

MC/18/3209

Date Received: 6 November 2018

Location: Land Rear Of 12 New Road Avenue (Fronting Gundulph Road)  
Chatham Medway ME4 6BB

Proposal: Construction of a part three storey part four storey block comprising of ten 1-bedroom self-contained flats with associated parking, access and amenity area

Applicant PCD Homes,  
Mr Gerry Peters

Agent Cheffins Planning and Development  
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Ward: River Ward

Case Officer: Doug Coleman

Contact Number: 01634 331700

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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 18th September 2019.**

**Recommendation - Approval subject to:**

A The applicant entering into a Section 106 agreement to secure:

- A contribution of £6,170.50 to purchase equipment and infrastructure for a new Healthy Living Centre in the central Chatham locality;
- A contribution of £764.20 for Medway Youth Service to fund personal development courses for public speaking to help build confidence for young people in the local area;

- A contribution of £24,897.301 towards improvements to Town Hall Gardens and/or The Paddock/and or Victoria Gardens as well as Great Lines Heritage Park (footpaths Phase 2);
- A contribution of £2,396.10 towards Strategic Mitigation measures in the Special Protection Areas;

B And the following conditions:-

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: To comply with Section 91 of the Town and Country Planning Act 1990 (as amended).

- 2 The development hereby permitted shall be carried out in accordance with the following approved plans:

Drawing numbers: PA 007 and PA 009 received on 6 November 2018; PA 006 received on 9 November 2018; and PA 002/A, PA 003/A, PA 004/A, PA 005/A and PA 008/A received on 13 March 2019.

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

- 3 No development shall take place until a Construction Environmental Management Plan (CEMP) that describes measures to control, amongst other matters, hours of working, parking of operatives vehicles, deliveries to the site, noise, dust and lighting, pollution incident control and site contact details in case of complaints, 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 and with regard to Policy BNE2 of the Medway Local Plan 2003.

- 4 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.

- 5 No part of the development hereby permitted shall be occupied until a signed verification report carried out by a qualified drainage engineer (or equivalent) has been submitted to and approved by the Local Planning Authority to confirm that the agreed surface water system has been constructed as per the agreed scheme and plans. The report shall include details and locations of critical drainage infrastructure (such as inlets, outlets and control structures) including as built drawings, and an operation and maintenance manual for the unadopted parts of the scheme as constructed.

Reason: To ensure that suitable surface water drainage scheme is designed and fully implemented so as to not increase flood risk onsite or elsewhere and in accordance with paragraph 165 of the NPPF.

- 6 No development shall take place until the implementation of a watching brief to be undertaken by an archaeologist approved by the Local Planning Authority has been secured so that the excavation is observed and items of interest and finds are recorded. The watching brief shall be carried out in accordance with a written programme and specification, which has been submitted to and approved in writing by the Local Planning Authority.

Reason: Required before commencement of development to avoid any irreversible detrimental impact on any archaeological interest and in accordance with Policy BNE21 of the Local Plan 2003.

- 7 No development above slab level shall take place until details and samples of all materials to be used externally, including retaining walls, 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.

- 8 No development shall take place above slab level until a scheme for protecting the proposed development from noise arising from nearby commercial noise sources has been submitted to and approved in writing by the Local Planning Authority.

The development shall be implemented in accordance with the approved measures before any part of the development is occupied and shall thereafter be retained.

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

- 9 The separating partition between the bedrooms and the living/dining/kitchens of units under separate occupation shall resist the transmission of airborne sound such that the weighted standardised level difference (DnT,W +Ctr) shall not be less than 50 decibels as measured and calculated in accordance with BS EN ISO 16283-1 2014.

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

- 10 No development shall take place until an Air Quality Emissions Mitigation Scheme has been submitted to and approved in writing by the Local Planning Authority. The Mitigation Scheme shall include details of the following air quality mitigation measures:

- All gas fired boilers to meet a minimum standard of <40mgNOx/kWh;
- All parking spaces to be provided with an electric vehicle charging point

The development shall be implemented, and thereafter maintained, entirely in accordance with the measures set out in the approved Mitigation Scheme.

Reason: To mitigate against any adverse air quality impacts arising from the proposed development and in accordance with Policy BNE24 of the Medway Local Plan 2003.

- 11 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, and where remediation is necessary a remediation scheme must be prepared, 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 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.

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.

- 12 The ground, first and second floor windows on the east side elevation shall be 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. This work shall be completed before the room it serves is occupied and shall be retained thereafter.

