall be non-opening. Additional clear-glass window to serve that room shall be installed in the western elevation. This work shall be completed before the occupation of the dwelling and shall be retained thereafter.

Reason: To ensure the development does not prejudice conditions of amenity by reason of unneighbourly overlooking of adjoining property, Walnut Tree Farm, in accordance with Policy BNE2 of the Medway Local Plan 2003.

- 10 No development shall commence above slab level until amended plans of 'dwelling 2' hereby approved have been submitted to and approved in writing by the Local Planning Authority showing the window in the southern elevation serving the kitchen of the dwelling changed to a high level window with cill height a minimum of 1.7m above the internal floor level. The development shall be carried out in accordance with the agreed details and the window retained as such thereafter.

Reason: To ensure privacy is maintained for the adjoining property to the south, Walnut Tree Farm, in accordance with Policy BNE2 of the Medway Local Plan 2003.

- 11 The dwellings shall not be occupied until close-boarded fence of no more than 2.2m high (including trellis) have been erected in accordance with drawing number: P885/02L rev A and shall be maintained as such thereafter.

Reason: To protect the privacy of the adjoining property Walnut Tree Farm in accordance with Policy BNE2 of Medway Local Plan 2003.

- 12 Prior to the first occupation of 'dwelling 1' (Plot 1) hereby approved, and as shown on drawing P885/02L rev A, a 1.8m high closed-boarded fence shall be erected along the inside the western boundary of the site (eastern boundary of Brook House) from the point of the new access gate to the rear end of the garden (northern corner of the boundary) of that dwelling. This fencing shall be maintained as such thereafter.

Reason: To protect the privacy within the rear garden of Brook House in accordance with Policy BNE2 of Medway Local Plan 2003.

- 13 No development shall commence above slab level until a detailed external lighting plan (including a map showing anticipated light spill) has been submitted to and approved in writing by the Local Planning Authority. The plan must incorporate the recommendations within the Bat Emergence and Re-Entry Survey Report (SJM Environmental; May 2019). The development shall be completed in accordance with the agreed lighting scheme and shall be retained as such thereafter.

Reason: To protect ecological interests of the site including protected species in accordance with Policies BNE6, BNE37, BNE38 and BNE39 of the Medway Local Plan 2003.

- 14 Prior to the first occupation of any dwelling herein approved, full details of both hard and soft landscape works, biodiversity enhancement measures 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.

- 15 No development shall commence (including vegetation clearance) until a methodology for a watching brief for reptiles during clearance and construction works has been submitted to and agreed in writing with the Local Planning Authority together with:

- Map showing opportunities for translocation within the site of any reptiles that may be found
- Details of how the translocation area(s) would be upgraded to receive reptiles should they be found on the site during clearance/construction works
- Methodology to implement the watching brief and any translocation that may be necessary
- Timings of the proposed works
- Details of who will be carrying out the works

The works must be implemented as approved.

Reason: To protect ecological interests of the site including protected species in accordance with Policies BNE6, BNE37, BNE38, BNE39 of the Medway Local Plan 2003.

- 16 The development hereby approved shall be constructed in accordance with the mitigation measures summarised in the document 'Flood Risk Assessment for Planning' (UNDA ref : 88584-McDonald-WalnutTrFm, January 2019) '8. The measures shall be retained thereafter.

Reason: To ensure safety for future occupiers in a flood event in accordance with paragraphs 155 to 160, 163 and 165 of the National Planning Policy Framework 2019.

- 17 No development shall take place until a scheme showing details of the disposal of surface water, based on sustainable drainage principles, including details of the design, implementation, maintenance and management of the surface water drainage scheme have been submitted to and approved in writing by the Local Planning Authority. Those details shall include:

- I. A timetable for its implementation, and
- II. A management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public body or statutory undertaker, or any other arrangements to secure the operation of the sustainable drainage scheme throughout its lifetime.

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

Reason: Required before commencement of the development in order to manage surface water during and post construction and for the lifetime of the development in accordance with Paragraph 103 of the NPPF.

- 18 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, Class[es] A, B, C and E of that Order and within Schedule 2, Part 2, Class A 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.

- 19 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 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.

- 20 If, during development, contamination not previously identified is found to be present at the site, no further development shall take place until a method statement has been submitted to and approved in writing by the Local Planning Authority. The Method Statement must detail how this unsuspected contamination shall be dealt with. The development shall thereafter be implemented in accordance with the approved Method Statement.

