

MC/19/1017

Date Received: 16 April 2019

Location: 31-35 Balmoral Road Gillingham Medway ME7 4QB

Proposal: Change of use from solicitors offices to residential (C3) together with the construction of a three-storey extension; three pitched roof dormers to the rear; 2 pitched dormers to form new doorways; metal staircase and raised access to rear to facilitate the provision of five 2-bedroom flats and four new 1-bedroom flat.

Applicant Mr P Sparks

Agent Cyma Architects Ltd
Mr Mark Hall 55 The Old High Street
Folkestone
CT20 1RN

Ward: Gillingham South Ward

Case Officer: Tom Stubbs

Contact Number: 01634 331700

Recommendation of Officers to the Planning Committee, to be considered and determined by the Planning Committee at a meeting to be held on 18th September 2019.

Recommendation – Approval Subject to:

- A. The applicant completing a SAMMs Mitigation Contribution Agreement form and paying the contribution of £2,210.04 towards bird disturbance mitigation
- B. 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 AL(0)20 Rev A, AL(0)21 Rev F, AL(0)22 Rev D, AL(0)23 Rev D, AL(0)24 Rev D, AL(0)25 Rev D, AL(0)26 Rev D, AL(0)27, AL(0)29 Rev C, AL(0)30 Rev C, AL(0)31 Rev C and AL(0)32 Rev C received on 1 August 2019.

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

- 3 Unless otherwise agreed by the Local Planning Authority, development other than that required to be carried out as part of an approved scheme of remediation must not take place until conditions 4 to 6 have been complied with. If unexpected contamination is found after development has begun, development must be halted on that part of the site affected by the unexpected contamination to the extent specified in writing by the Local Planning Authority until condition 7 has been complied with in relation to that contamination.

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

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

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

(ii) an assessment of the potential risks to:

- human health
- property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes.
- adjoining land,
- groundwaters and surface waters,
- ecological systems,
- archaeological sites and ancient monuments;

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

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

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

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

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

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

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

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

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

- 7 In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of condition 4 and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 5, which is subject to the approval in writing of the Local Planning Authority.

Following completion of the measures identified in the approved remediation scheme a verification report providing details of the data that will be collected in order to demonstrate that the works set out in condition 5 are complete and

identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with condition 6.

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

- 8 No development shall take place until an acoustic assessment has been undertaken to determine the impact of noise from commercial related noise sources. The results of the assessment and details of a scheme of mitigation measures necessary to ensure an appropriate level of aural amenity within habitable rooms and amenity/garden areas shall be submitted and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the approved details before any of the dwellings are occupied and shall thereafter be retained.

Reason: Required prior to commencement of development to ensure no long term detrimental harm to conditions of amenity in accordance with Policy BNE2 of the Medway Local Plan 2003.

- 9 No development shall take place until a Construction Environmental Management Plan (CEMP) that describes measures to control, amongst other matters, hours of working, deliveries to the site, noise, dust and lighting arising from the construction phase of the development has been submitted to and approved in writing by the Local Planning Authority. The construction works shall be undertaken in accordance with this approved plan.

Reason: Required before commencement of development in order to minimise the impact of the construction period on the amenities of local residents and with regard to Policy BNE2 of the Medway Local Plan 2003.

- 10 No development above slab level shall take place until details and samples of all materials to be used externally have been submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the approved details.

Reason: To ensure that the appearance of the development is satisfactory and without prejudice to conditions of visual amenity in the locality, in accordance with Policy BNE1 of the Medway Local Plan 2003.

- 11 No dwelling shall be occupied until a plan indicating the positions, design, materials and type of boundary treatment to be erected has been submitted to and approved in writing by the Local Planning Authority. The boundary treatment shall be completed in accordance with the approved details before any dwelling is occupied and shall thereafter be retained.

Reason: To ensure that the appearance of the development is satisfactory and without prejudice to conditions of visual amenity in the locality, in accordance with Policy BNE1 of the Medway Local Plan 2003.

- 12 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 how parking for future residents and their visitors is arranged to deter on-street parking within parking permit areas. The Parking Management Plan shall be implemented in accordance with the approved details prior to the first occupation of the development and shall thereafter be retained.