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

- 13 No part of the development shall be occupied until a Parking Management Plan has been submitted to and approved in writing by the Local Planning Authority. The Parking Management plan shall contain details of security/crime prevention measures to be incorporated within the parking spaces within the development are to be managed and preserved for use by future residents. The Parking Management Plan shall be implemented in accordance with the approved details prior to first occupation of the development and shall thereafter be retained.

Reason: to ensure satisfactory off-street parking in accordance with Policy T13 of the Medway Local Plan 2003.

- 14 The building shall not be occupied, until the area shown on the submitted layout as vehicle parking has been provided, thereafter it shall be kept available for such use and no permanent development, whether or not permitted by the Town and Country Planning (General Permitted Development) Order 2015 (or any order amending, revoking or re-enacting that Order) shall be carried out on the land so shown or in such a position as to preclude vehicular access to this reserved parking space and garaging.

Reason: Development without provision of adequate accommodation for the parking or garaging of vehicles is likely to lead to hazardous onstreet parking and in accordance with Policy T13 of the Medway Local Plan 2003

- 15 No part of the development shall be occupied until details of secure private cycle parking provision in the form of individual lockers for the dwellings have 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 part of the 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.

- 16 Prior to the installation of any external lighting on the site, details of such lighting shall be submitted to and approved in writing by the Local Planning Authority. Details shall include height, position, external appearance, any shielding, light intensity, colour, spillage (such as light contour or lux level plans showing the existing and proposed levels) together with a report to demonstrate its effect on nearby residential properties, bats (including reference to the recommendations of the Bat Conservation Trust)] and of how this effect has been minimised. Any external lighting shall be implemented in accordance with the approved details.

Reason: In order to limit the impact of the lighting on nearby residents and with regard to Policy BNE2 of the Medway Local Plan 2003.

- 17 Prior to the first occupation of any part of the development herein approved, the refuse storage arrangements for the building shown on drawing no: PA 002/A shall be provided and shall thereafter be retained.

Reason: In the interests of visual amenity and to ensure a satisfactory provision for refuse and recycling in accordance with Policy BNE2 of the Medway Local Plan 2003.

- 18 No flat herein approved shall be occupied and the parking area shall not be brought into use, until details of controlled access for the pedestrian walkway to the eastern side of the building have been submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the approved details prior to the occupation of any flat or the first use of the parking area, and shall thereafter be retained.

Reason: To ensure the security of the occupiers of the proposed development and in accordance with Policy BNE8 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 application is for a part three/part four storey development comprising a block of ten 1- bedroom flats with associated parking, access and amenity area.

The application site has a frontage of approx. 20m to Gundulph Road, narrowing to 17m at the rear and a depth of approx. 25m. It is currently vacant and split into two levels with a drop of 3.5m between the rear and front. Previously the lower (front) part was used as a car park serving the three/five storey office block at 12 New Road Avenue, whilst the upper part is a grassed area.

The site is flat. However the surrounding land rises steeply such that at the rear of the site there is another 3m rise to the ground level of the rear of 12 New Road Avenue, which is five storeys high at the front and three storeys high at the rear.

The development now comprises the following:

- Lower ground floor: access gate for vehicles, 'access core' (stairway), bike and bin storey and 6 car parking spaces. There would be a pedestrian gate to the east side leading to steps at the rear.
- Ground floor: 4 x one bedroom flats. The rear garden would be at this level.
- First floor: 4 x one bedroom flats.
- Second floor: 2 x one bedroom flats.

The building would measure approx. 15.5m wide by 15m deep with the three lower floors rising to a parapet height. The second floor would be recessed with a hipped roof rising to a height of 11m when viewed from Gundulph Road. Due to the change in levels, when viewed from the rear, the parapet height would be 5.6m and the ridge height 8m.

The application is accompanied by a Design and Access, Planning and Heritage Statement, Contaminated Land Assessment, Flood Map, Noise Assessment and a Technical Note (parking).

The application has been amended to address concerns regarding potential overlooking towards the rear of properties in Hammond Hill, and a SuDs Drainage Report and revised Noise Assessment have been submitted.