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.

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 3no. Three-bedroom detached bungalows on a site that historically formed part of Walnut Tree Farm but has been severed from Walnut Tree Farm and retained by the former owner of Brook House. The applicant advises it has been used for garaging and storage. A section of fencing to a total of 2.2m high, including trellis, is also proposed along the southern boundary of the site.

The proposal includes the removal of the existing buildings on the site, which are in a derelict state, and the provision of associated parking and carports. There are two existing access points serving the site from Grain Road, one overgrown and not used and the other one actively used. Both would be retained to serve the proposed development by providing shared vehicular and pedestrian access. The eastern access, which is overgrown currently, has no crossover in place.

Other than the two access roads the site is broadly oblong in shape with a maximum width of 51m and a maximum depth of 26.5m. The three houses proposed would be arranged side by side across the width of the site. The westernmost house would be inset from the boundary with Brook House by between 1.5m and 2.4m. The easternmost house would be inset from the boundary with the adjacent field by a minimum of 2m. The frontage of the closest house would be inset from the rear boundary with Walnut Tree Farm house by between 1.35m and 5.75m. The rear of the houses would be set off the rear (north) boundary with adjacent fields by between about 6m and 9.5m.

Between houses 1 and 2 would be a carport structure to serve both dwellings and provide 4 parking spaces. Between dwellings 2 and 3 would be a gap of about 3.7m.

To the front of dwellings 1 and 2 would be provision for additional parking for each dwelling together with turning area and some soft landscaping. These two dwellings would be accessed from by the western vehicle access. The proposed dwelling 3

would be served by the existing eastern access and would be provided 3 parking spaces to the front of the house and a hedge along the site frontage.

The proposed bungalows are of a similar appearance but with the footprint adjusted related to the irregularity of the site boundary. The dwellings range between 120sqm and 130sqm floor area and each would provide a kitchen, utility room, dining/living room, bathroom, three bedrooms (one with en suite bathroom).

The design is of a simple styling with external brick, including a brick plinth, and pantile tiling of a hipped roof form. The eaves height would be approximately 2.9m and the roof ridge 6.2m.

The site is located within the settlement boundary of Lower Stoke and within the North Kent Marshes Special Landscape Area. The site is also partly within flood zones 3, 2 and 1.

In support of the application a Bat emergence survey, Ecological habitat report, Flood Risk Assessment, and contamination report, have been submitted.

Site Area/Density

Site Area: 0.16 hectares (0.395 acres)

Site Density: 18.75 dph (7.59 dpa)

Relevant Planning History

- | | |
|---------|--|
| 91/0203 | Outline application for two, bungalows with garages (Approved) |
| 87/99 | Outline permission for two detached bungalows, with garages (Refused) |
| 89/653 | Outline application for two detached bungalows, with garages (Refused) |

Representations

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

The **Stoke Parish Council, Environment Agency, Medway Fire Services** and **Kent County Council Biodiversity** have also been consulted.

Three letters (from two neighbours) have been received raising the following objections:

- The rear of Walnut Tree Farm would be directly overlooked by plot 2
- At night car lights using the access to plot 3 will shine into the master bedroom of Walnut Tree Farm
- The development would result in noise disturbance to Walnut Tree Farm
- Over-development of the site compared to the surrounding residential sites and would be detrimental to the local village character
- The lack of level information makes it unclear what the actual roof height would be

- The 'standard' design of the bungalows possess no unique character and as such would be out of character with the individual neighbouring dwellings
- The use of render panels would be out of character to neighbouring dwellings
- There is insufficient turning for the three parking spaces for units 1 and 2
- Increased noise and disturbance would result from larger vehicles (such as delivery vehicles) turning to exit the site in a forward gear
- Loss of light to the windows of Brook House
- Loss of privacy to Brook House (which has a covenant that the boundary wall cannot be higher than 4 feet high)
- There will be overlooking of the garden of Plot 1 from a bedroom window of Brook House
- The proposed houses are subject to flooding risk

Stoke Parish Council object to the proposal as they are minded that to agree a backland development would set a precedence for similar development.

The **Environment Agency** have advised that they do not object to the proposal.