Reason: To ensure the development does not result in additional strain on existing street parking subject to permits and to comply with Policies T1 and T13 of the Medway Local Plan 2003.

- 13 No dwelling shall be occupied until details of secure private cycle parking provision in the form of individual lockers for 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 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.

- 14 No dwelling shall be occupied until the privacy screen and planters to the raised access to flats 7 and 8 have been provided in accordance with drawing numbers AL(0)25 Rev D, AL(0)26 Rev D, AL(0)30 Rev C and AL(0)32 Rev C and shall thereafter be retained.

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.

- 15 The bottom window panel of the ground floor bedroom windows of flat 1, within the side elevation fronting Connaught Road 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 privacy and safety in accordance with Policies BNE2 and BNE8 of the Medway Local Plan 2003.

- 16 The separating ceiling, floor or wall between the bedrooms and living rooms of residential 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 against conditions of amenity for future occupiers in accordance with Policy BNE2 of the Medway Local Plan 2003.

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

Proposal

Change of use from solicitors offices to residential (C3) together with the construction of a three-storey extension; three pitched roof dormers to the rear; 2 pitched dormers to form new doorways; metal staircase and raised access to rear to facilitate the provision of five 2-bedroom flats and four 1-bedroom flats.

The application would include additions to the existing solicitors offices including three pitched roof dormers to the rear, a new entrance fronting Connaught Road, new windows, blocked up windows and a metal staircase and raised access to provide access to flats 7 and 8. The existing building would be converted into three 1- bedroom flats at ground floor level and three 2-bedroom flats over the first and third floors.

The three storey rear extension would be two storey and constructed using brown brick and slate to the mansard roof. The extension would be set back approx. 0.5m from Connaught Road and measure approx. 13m in depth, 8.7m wide and approx. 9m in max height. This extension would provide a 2-bedroom flat at ground floor level and two 1-bedroom flats at first and second level. The ground floor flat would have direct access from Connaught Road. The first and second floor flats would also be accessed via Connaught Road by via a side gate between the main body of the extension and where it attaches the existing building. This access gate also allows a walk through to the rear of the existing building where flats 7 and 8 are accessed from as well as the bin stores and cycle storage for all flats.

Site Area/Density

Site Area: 0.04 hectares (0.10 acres)

Site Density: 225 dph (90 dpa)

Relevant Planning History

31 Balmoral Road

MC/09/0975

Change of use from A1 (Retail) to B1 (Office) on the ground floor and from D1 (Non residential institution) on the upper floors to B1 (Office).

Decision Approval With Conditions

Decided 07/09/2009

Rear of 31-35 Balmoral Road

MC/04/0870

Outline application for construction of one three storey block comprising three 3-bedroomed flats over existing car park

Decision Withdrawn

Decided 13/09/2004

Representations

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

Five letters of objection including one letter from Cllr Johnson have been received raising the following concerns:-

Overdevelopment of the site.

Loss of potentially sized family to flats which is out of character with the area.

Unacceptable massing.

Impact on already intense pressure on parking in the area.

Loss of privacy and increased noise.

Noise/dust/dirt during construction.

Development Plan

The Development Plan for the area comprises the Medway Local Plan 2003 (the Local Plan). The policies referred to within this document and used in the processing of this application have been assessed against the National Planning Policy Framework 2019 and are considered to conform.

Planning Appraisal

Principle

The site is located within the urban area of Gillingham located just outside the core retail area in a mixed residential and commercial area and there are examples of flats within the area. The existing use consists of a solicitors office and car park. Policy H4 of the Local Plan states that the use of vacant land or change of use of buildings no longer required for non-residential use will be permitted for residential development subject to clear improvement in the local environment. Paragraph 11 of the NPPF states that housing applications should be considered in the context of the presumption in favour of sustainable development. While paragraphs 117 and 118 encourage making efficient use of land especially on brown field sites and building on or above yards and car parks. The use of the previously converted dwellings are no longer suitable for purpose as offices and subject to compliance with the detailed matters of these policies which are set out in the assessment below, the principle of the site for residential development and flatted development is considered acceptable given the mixed residential and commercial character of the area in a sustainable location.

Design

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

By virtue of its siting, the application site would be visible from Balmoral Road, Connaught Road and neighbouring properties. The surrounding terraced properties are a mix of commercial and residential use within Balmoral Road and there is also the four storey Kingsley House office block.