### **Site Area/Density**

Site Area: 0.045 hectare (0.11 acre)  
Site Density: 222 dph (89.9 dpa)

### **Relevant Planning History**

#### 12 New Road Avenue

MC/18/0601	Prior Notification of a proposed change of use from office use (Class B1(a) to dwelling (Class C3) to provide 10 (one two and three bedroom) apartments Prior Approval required Prior Approval granted 11 July 2018
MC/13/1197	Change of use from offices (Class B1) to guest house (Class C1) (re-submission of MC/11/1986) and construction of new vehicular crossover Approved 30 October 2014

MC/11/1986	Change of use from offices (B1) to guesthouse (C1) Refused 12 February 2013
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NK1/68/170	New office front, single storey office and alterations Approved 11 October 1968
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## Representations

The application has been advertised on site and in the press as major development and as development affecting the setting of a designated Conservation Area and by individual neighbour notification to the owners and occupiers of neighbouring properties.

**Kent Police, Southern Water Services, EDF Energy, NHS, Southern Gas Networks and Rochester Airport Consultative Committee** have also been consulted.

**Three letters** have been received raising the following objections:

- Overlooking/loss of privacy to the rear of and gardens of properties in Hammond Hill.
- Overshadowing and loss of light.
- Overbearing impact on neighbouring properties.
- The site is adjacent to an established private members club (Coyote Nightclub) and future residents will need to be aware of this.
- The club cannot be held responsible for noise generated outside the premises.
- There is a smoking shelter at the side of the club adjacent to the site which would give rise to odours and noise. The owner of the club would be agreeable to move this at the applicant's expense.
- There is another licensed venue (St George Hotel) holding events less than 30m away which holds events up to 2:00 am. The car park is in used 24/7. Whilst account has been taken of Coyote's in terms of soundproofing the same regard has not been paid to St George Hotel.

**Kent Police** have written advising that they have had no communication from the applicant and that the Planning Statement has not demonstrated that crime prevention has been considered. They have made the following comments:

- Undercroft parking can attract anti-social behaviour and it is essential that this is gated.
- The vehicle access gate and main entrance door should have full audio visual access control systems.
- The main residential entrance appears to be via the under croft parking area, which is not ideal. This would require residents and visitors to gain access to the under croft parking area, before access the main residential entrance, allowing non-residents access via this route may allow opportunities for crime.
- The under croft parking area should be well lit and appropriate signage installed to show the route to the main entrance door.

- The side pedestrian access gate should be access controlled and if this is to be a route for visitors, full audio visual systems should be installed.
- There appear to be two openings in the side elevations. If these openings are to be left open, it is important that the boundary treatments protect this area, to deter/prevent unauthorised access to the under croft parking area. Grilles could be installed to protect these openings.
- The plans only show parking for 6 vehicles for the 10 apartments.
- Postal delivery needs to be carefully considered, particularly if deliveries will be via the under croft parking area. A through the wall system at the front of the building would be preferable, so that anyone delivering items would not need to enter the building.
- There appears to be a pedestrian route from Gundulph Road to the rear of 12 new Road Avenue. If this is the case, then the residents of 12 New Road Avenue would require controlled access via the pedestrian access gate in Gundulph Road.
- The applicant/agent consider the SBD initiative to enhance security for the development should it receive planning approval. Doorsets and windows should be certified to PAS24:2016 as detailed in SBD Homes 2016.
- There is merit in meeting us to discuss the design and potential CPTED concerns, also any formal.

**Southern Water** have written advising of the approximate positions of public sewers within the vicinity of the site and requesting appropriate conditions and informatives.

**Southern Gas Networks** have written 'attaching' a plan of apparatus in the area

## **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 application site is within Chatham Town Centre area, although it is not designated for any specific use on the Proposals Map. The site is not within, but immediately adjoins the Star Hill to Sun Pier Conservation Area. The surrounding area is one of mixed uses with a nightclub (Coyote) immediately to the east. The area was one of predominantly offices uses but several former office buildings have been converted to residential, including the adjoining building to the south, 12 New Road Avenue, which received Prior Approval in 2018. To the north of the nightclub, the rear gardens of properties in Hammond Hill adjoin the site.

Policy S1 of the Local Plan states that the development strategy for the area is to prioritise reinvestment in the urban fabric, including the redevelopment and recycling of under-used and derelict land within the urban area, with a focus on Chatham town centre.

Policy S2 requires that the implementation of the development strategy set out in Policy S1 will focus on, inter alia maintaining and improving environmental quality and design standards and a sustainable approach to the location and mix of new development.