Kent County Council Biodiversity have advised that they accept the site does not provide optimal habitat for reptiles the presence of reptiles cannot be ruled out and a watching brief should be undertaken and secured by condition. In respect to bats they are satisfied that the no bats are roosting within the buildings to be demolished and require a condition in relation to external lighting, given that bats are recorded foraging at the site.

Medway Fire Service have not provided comments.

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 not allocated at this time within the local plan. The NPPF definition of 'previously developed land' in Annex 2 excludes 'agricultural land'. Given the apparent derelict state of the site and the historic use connected with an agricultural use, notwithstanding that on the application form the last use of the site is described as 'residential storage and garage' it has not been established that either a residential use or a storage use is the lawful use of the site and the default use of land without an established use is 'agricultural land'. However, given the state of the site, it can be surmised that an agricultural use of the site has not likely been continuous.

Whilst the application site is not 'previously developed land' neither is it 'greenfield land' as it is occupied by a number of buildings and a large area of hardstanding.

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 states that decisions should protect and enhanced valued landscapes.

It is taken into account that the site is within the settlement boundary of Lower Stoke. Policy H11 'Residential Development in Rural Settlements' restricts housing development in the rural area to minor development within identified village or settlement, Lower Stoke is identified in the list. 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 re-use or redevelopment of the existing buildings is supported.

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 local amenities. Therefore, there would be a reliance on car journeys, however there remains a need for new housing and policy directs new housing to existing settlements.

Policy H9 of the MLP relates to tandem and back development and states that:

"Backland development will be permitted only when it does not constitute piecemeal development that would threaten the comprehensive development of a wider area. Tandem development will not be permitted. Backland development will be permitted when: (i) there is no loss of privacy from overlooking adjoining houses and/or their back gardens; and (ii) there is acceptable vehicular access; and (iii) there is no significant increase in noise or disturbance to adjacent residents from traffic using the access; and (iv) existing natural features, such as trees, which contribute to the amenity of the area are retained or conserved; and (v) there is adequate private amenity space for the existing and proposed dwellings; and (vi) the character and amenity of the area as a whole is maintained."

In this case, the site is existing with two established accesses (one not used for some significant time) and is not creating new site, by for example the subdivision of a larger plot, but is a redevelopment of an existing plot that is to the rear of two established residential plots. As such, the proposal does not result in a piecemeal development and its redevelopment in principle is not contrary to Policy H9.

Therefore, 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, including under Policy H9.

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, Medway 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 BNE33 states that no new development will be allowed within the 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 'Lower Stoke Farmland'. The character area identifies that one of the issues within the area are poorly treated settlement edges and seeks to resist and reverse rural fringe pressures especially suburbanisation of settlement edges, poor boundary treatments, loss of native hedging.

In this case the site is occupied by derelict buildings and has become overgrown and appears somewhat 'green' however if it were in an operational use, such as agricultural, its appearance from outside of the settlement would be less green and more active. The existing hedging and fencing to the adjacent rural area on the eastern boundary of the site is to be retained. Under this proposal the rear/north boundary of the site, to the open fields, would not be enclosed by solid fencing but would retain the existing open 0.75m high post-and-rail fencing. The removal of permitted development rights in relation to fencing could ensure this more rural form of fencing is retained or only replaced with an equally sensitive alternative.

The proposed houses themselves are of a low level and would have a far lesser visual impact on the rural fringe area than two storey dwellings, given that the principle of the proposal is accepted. The proposed bungalows are to be built of traditional materials and with pitched roofs and overall, subject to conditions related to materials, landscaping and removal of permitted development rights under Schedule 2, Part 2 Class A of the GPDO, no objection is raised in respect to the design of the proposed development under the Medway Local Plan.

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 H9 states that backland development will be permitted when: (i) there is no loss of privacy from overlooking adjoining houses and/or their back gardens; and (ii) there is acceptable vehicular access; and (iii) there is no significant increase in noise or disturbance to adjacent residents from traffic using the access; and (iv) existing natural features, such as trees, which contribute to the amenity of the area are retained or conserved; and (v) there is adequate private amenity space for the existing and proposed dwellings.

Future Occupiers

The proposed houses would have a generous internal space and exceed the minimum space requirements of the Government's nationally Described Space Standards. The garden space for plot 2 is slightly under the Medway Council Housing standards 7m minimum depth but with the generous width of these gardens (at between 14.5m and 18.5m), and that the dwellings borrow a view across the fields to the rear of the site, the gardens are acceptable in size and layout and would provide sufficient outdoor amenity space for the future occupiers of the dwellings.

