

MC/19/1301

Date Received: 20 May 2019

Location: The Good Intent 3 John Street Rochester Medway

Proposal: Construction of a terrace of 8 x three bedroom dwellings with associated parking (demolition of existing public house)

Applicant Wakes,
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England

Ward: Rochester East Ward

Case Officer: Doug Coleman

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 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: 19-01-01-A, 19-01-03-C, 19-01-04-B, 19-01-05-B and 19-01-06-B received on 19 August 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, including demolition of the existing building, 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 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.

- 5 If, during development, contamination not previously identified is found to be present at the site then no further development shall be carried out until the developer has submitted a method statement, and obtained written approval from the Local Planning Authority. The Method Statement must detail how this unsuspected contamination shall be dealt with.

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.

- 6 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.

- 7 No dwelling herein approved 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.

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

- 9 No dwelling herein approved shall be occupied until the area shown on the submitted layout drawing no: 10-01-03-C as vehicle parking space, including the provision of 8 electric vehicle charging points as shown, has been provided, surfaced, drained and marked out on site. 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 on-street parking and in accordance with Policies T1 and T13 of the Medway Local Plan 2003.

- 10 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 the landscaping of the site (including an overlay of the proposed lighting onto the site landscaping plans) and nearby residential properties, 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 the landscaping of the site and nearby residents and with regard to Policies BNE1 and BNE2 of the Medway Local Plan 2003.

- 11 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order amending, revoking and re-enacting that Order with or without modification) no development shall be carried out within Schedule 2, Part 1 Classes A, B, C and E of that Order unless planning permission has been granted on an application relating thereto.

Reason: To enable the Local Planning Authority to control such development in the interests of visual and neighbouring amenity in accordance with Policies BNE1 and BNE2 of the Medway Local Plan 2003.

- 12 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.

- 13 In this Condition "retained tree" means an existing tree which is to be retained in accordance with the approved plans and particulars; and paragraphs a) and b) below shall have effect until the expiration of 5 years from the date of occupation of the building for its permitted use.

a) No retained tree shall be cut down, uprooted or destroyed, nor shall any retained tree be pruned other than in accordance with the approved plans and particulars. Any pruning approved shall be carried out in accordance with British Standard 3998 (Tree Work).

b) If any retained tree is removed, uprooted or destroyed or dies, another tree shall be planted at the same place and that tree shall be of such size and species, and shall be planted at such time as may be specified in writing by the Local Planning Authority.

c) The erection of fencing for the protection of any retained tree shall be undertaken in accordance with the details shown on approved drawing no: 19-01-03-C before any equipment, machinery or materials are brought on to the site for the purposes of the development, and shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed in any area fenced in accordance with this Condition and the ground levels within those areas shall not be altered, nor shall any excavation be made without the written approval of the Local Planning Authority.

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

- 14 Prior to the first occupation of any dwelling herein approved details of the refuse storage arrangements for the dwellings, including provision for the storage of recyclable materials, shall be submitted to and approved in writing by the Local Planning Authority. No dwelling shall be occupied until the approved refuse storage arrangements for that dwelling are in place and all approved storage arrangements 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.

- 15 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 the parking spaces within the development are to be managed and preserved for use by future residents and their visitors. 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 satisfactory off-street parking in accordance with Policy T13 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

The application, as originally submitted, proposed the demolition of the public house and the construction of a terrace of 9 x four bedroom dwellings with associated parking on the land. Following discussions with the applicant this has been reduced to a terrace of 8 x four bedroom dwellings.

The proposed terrace (as amended) would measure approx. 30m wide by 9m deep, and would be staggered to take account of the bend in the road as the western end of the site. Each property would be approx. 3.75m wide (3.2m internally) and comprise an entrance hall with wc and kitchen diner on the ground floor, a living room, bedroom and shower room on the first floor, two bedrooms (one with en suite shower room) on the second floor and a bedroom and bathroom in the roof space. The terrace would have a gable ended roof rising to a ridge height of approx. 11m above the prevailing ground level. The ridge would be staggered to take account of a slight rise in land levels from east to west. There would be rooflights on the front roofslope and small dormers to the rear.