Policy H4 supports the principle of residential development in town centres including:

- (i) The use of vacant or derelict land; or
- (ii) The redevelopment of existing residential areas and infilling in such areas (providing that a clear improvement in the local environment will result); or
- (iii) Mixed commercial and residential uses in proximity to town centres.

#### *Design, appearance and effect on the character of the Conservation Area*

Policy BNE1 of the Local Plan states that development should be appropriate in relation to the character, appearance and functioning of the built and natural environment and be satisfactory in terms of use, scale mass, proportion, details, materials, layout and siting. Policy BNE14 states that Development within or affecting the setting of a Conservation Area should achieve a high quality of design which will preserve or enhance the area's historic or architectural character or appearance. The Policy specifies criteria which will be applied including:

- Materials, features and details of buildings or structures which contribute to the character or appearance of the area; and
- Traditional street patterns, building lines, open spaces and urban spaces, paving and roadway materials, boundary treatments and street furniture; and
- The scale, height, mass, roofscape, materials, detailing, fenestration, plot width and depth, and visual appearance; and
- Hard and soft landscape elements.

Paragraph 189 of the NPPF requires that, in respect of an assessment of potential heritage assets affected, including any contribution made to their setting. The level of detail provided should be proportionate to the assets' importance and no more than is sufficient to understand the potential impact of the proposal on their significance.

Gundulph Road is essentially a rear service road serving properties in High Street to the north and New Road Avenue to the south. The south side of Gundulph Road, on which the applicant site is located, is mostly built up tight to the back of the footpath with the rear of St George Hotel/Stanley Ballroom rising to a height of up to 8 storeys and dominating the skyline. The eastern end of the road, which includes the application site is relatively open on the south side. In contrast the northern side of the road, which is in the Conservation Area is relatively open, apart from immediately opposite the site, where Media House, a three storey residential (former office) building is a prominent corner

feature. To the east, there is a car park and a single storey building, beyond which are the rear gardens of properties in Hammond Hill. These are all in the Conservation Area.

The proposed building would be a relatively prominent feature in the street scene, particularly when viewed from the north as it would be located on the bend in Gundulph Road and be visible from High Street. It would hide the unattractive rear of 12 New Road Avenue and remove the former car park which is becoming overgrown and an eyesore. In this regard, the proposal would make a positive contribution to the appearance to the street scene and introduce an active frontage to Gundulph Road. As there are no other similar buildings in Gundulph Road, the proposed building would contribute its own scale and mass to the street scene. Nevertheless, it would reflect the appearance and detailing of similar buildings in other parts of the Conservation Area.

In this regard, subject to appropriate detailing, it is considered that the proposal would enhance the character and appearance of the street scene and of this part of the Conservation Area, and accordingly, no objection is raised under Policies BNE1 and BNE 14 of the Local Plan and Paragraphs 124, 127 and 189 of the NPPF.

#### *Climate Change and Energy Efficiency*

All dwellings will need to be designed in accordance with the latest building regulations and in particular Part L (Energy Use).

All new windows are to be double-glazed which will significantly reduce noise and improve heat insulation.

The close-proximity of amenities including public transport, public park, shopping facilities and offices from the proposed development mean the length of journey is minimal promoting walking and making it not essential to own a car. Provision of secured bike storage for each flat in the development offers the opportunity for a sustainable transport solution.

#### *Amenity*

##### Occupier amenity

The proposal has been assessed against the DCLG's Nationally Described Space Standard (see table below), which requires a minimum GIA of 39 sq. m. for a single storey one bedroom/one person unit. The proposed flats would have GIAs of between 41 sq. m. and 49.5 sq. m. and bedrooms of 9 sq. m. or 14.4 sq. m. and the proposal would, therefore comply with this standard. A shared private amenity area is proposed to the rear of the proposed building, at ground floor level. No objection is, therefore, raised in terms of occupier amenity under Policy BNE2 of the Local Plan and Paragraph 127f of the NPPF.

## Neighbour amenity

The closest properties to the application site are located to the east in Hammond Hill. There is a pair of semi-detached three storey properties, the rear gardens of which are adjacent to, but at a higher level than the application site. There would be a gap of approx. 16m between the main rear wall of these properties and the flank wall of the proposed building. However, there are single storey rear extensions/outbuildings attached to both properties and in the case of 8 Hammond Hill these extend as far as the site boundary.

Windows are proposed in the flank wall of the proposed building and in this regard there is potential for overlooking.