There will be no harm resulting mutually between the three dwellings in respect to matters of overlooking, outlook, daylight or overshadowing.

Neighbours

The impact of the proposal on neighbours' amenities needs careful consideration and it needs to be taken into account that the site is not undeveloped and could start a more active operation under its lawful use without the need for planning permission and would also have an impact on neighbours' living conditions.

The site is bounded by Brook House to its western side and Walnut Tree Farmhouse and Darnley House to its south. There are agricultural fields to the north and east of the site.

Dwelling 3 would be to the rear of Darnley house. Dwelling 2 and the carport for dwellings 1 and 2 are to the rear of Walnut Tree Farm, Dwelling 1 faces down the access road to the site shared by dwelling 1 and 2. The row of three houses would be roughly in line with Brook House, which is set close to the rear of its plot.

Dwelling 1

Brook House

The occupiers of Brook House have raised that they have a covenant on their property that their boundary wall with the application site cannot be raised over 1m high and therefore the proposal will result in a loss of privacy to them. However a mutual loss of privacy exists already between the application site and Brook House. The applicant has agreed to erect a 1.8m high close boarded fence from the proposed rear access gate and by one panel past the rear of dwelling 1 on the inside of the application site adjacent to the existing boundary wall. This can be secured by planning condition. Overlooking from Dwelling 1 of the front garden area of Brook House would not make the proposal unacceptable as this a usual situation in residential areas.

Walnut Tree Farm

In respect to potential overlooking into the rear garden of Walnut Tree Farm there is a relatively low wall currently along this boundary with the application site. The applicant proposes to erect 1.8m high fencing inside the site adjacent to this wall which would be solid to a height of 1.8m and then topped with 0.4m high trellis. In respect to Dwelling 1 there would be no overlooking of the garden of Walnut Tree Farm from the

windows of the dwelling itself due to the position of the existing garage belonging to Walnut Tree Farm. It is appreciated that people exiting vehicles and circulating to the front of dwellings 1 and 2 would be able to overlook into the garden and the rear of Walnut Tree Farm, as they would if the site was an active in its lawful use, but the erection of the proposed fencing will maintain privacy for occupiers of Walnut Tree Farm.

Due to the single storey nature of dwelling 1 and its location relative to the neighbouring dwellings this part of the proposed development will not result in harm to neighbours' amenities in terms of loss of outlook, daylight privacy or overshadowing.

It is appreciated however that the erection of the fencing will impact the outlook from Walnut Tree Farm and will be discussed further below in respect to 'Dwelling 2'.

Dwelling 2

Walnut Tree Farm

As discussed above there is the potential for overlooking into the garden and rear of Walnut Tree Farm for the outdoor space to the front of Dwellings 1 and 2 and also from the bedroom and kitchen window of Dwelling 2 as the rear boundary wall of the garden of Walnut Tree Farm is relatively low.

The proposal includes the erection of fencing inside the site along the rear boundary wall of Walnut Tree Farm. The applicant proposes this to be solid fencing to 1.8m high and topped with 0.4m high trellis.

The front bedroom window of Dwelling 2 (at its centre) is inset about 5.5m from the rear boundary of Walnut Tree Farm. When considering the supplied land level information it would appear that the application site slopes gently upwards from south to north and the finished floor level of the bungalows (as required by the flood risk assessment) will be about 0.5m higher than the ground level at the rear boundary with Walnut Tree Farm. The proposed fencing may not wholly prevent overlooking into the property of Walnut Tree Farm.

In respect to the main kitchen window for Dwelling 2 the applicant has agreed to a condition that this window be changed to a high-level window set 1.7m above internal floor level.

The window of Bedroom 1 in Dwelling 2 would be about 5.75m from the boundary with Walnut Tree Farm and to prevent overlooking the applicant has agreed to change this window to an obscure glazed window at a minimum of 1.7m above finished floor level. A secondary window can be installed to the western sidewall of that room, overlooking the carport and shared circulation area, the applicant has agreed to this and it will be secured by condition.

Subject to these changes there will be no overlooking of the garden or into the house of Walnut Tree Farm from Dwelling 2 or the parking and circulation area to the front of Dwelling 2.