Eight parking spaces would be provided in a car park to the east of the terrace, utilising the existing access and car park. A further 7 spaces, including one disabled parking

space would be provided in a new car park to the west of the terrace, with a new access proposed. There would also be one parking space in front of the end unit (Unit 1), making a total of 16 spaces (compared to 13 as originally submitted). Eight of spaces in the car park to the east will be fitted with electric vehicle charging points.

The application is supported by a Planning Design & Access Statement and a Viability Report.

Site Area/Density

Site Area: 0.09 hectare (0.22 acre)
Site Density: 89 dph (36 dpa)

Relevant Planning History

None identified

Representations

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

182 letters, including a letter from **Cliffe and Cliffe Woods Parish Council** have been received raising the following objections:

Loss of public house

- The pub is part of local culture with folk music etc.;
- The pub is used for beer festivals;
- The pub is a community and supports local events and festivals;
- Morris dancers from across the county visit the pub during Sweeps Festival;
- Music industry relies on venues such as this;
- Often used for wakes after funerals;
- Visitors from outside Rochester use the pub;
- Refers to people who have benefitted from using the pub;
- Support for landlady;
- Proposal would be contrary to Paragraph 92a of the NPPF and Policy CF1 of the Local Plan;
- Further loss of pubs would result in the decline of Rochester;
- If the pub is lost I will not return to Medway;
- If the pub is lost it should be replaced by a similar community facility;
- If the site can no longer be used as a pub it should be put to good use – e.g. doctor's surgery, affordable housing.

Comments on the proposed development

- Over development;
- The proposed houses would be higher than the existing building;
- Houses are too small and narrow;

- The development is poorly designed;
- The 5 parking spaces at the western end of the site are on a blind corner;
- Loss of trees;
- Inadequate parking could lead to more on street parking;
- Houses could become HMOs increasing number of vehicles and on street parking;
- Impact of local facilities – hospital, GPs, schools etc.
- John Street could not cope with machinery for building works;
- More housing in area not needed;
- Overlooking;
- The cycle store is inadequate and ill conceived;
- Small developments don't pay S106 contributions;
- Council should support large scale developments and not build on any spare patch of land;
- One of the proposed 9 units could still be run as a small pub.

Other matters raised are non-material.

The Landlady has written making the following comments:

- She has run the pub for 16 years and enjoyed the challenge and the people;
- Under the terms of the tenancy agreement she was responsible for the upkeep of the building and significant repairs were needed which she had no way of funding;
- The rent has been significantly reduced and she has had to seek release from an agreement to purchase her own wines, spirits etc. This is a short term option;
- The pub has been sold to the applicants who have allowed her to continue trading at a reduced rent and buy her own beer. Without this support the pub would have closed by now;
- Whilst she appreciates the support of customers the Good Intent cannot be run as a profitable business;
- She is saddened by the prospect of leaving but this is the best scenario.

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

There are two matters of principle to be considered, namely the loss of the public house and the principle of residential development on the site.

The first issue needs to be considered having regard to Policy CF1 of the Local Plan

which contains a presumption against the loss of community facilities unless it can be demonstrated that exceptional circumstances exist such that it would be beneficial to re-develop the site, and to Paragraph 92c of the NPPF which seeks to guard against the loss of valued facilities and services, particularly where this would reduce the community's ability to meet its day-to-day needs.

The application is accompanied by a viability report which advises that the tenant has occupied the pub for 16 years and entered into a 15 year tied lease in 2007. The pub, as a business, has been struggling financially and in 2016 paid a 'tie release fee' enabling it to secure wines and spirits outside the group. In 2017, the rent was reduced and recently the rent has been substantially reduced on a temporary basis.

It is submitted that the buildings is in a poor state of repair and substantial investment would be required. The report refers to economic factors which have affected the market place for public houses since 2007 and cites the development of large public houses in High Streets as another factor affecting public houses just outside town centres.