Concern has also been expressed regarding overbearing impact of the proposed development and potential loss of light and privacy to these properties as a result of the proposed development. Whilst this is noted, the ridge of the proposed building would be at approx. the same height as the roof of the outbuilding to the rear of 8 Hammond Hill and there are no windows in the wall of the outbuilding facing towards the application site.

In terms of privacy, windows are shown on the submitted drawings serving bedrooms/living rooms at Units 2 and 4 (ground floor), 6 and 8 (first floor) and 10 (second floor). However, the application has been amended to show that these will be partially obscure glazed. Subject to an appropriate condition in this regard, no objection is raised in terms of light and outlook.

The application would, therefore comply with Policy BNE2 of the Local Plan and Paragraph 127f in terms of neighbour amenity.

## *Highways*

The proposed access would have limited visibility splays when exiting the site entrance. However given that the street follows a narrow one way system with minimal vehicle/pedestrian movements, it is considered no objection would be raised in terms of access.

6 vehicle spaces are shown for the proposed development, allocated to Units 3, 4, 7, 8, 9 and 10. However, it is considered that as the development is in a sustainable location close to the town centre, bus station and train station, a reduction in parking provision below that specified in the Council's Vehicle Parking Standards. Current car ownership levels in this area of Chatham are low (E00081425 Output Area), the last census states that 50% of households had no vehicles. Therefore it is considered that a provision of 60% of the total recommend parking provision would be likely to be sufficient to accommodate the parking needs of the proposed development. A suitably worded condition is, however, recommended to demonstrate how the car park would be managed.

It is considered that the level of secure cycle parking proposed would be sufficient to accommodate the needs of the proposed development. However it is considered that

individual lockers for the cycle storage would be required, and a suitably worded condition to this effect is recommended.

The proposal would not result in any detrimental increase in risk to highways or pedestrian safety and is considered to be acceptable in respect of the transport and parking. No objection is, therefore raised under, Policies T1, T2, T4 and T13 of the Medway Local Plan 2003 and Paragraphs 105 and 109 of NPPF.

### *Flood Risk*

A Flood Map was submitted with the application which shows that the site is not at risk from tidal flooding. A SuDS Drainage report has subsequently been submitted which is considered to be acceptable, subject to a condition requiring the submission and approval of details of surface water disposal. Subject to this condition, no objection is raised in terms of drainage/flood risk under Policy CF13 of the Local Plan and Paragraph 165 of the NPPF.

### *Contamination*

A contaminated land report has been carried out by Landmark Residential and submitted with the application, based on historical data. No contamination issues have been identified in this report which would affect the proposed development. Nevertheless, a watching brief condition is recommended should any unidentified contamination be found during the carrying out of the development. Subject to this condition, no objection is raised in terms of contamination under Policy BNE23 of the Local Plan and Paragraph 178 of the NPPF.

### *Noise*

An acoustic assessment was carried out and submitted in support of the application. The main sources of noise were identified as road traffic during the day and the adjacent night club, Coyote, at night. A thorough assessment of noise break in was carried out, identified façade constructions and mitigation measures that should secure achievement of relevant noise guidelines. Guidelines on external noise levels should also be achievable generally during the day time when road traffic noise is the dominant noise source.

Concerns were raised with regard to the adequacy of the information contained within the assessment, including the fact that whilst consideration had been given to noise impacts from the adjacent Coyote nightclub, no reference was made to the impact of the Stanley ballrooms to the west, which would also be likely to cause noise and disturbance to occupiers of the proposed flats.

A revised Noise Assessment has now been submitted which demonstrates that the previously raised concerns can be addressed. However, a condition is recommended requiring the submission and approval of scheme of acoustic protection. Subject to this

condition, no objection is raised in terms of noise under Policy BNE2 of the Local Plan and Paragraph 182 of the NPPF.

### *Air Quality*

The planning statement recognises the close proximity of the development to the Central Medway Air Quality Management Area, but, as submitted, the application has failed to take on board the appropriate guidance. This identifies the requirement for standard air quality mitigation to be provided. Appropriate measures may take the form of one electric vehicle charging point per allocated parking space, and the installation of low NOx gas fired boilers. However, this mitigation can be achieved by appropriately worded conditions which are recommended in this instance. Subject to these conditions, no objection is raised in terms of air quality under Policy BNE24 of the Local Plan and Paragraph 181 of the NPPF.