In respect to daylight and overshadowing Dwelling 2 is to the north of Walnut Tree Farm and is of a single storey level only (bungalow) and is a sufficient distance from that dwelling not to result in a loss of daylight to the rooms of Walnut Tree Farm or overshadowing of the rear garden of Walnut Tree Farm of an extent or duration that would be unacceptable, including by the proposed fencing.

In respect to outlook the proposed dwellings are single storey height only, with an internal floor level about 0.5m above the ground level at the boundary with Walnut Tree Farm. The rear garden of Walnut Tree Farm is not particularly deep but the rear boundary is angled to the proposed row of houses and the closest part of Dwelling 2 is where the garden of Walnut Tree Farm is at its deepest.

The proposed Dwelling 2 will be inset from the boundary with Walnut Tree Farm a distance of between about 1.25m, at its eastern end, and about 5.75m at its western side. The original house of Walnut Tree Farm is inset from its rear boundary between about 5.2m, close to the garage (excluding conservatory addition) and 12.5m at its eastern side. Therefore at all times the proposed dwelling will be more than 11m from the rear of Walnut Tree Farm (excluding conservatory addition) and as such will not appear overbearing from that dwelling.

The proposed fencing will also be readily seen from the rear of the house and the rear garden of Walnut Tree Farm. The proposal is to erect 1.8m high solid fencing to 1.8m, from the existing ground level, and top this with 0.4m high trellis. Taking the overall height to 2.2m. This is not considered to be of a form or height that would be overbearing to Walnut Tree Farm and does not warrant the refusal of the planning application.

Dwelling 3

The proposed Dwelling 3 would be to the rear of Darnley House at a minimum distance of about 5.1m from the rear boundary fence of that property as a minimum. The rear garden of Darnley house is much larger than that of neighbouring Walnut Tree Farm. It is around 18m to the rear of the original house and within the garden of Darnley House is a significant amount of planting against the rear boundary.

By virtue of the single storey nature of Dwelling 3 and its relative location to and orientation with surrounding dwellings, will not result in harm to neighbours' amenities in terms of loss of privacy, outlook, daylight or overshadowing.

In terms of noise and disturbance to neighbouring dwellings it is realised that there will be a level of activity related to the proposal, both vehicle movements and people activity. However, the site could be actively used in an lawful use currently without the need for planning permission and a such noise related to the residential use of the site for three houses is not considered to be of such a type or amount that would warrant the refusal of the planning application.

Finally, given that the site it is fairly constrained, both physically and in terms of environmental factors, it is considered appropriate to remove permitted development rights for enlargement to ensure that the neighbouring amenity is maintained.

On balance, subject to the conditions discussed above the proposal is considered to comply with Policy BNE2 and the relevant parts of Policy H9 and the relevant parts of paragraph 127 of the NPPF.

Trees

Policy BNE43 of the Medway Local Plan directs that development should seek to retain trees and other landscape features that provide a valuable contribution to local character.

In this case the area is at the fringe of a rural settlement and on and around the site are a number of mature trees, which contribute well to the street scene. None of the trees in the vicinity of the site are protected by Tree Preservation Orders but it is noted that no tree survey has been undertaken at the time of submission.

The trees that need to be given particular regard are those related to the two access roads.

The eastern access is currently overgrown and has not been used for some considerable time it would appear. Within the adjacent front garden of Walnut Tree Farm are some large mature trees that would appear to have root-spread within the access road area. Any routing of underground services down this access road and the resurfacing of this access road could result in damage to these trees and perhaps their loss. The use of this access for construction traffic could also damage the tree roots.

Therefore it is considered that a condition be used to require that the routing of all services (if changes are required) be agreed prior to commencement. Also a condition should require that details of a tree survey/assessment should be supplied for the eastern access, together with details of surfacing, a no-dig construction method and an implementation methodology, including tree protection.

It needs to be taken into account that if this site is to be redeveloped then new services may need to come into the site and if so some trees may be impacted or need removal. If the site were to increase its operation in a current lawful use then the same would likely be true but in that case the running of services would not be overseen by the planning process, which has regard for the protection of trees within the vicinity.

In respect to the western access there are trees on both the western and eastern sides of the central access surface, within the application site. On the site plan only trees on the western side but trees on both sides are referred to in the Design and Access Statement. The trees on the western side of the access have been generally indicated on the submitted layout plan. The Ecology report refers to the removal of some trees without specification.