The report makes the following comments in relation to the property:

- The property is located in a residential area and day time trade is naturally limited. It is also not a main thoroughfare and custom is likely to only be drawn from local trade.
- The setting of the property is not particularly attractive.
- There is little of note to create this as a destination venue.
- The trade garden is not overly substantial and does not present any overly attractive features.
- There is currently no food provision at the property nor is there a commercial kitchen. The scope to install a commercial kitchen is limited given the small size of the ancillary accommodation and would be at a significant cost which is likely to be disproportionate to the likely level of resulting food trade.
- The lack of profitability as evidenced by the tenant's accounts and the assessment of trading potential would suggest that banks would be unwilling to lend on the property assuming its continued use as a pub.
- The high level of competition including JD Wetherspoon (Golden Lion) less than half a mile away.

The viability report also identifies other public houses in the vicinity which, in addition to identifying completion, also demonstrates that in the event of this public house closing, there would still be others and the area would not be without a public house. The following public houses have been identified:

Immediate area

- The Man of Kent, John Street
- The Granville Arms, Maidstone Road
- The Rising Sun, Delce Road

Town Centre pubs

- Oliver's Bar & Restaurant, High Street
- The Golden Lion Public House & Hotel, High Street
- Two Brewers, High Street
- The Eagle Tavern

To the south

- The Who'd Ha Thought it, Baker Street
- The Bell Inn, Cossack Street
- The Carpenters Arms, Cossack Street

Lower High Street

- The Nags Head
- The Flippin Frog
- The Ship Inn

Other

- The Coopers Arms, St Margaret's Street

There have been previous applications for the change of use/demolition of public houses in recent years in locations such as this including the Fox, 124 Ordnance Street, Chatham (MC/16/0654) which has been demolished and is being redeveloped with flats and The Old Lord Raglan, 8 Chatham (MC/16/3514) which is being converted to a house in multiple occupation. The public house has not been listed as a community asset.

Having regard to the above considerations, no objection is raised to the loss of the public house under Policy CF1 of the Local Plan and Paragraph 92c of the NPPF.

The principle of residential development on the site falls to be assessed under Policy H4 of the Local Plan, which states that within the urban area, residential development consisting of, inter alia, the use of vacant or derelict land and or the redevelopment of existing buildings no longer required for non-residential use will be permitted. Having regard to the above, the existing use is unlikely to be sustained for long and consequently the development of the site for housing would comply with Policy H4. In addition, Paragraph 59 of the NPPF supports the Government's objective of significantly boosting the supply of homes, whilst Paragraph 68 identifies the contribution that small and medium sized sites can make to meeting the housing requirement of an area, including the development of windfall site such as this. The principle of the proposed development would, therefore would accord with Paragraphs 59 and 68 of the NPPF.

Policy H5 of the Local Plan supports high density development in or close to town centres. The surrounding area comprises a varied development, generally to a high density and in this regard the proposed development would not be out of character

Design, appearance and climate change

Policy BNE1 of the Local Plans states that the design of new development should be appropriate in relation to the character, appearance and functioning of the built environment and be satisfactory in terms of scale, mass, proportion, details materials layout and siting.

The area was extensively re-developed in the 1960s, and further re-developed in the 1980s when two tower blocks were demolished and replaced with the single storey/two storey development to the south and east of the site, Weatherly Close. However, the predominant form of development is characterised by three storey flat blocks. The proposal for a terrace of three storey houses would not, therefore be out of character.

It was considered that the original scheme for 9 houses appeared to be cramped and following discussions, the number of units has been reduced to 8. This has allowed for some space at each end of the terrace and enabled more parking to be provided.

The proposal is, therefore considered to be acceptable in terms of scale and mass and general details. Therefore subject to the submission of appropriate details of materials, no objection is raised in terms of design and appearance under Policy BNE1 of the Local Plan and Paragraphs 124 and 127 of the NPPF.

Amenity

Occupier amenity

The DCLG's Housing Optional Technical Standard specifies a minimum gross internal floor area (GIA) of 103 sqm for a three storey/four bedroom/five person dwelling (there is no standard for a four storey dwelling) and bedroom sizes of 11.5 sqm (double) and 7.5 sqm (single). The submitted drawings show each dwelling would have a GIA of 106 sqm with bedroom sizes ranging between 11.5 sqm for a double and 8.4 sqm for a single bed.