The Balmoral Road frontage would not alter drastically as part of the proposal and still appear as three units. The rear dormers are considered to be of a suitable size and scale and would not be a new feature in the area. No objection is raised with regard to the raised access to flats 7 and 8 at the rear and with privacy screening to be provided which would not be visible from either street scene. No objection is raised to a new entrance within the side elevation to Connaught Road.

The three storey rear extension would appear as a modern addition but retaining a Georgian style with stone lintels to appear in keeping with the area and tie into the existing building. It is considered to be of a suitable size and scale with its mansard roof reducing any dominance from the third storey. The extension is also appropriately sited approx. 0.5m back from the footpath allowing for defensible space particularly where there are habitable room windows fronting the highway. Railings to the front are considered suitable and reflective of the wider character of Gillingham.

No objection is made to the three storey, hipped roof access core which would be set back behind a bin store located at ground floor level and fronting onto Connaught Road. The secure gated access between the main extension building and the extension providing the core to the flats, allows for access to flats 6-9 and also to the rear gardens to flats 2-4 and the 9 individual secure bike storage.

The proposal, subject to materials, boundary treatment and landscaping conditions is considered to be acceptable and in accordance Policies BNE1 and BNE8 of the Local Plan and paragraphs 124 and 127 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 the existing windows will be replaced with timber double glazed windows and all new windows are to be timber double-glazed windows which will significantly reduce noise and improve heat insulation.

Surface water runoff will make use of the existing surface water drainage. New external hard landscaping will be free draining.

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

There are two main amenity considerations, firstly the impact of the proposed dwelling on neighbours and secondly the living conditions which would be created for potential occupants of the development itself. Policy BNE2 of the Local Plan and paragraph 127 (f) of the NPPF relates to the protection of these amenities.

Neighbouring Residential Amenity

Concerns have been raised regarding the loss of privacy and the potential noise impact on neighbours. In relation to the proposed extension, taking account of the siting, size and scale of the proposed new build rear extension and its rear balconies, the orientation of the site and path of the sun, the distance and relationship to neighbouring residential properties and their habitable room windows and private amenity spaces, there would be no detrimental impact in terms of loss of outlook, privacy, sunlight and daylight.

With regard to the alterations to the existing property there would be no detrimental impact on privacy from the proposed rear dormers or the rear access steps to flats 7 and 8 due to the distance and relationship to from neighbouring residential properties.

With regards to noise, it is not considered that the proposed use would result in any significant impact on noise to either residential or commercial neighbours over the current use to warrant a refusal, however the construction of the proposal could result in potential disturbance from noise and dust and therefore, if the application were considered for approval, a Construction Environment Management Plan (CEMP) would be required by condition.

Amenity of Future Occupiers

With regard to the amenities of future occupants of the development itself the proposed flats have been assessed with regard to the technical housing standards – nationally described space standard 2015 (the national standard). The Medway Housing Standards (interim) November 2011 (MHDS) have also been considered. The MHDS indicates that a 5sqm balcony or private outdoor space should be provided but if no outdoor private amenity space is provided, flats should include 5sqm within the internal provision.

All flats are in accordance with the national standards for room sizes and ceiling heights. All but, flat 1 at approx. 46sqm instead of 50sqm, meet the national standards for gross internal floor area. However, no objection is raised to flat 1 as the floor plan demonstrates a suitable layout can be achieved and this flat is within the existing converted building. The ground floor flats have private amenity spaces to the rear and flat 6 has a private balcony. Flats 7, 8 and 9 do not have private outdoor space. Flats 7 and 8 exceed the national standards and provide the balcony space internally as per

the MHDS. Flat 9 does provide additional GIA to the minimum set out on the standards but the full 5sqm cannot be achieved, however but no objection is raised.

By virtue of the location close to a busy road and commercial premises (including the Aldi supermarket car park, loading bay and plant) and the proposed internal layout with bedrooms adjacent or above to living areas there is a potential for noise issues for the future residents. No acoustic information has been provided within this application. Conditions requiring acoustic assessments and scheme of acoustic protection for the proposed flats and balconies and garden areas would be required to protect future occupier's amenity from noise from commercial and transport sources. While another condition would be required requiring specific mitigation measures in relation to wall, ceiling and floor separation details due to the layout.