If the eastern access is not to be used for the running of any further required services then the western access must be. Currently trees line either side of the western access but the ones on the eastern side are less mature and have a lesser presence within the street scene and as such it would be preferable that underground services be run as far away from the mature western trees as possible. There may be no need for

additional buried services but if there is and trees are to be impacted it would be preferable that the trees on the eastern side of the western access be removed if necessary.

Whilst no tree survey or assessment has been undertaken and submitted with the application, as it is not known at time if additional buried services will be needed to be bought onto the site, it is considered that in this instance a condition can be used to require that that details of services routing, informed by a tree survey/assessment, should be supplied for the western access together with details of any required tree removal, surfacing, a no-dig construction method and an implementation methodology, including tree protection.

Landscaping details of both the access roads and the communal areas of the application site should also be required by planning condition.

Flood Risk

Paragraphs 155 to 160, 163 and 165 of the NPPF relate to flood risk and that new development should be both directed away from the areas at highest risk of flooding and should not increase flood risk elsewhere.

In this case a Flood Risk Assessment has been submitted in support of the proposal.

The site spans areas identified as Flood Zones 1, 2 and 3 on the Environment Agency's Flood Risk maps. The site's flood risk is predominantly tidal in nature with pluvial flooding (heavy rainfall causing saturation) to be 'low' in part and 'very low' in part. The access roads within the site are shown to be in flood zone 3 and the houses and gardens within partly in flood zone 2 and partly in 1, with part of dwelling 1 shown as located within flood zone 3. The fields to the rear of the site are in flood Zone 1.

The report suggests a number of flood risk mitigation measures be including in the development including the setting of the floor level of the bungalows at least 5.44mAOD (600mm above the modelled 1 in 200 year flood level); the incorporation of flood proofing measures in the construction and registering for flood warnings with the Environment Agency's Floodline Warnings Direct Service.

In terms of sequential testing the NPPG 'Flood Risk and Coastal Change' table 2 identifies residential dwellings as 'more vulnerable' and table 3 identifies that 'more vulnerable' development within floods zone 2 (and 1) is appropriate under the sequential test and does not need to be subject to and 'exception test'. For dwellings within flood zone 3 it would sequentially be preferable to locate dwellings with a lower flood zone area but in this case only part of one of the dwellings is shown as being within flood zone 3 and it is noted that the Environment Agency do not object to the proposal. There are proposed mitigation measures within the Flood Risk Assessment to ensure safety within the event of a flood and these can be secured by planning condition.

No drainage strategy has been submitted with the application but as the development with the use of a SUDS drainage system, the proposal will not increase flood risk elsewhere due to the use of a sustainable drainage scheme. A directive condition can

be used to require that all surface water drainage goes to a SUDs drainage system and not the mains drains, which would otherwise contribute to increased flood risk off the site.

Subject to suitably worded conditions no objection is raised to the proposal under the relevant paragraphs of the NPPF in respect to flood risk.

Contamination

Paragraphs 178 and 179 of the NPPF and Policy BNE23 of the Local Plan require that decisions should ensure that new development is appropriate for its location and takes account of the likely effects of pollution on health, living conditions and the natural environment. Policy BNE23 requires that proposals for development of land likely to be contaminated be accompanied by the findings of a site examination, which identifies contaminants. This is in accordance with the NPPF requirements to take the likely effects into account in decision making.

In this case the site has formerly been used as a farmyard and may have areas of contamination as a result of this use.

The applicant has submitted a preliminary contamination report in support of the application. The report concludes that further investigation is not required. However, as the proposed development is of a sensitive nature, being residential with gardens, and an old garage and barn are on site (to be demolished), a watching brief is needed to take place and can be secured by planning condition.

Subject to suitably worded planning conditions no objection is raised in respect to air quality under policy BNE23 of the Medway Local Plan.

Air Quality

Policy BNE24 of the local plan relates to air quality. Paragraphs 127, 170 and 180 of the NPPF seek a good amenity for current and future occupiers, and take account of matters likely effects of pollution, and noise in relation to new development.

In this case the main route onto and off the Hoo peninsular is Four Elms Hill, Chattenden which has been designated as an AQMA. It is likely that new residents at the above development will use Four Elms Hill and together with the cumulative impacts of other developments on the peninsular new development needs to include mitigation measures for air quality.