Rear private garden areas of between 6m and 7m deep are shown. It is, therefore, recommended that in the event of planning permission being granted, a condition is imposed removing permitted development rights for enlargement to the houses.

Subject to this condition, no objection raised in terms of the amenity of the occupiers of the proposed development under Policy BNE2 of the Local Plan and Paragraph 127f of the NPPF.

Neighbour Amenity

The nearest residential properties to the proposed development are the 'bungalows' to the south in Weatherly Close. The flank wall of these buildings are approx. 1m from the boundary and screened by trees. There are no windows in the flank walls. Although there would be a gap of no more than 7m between the flank wall of these bungalows and the rear of the proposed houses, as there is a tree screen and no windows, there

would not be any unacceptable overlooking or loss of outlook to those properties.

The next nearest properties are the bungalows, also in Weatherly Close to the east. The flank wall of the proposed development would be approx. 18m from the rear of these bungalows. Windows are shown in the flank wall of the proposed terrace. These would be secondary windows serving a kitchen (ground floor) and bathrooms (first and second floors) and could therefore be obscure glazed. The mid terraced properties would have the same layout with no flank windows.

Due to the distances involved the proposal would not have any impact on the flats on the opposite side of John Street (Potyn House and Mungeam House).

No objection is therefore raised in terms of neighbour amenity under Policy BNE2 of the Local Plan and Paragraph 127f of the NPPF

Highways

The Council's adopted Vehicle Parking Standards require the provision of 2 spaces per dwelling for properties with three or more bedrooms property, plus 0.25 space per unit for visitors. Whilst adequate provision is made for residents, there would be no visitor parking, which could overspill onto the highway. There is unrestricted on-street parking in this part of John Street, but any additional on street parking could add to parking stress in the area. The applicant has agreed to undertake a parking survey and submit the results by 13 September 2019. The parking survey cannot be undertaken during August as it is not a parking neutral month.

The two vehicular access points are considered to be acceptable and adequate visibility can be achieved. Provision has been made within the proposed development.

Therefore, subject to no adverse findings from the parking survey, no objection is raised under Policies T2, T4 and T13 of the Local Plan and Paragraph 105 of the NPPF.

Trees

There are no trees on the application site. There are however, trees on neighbouring land close to the boundary. Details of tree protection measures are shown on the submitted drawing. In the event of planning permission being granted, a condition is recommended requiring the tree protection measures to carry out in accordance with the approved details. Subject to this condition, no objection is raised under Policy BNE23 of the Local Plan.

Climate change and ecology

All dwellings will need to be designed in accordance with the latest building regulations and in particular Part L (Energy Use). All new windows would be double-glazed which will significantly reduce noise and improve heat insulation.

The site is in a sustainable location, close to the town centre, local shops and public transport. Provision is made within the proposed development for secure cycle parking

and electric vehicle charging points. A condition is recommended to the effect that details of surface water disposal, based on sustainable drainage principles thereby preventing unacceptable surface water run-off, are submitted to and approved by the Local Planning Authority.

Bird Mitigation and Appropriate Assessment

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 (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 paid this tariff on 15 July 2019. 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 in principle under Policies CF1, H4 and H5 of the Local Plan and Paragraphs 59, 68 and 92c of the NPPF and the application as amended would comply with Policies BNE1, BNE2, BNE23, T2, T4 and T13 in terms of design and appearance, amenity, access and parking. The applicant has made the appropriate contribution in respect of bird mitigation and the application would comply with Policies 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 representations received expressing a view contrary to officer's recommendation.

Background Papers

The relevant background papers relating to the individual applications comprise: the applications and all supporting documentation submitted therewith; and items identified in any Relevant History and Representations section within the report.

Any information referred to is available for inspection in the Planning Offices of Medway Council at Gun Wharf, Dock Road, Chatham ME4 4TR and here <http://publicaccess1.medway.gov.uk/online-applications/>