The rear access to flats 7 and 8 has been designed with an obscure glazed screen of approx. 1.7m in height to protect the amenity of the occupiers of both units with regard to privacy. Two planters of 300x300mm set at 1.5m high will also be included to assist in screening and protecting the privacy of flats 2 and 3. Subject to a condition for these features to be retained no objection is raised with regard to privacy.

The ground floor bedroom to flat one would face directly onto the street, there is a concern regarding potential privacy and safety of this arrangement. The design and access statement indicates that the lower window panes would be obscure glazed. As these are secondary windows to the room there is no objection regarding outlook. A condition would be required to secure this arrangement.

Consequently, subject to the suggested conditions, no objections are raised in terms of the amenities of both the future occupiers and neighbour amenities under Policies BNE2 and H4 of the Local Plan and paragraphs 127, 170 and 181 of the NPPF.

Highways

Responses from the consultation process have raised concerns regarding the impact of the proposal on the already intense pressure for parking within the area. There are parking restrictions

Medway Council's Interim Residential Parking Standards require the provision of 1 space for a 1-bedroom dwelling and 1.5 spaces per dwelling for a 2-bedroom plus 0.25 space per dwelling for visitor parking, making a requirement of 12 spaces for the proposed development. The development proposes no parking spaces.

The standard, however does allow a reduction within a sustainable location with good access to public transport. The site location is considered a sustainable location for car free development due to its close proximity to Gillingham Train Station and access to bus routes, with both Gillingham High Street and a supermarket in close proximity. The application also proposes cycle storage for all flats. If the application was granted planning permission a condition to require a parking management plan to deter future occupiers acquiring parking permits, this would assist in reducing the conditions of highway safety and residential amenity from increased parking pressure and ensure the development was car free. A further condition would be required to ensure the final design of the secure cycle provision and its retention.

No objection is raised under Policies T1, T4, T13, BNE2 and H4 of the Local Plan and paragraph 109 of the NPPF subject to the abovementioned condition.

Contamination

Policy BNE23 of the Local Plan requires that land known to be or likely to be contaminated should be accompanied by detailed site examination and appropriate remedial measures to reduce or eliminate risk to human health and the wider environment be agreed.

The application has been supported by a Phase I Contaminated Land Desk Study which has been undertaken by Cyma Architects. The desk study is limited and does not identify potential sources of contamination such as hydrocarbons from the car park and the potential made ground under the car park and does not provide enough information to assess whether an intrusive investigation. However, the limited information which has been provided is adequate to ascertain that the site is suitable for the proposed development but if planning permission is granted a full comprehensive desk study will need to be provided which has been undertaken by a competent person and would be conditioned appropriately.

Subject to suitably worded conditions no objection is raised to the proposal under Policy BNE23 of the Local Plan and paragraph 178 of the NPPF.

Bird Mitigation

As the application site is within 6km of the North Kent Marshes SPA/Ramsar Sites, the proposed development is likely to have a significant effect, either alone or in-combination, on the coastal North Kent Special Protection Areas (SPAs)/Ramsar sites from recreational disturbance on the over-wintering bird interest. Natural England has advised that an appropriate tariff of £245.56 per dwelling 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 and will submit a SAMM Mitigation Contribution Agreement form. A Habitat Regulations Assessment has been

undertaken. No objection is therefore raised under Policies S6 and BNE35 of the Local Plan and paragraphs 175 and 176 of the NPPF.

Local Finance Considerations

There are no local finance considerations.

Conclusions and Reasons for Approval

The proposal is considered acceptable in terms of principle, design, amenity and highway aspects and with regard to all other material planning considerations. Subject to conditions, the proposal accords with the provisions of Policies H4, BNE1, BNE2, BNE8, BNE23, BNE35, S6, T1, T4 and T13 of the Medway Local Plan 2003 and paragraphs 11, 117, 118, 124, 127, 170, 175, 176, 178 and 181 of the NPPF. Accordingly, the application is recommended for approval.

The application would normally be determined under delegated authority but is being referred to Members for decision due to the number of representation received expressing a view contrary to officers recommendation. Including an objection by Cllr Johnson.

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/>