### *Developer contributions*

The Community Infrastructure Levy Regulations 2010 provide that in relation to any decision on whether or not to grant planning permission to be made after 6 April 2010, a planning obligation (a s106 agreement) may only be taken in to account if the obligation is (a) necessary to make the development acceptable in planning terms;(b) directly related to the development; and (c) fairly and reasonably related in scale and kind to the development. The following obligations are sought and are considered to comply with these tests because they are necessary to make the development acceptable in planning terms, they are directly related to the development and are fairly and reasonably related in scale and kind to the development:

- A contribution of £6,170.50 based on a contribution of £617.05 x 10 dwellings to purchase equipment and infrastructure for a new Healthy Living Centre in the central Chatham locality.
- A contribution of £764.20 based on a contribution of £76.42 x 10 for Medway Youth Service to fund personal development courses for public speaking to help build confidence for young people in the local area for ages 8-19 and up to 25 for young people with disabilities. This type of programme is vital to the youth community as it helps with their personal and social development, and supports healthy living and mental health.
- A contribution of £24,897.301 based a contribution of £2,489.70 per unit to be used on improvements to Town Hall Gardens and/or The Paddock/and or Victoria Gardens as well as Great Lines Heritage Park (footpaths Phase 2).

The applicants have agreed to pay these contributions, but to date have not entered into a Section 106 agreement.

### *Bird Mitigation*

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

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

The applicants have agreed to pay this tariff which will be sought as part of the Section 106 agreement. No objection is therefore raised under Paragraphs 175 and 176 of the NPPF and Policies S6 and BNE35 of the Local Plan.

### *Local Finance Considerations*

There are no local finance considerations raised by this application.

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

The principle of the proposed development is acceptable and no and would be in accordance with Policies S1, S2, H4 and H5 of the Local Plan and Paragraphs 11, 49 and 59 of the NPPF. Subject to appropriate conditions, the proposal is acceptable in terms of design and appearance, the impact on the Star Hill to Sun Pier Conservation Area, amenity, traffic generation, access, parking, drainage and flood risk, contamination, air quality and noise, and as such would accord with Policies BNE1, BNE2, BNE14, BNE23, BNE24, T1, T2, T13 and CF13 of the Local Plan and Paragraphs 105, 109, 124, 127, 165, 178, 181 and 182 of the NPPF. The applicant is agreeable to entering into a Section 106 agreement to secure appropriate developer contributions, including bird mitigation, and no objection is raised under Policy S6 and BNE35 of the Local Plan and Paragraphs 175 and 176 of the NPPF. The application is, therefore, recommended for approval.

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

### Update 1

The above report was considered by the Planning Committee on 29 May 2019. The Committee resolved to grant planning permission subject to the applicant entering into a Section 106 agreement to secure developer contributions and to secure the removal of the smoking shelter (at the neighbouring nightclub).

The applicant has subsequently written to the Council saying that the clause relating to the smoking shelter is not necessary or justified and setting out the following reasons:

*"The smoking shelter is located at the front of 12b New Road Avenue, approx. 45m from the proposed building. The letter from the owner of the adjoining nightclub only asks for the shelter to be removed if odours of tobacco and noise from customers is going to be a concern for future residents. No reference is made in the letter of representation as to where the shelter should be relocated to."*

The letter adds that *"Paragraph 56 of the NPPF states that planning obligations should only be sought where they meet all of the following tests: a) Necessary to make the development acceptable in planning terms; b) Directly related to the development; c) Fairly and reasonably related in scale and kind to the development."*

The applicant states *"that the removal of the shelter is not necessary to make the development acceptable and not reasonable in relation to the development"*.

A letter has been sent to the owner of the adjoining nightclub advising him of this request. No response has been received.

### Officer comment

In view of the fact that the smoking shelter is at the front of the building and approx. 45m from the proposed development, it is considered that the smoking shelter, in its current location would not cause any nuisance to the occupiers of the proposed development in terms of noise and smoke. Having regard to Paragraph 56 of the NPPF, it is not considered that its removal is necessary to make the development acceptable.

It is, therefore, recommended that the application be approved subject to a Section 106 agreement to secure the appropriate contributions, as stated above, and the conditions as listed, but without the clause seeking the removal of the smoking shelter.

## Update 2

The application was again discussed at the meeting on 21 August 2019 and was deferred to allow the legal position to be established as Members had already resolved to grant planning permission on 29 May 2019. This will be reported to the Committee. Condition 18 added to take account of comments raised at the meeting.

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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/>