Therefore conditions are needed to ensure that all gas fired boilers installed within the development shall meet a minimum standard of <40mgNOx/kWh and that one slow charge electric vehicle charging unit is installed for each of the three dwellings.

Subject to suitably worded planning conditions no objection is raised in respect to air quality under policy BNE24 of the Medway Local Plan.

Highways/Parking

Paragraph 109 of the NPPF states that development should only be refused on highways grounds if there is an unacceptable impact on highways safety.

Policy T1 of the Local Plan requires that the impact of proposed development is acceptable subject to the highway having: adequate capacity to cater for the traffic which will be generated by the development (taking into account alternative modes to the private car); the development will not significantly add to the risk of road traffic accidents. Policy T13 relates to adopted vehicle parking standards for the Medway area. The adopted parking standards are those shown within the Medway Council Residential interim parking guidance note.

In this case the access points to the site are existing, although one has not been used for some considerable time it would appear. It is noted that the overgrown access point could be brought into use to support an extant use on the site subject to the construction of a vehicle crossover.

It is considered that whilst there will be an increase in the number of vehicle movements from the site over the current situation (with the site in a derelict state) these are not considered to result in a severe impact to highway safety.

Each of the dwellings will be provided with three parking spaces which would exceed the minimum requirement of two parking spaces per dwelling. Whilst turning on the site is somewhat tight should three cars be parked for each of the dwellings it is not so tight as to prevent turning and would not warrant the refusal of the application.

The application is considered to be acceptable in respect of the transport and parking policies T1 and T13 of the Medway Local Plan 2003 and paragraph 109 of National Planning Policy Framework 2019.

Ecology

Policy BNE37 of the Local Plan states that development will not be permitted 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.'

In this case an ecological habitat survey and bat surveys have been undertaken and submitted in support of the application.

The Kent County Council Ecologist advises that they accept that the habitat within the site does not provide optimal habitat for reptiles however the presence of reptiles cannot be ruled out. We agree that there is no requirement for a reptile survey to be carried out but there is a need for precautionary mitigation to be implemented during the construction works and a condition can be used to this effect.

In respect to bats the applicant has carried out bat surveys that conclude that there is no evidence of the presence of bats emerging from or entering the building but bats were recorded in the area. They conclude that bats are not currently using the buildings for roosting. They suggest that bat roosting features could be incorporated into the redevelopment proposal (such as bat boxes in mature trees within the site) and that external lighting should be in accordance with the Bat Conservation Trusts guidance. These can be secured by the use of planning conditions. Additional conditions are also required in respect to the timing of the clearance of vegetation/trees, so that they do not disturb nesting birds, and also that the site is resurveyed for protected species if development has not commenced within 18 months of the date of the development. Landscaping details and biodiversity enhancement features can also be agreed by the use of planning conditions.

The KCC ecologist are satisfied that there are no bats roosting within the buildings to be demolished and require a condition in relation to external lighting, given that bats are recorded foraging at the site.

Subject to the agreement of the applicant's ecologist's conclusion by the KCC ecologist, and the use of suitably worded planning conditions 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 J239.61 per dwelling (excluding legal and monitoring officer's costs, which separately total J550) 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 it is considered that adequate measures to mitigate potential significant adverse effects on the North Kent Marshes SPA have been undertaken and no objection is raised under contrary Paragraphs 175 and 176 of the NPPF and Policies S6 and BNE35 of the Local Plan.

Local Finance Considerations

No local finance considerations.

Conclusions and Reasons for Approval

In principle the redevelopment of a redundant site for residential use is acceptable within the settlement boundary. The form and design of the houses are considered to be acceptable at this rural fringe site and the proposal would have no significant impact on the amenity of neighbouring occupiers. The parking provision is acceptable and there would be no impact on highway.

The proposal has already mitigated against cumulative harm to sensitive ecological sites in the area by the payment of the Bird Mitigation.

Therefore on balance, subject to conditions, the proposal is considered to comply with Policies S1, S6, BNE1, BNE2, BNE6, BNE23, BNE24, BNE25, BNE33, BNE35, BNE37, BNE38, BNE39, BNE43, BNE49, H9, H11, T1 and T13 of the Medway Local Plan 2003 and paragraphs 8, 10, 11, 109, 118, 123, 124, 127, 155-160, 163, 163, 170, 175, 176, 178, 179 and 180 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, including that from the Stoke Parish Council, expressing views contrary to the 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/>