

MC/19/1941

Date Received: 23 July 2019

Location: Land Adj To 3 Swingate Avenue Cliffe Rochester Medway

Proposal: Construction of a detached 2 bedroomed dwelling

Applicant Mrs F Taylor

Agent Mr Chris Brian Silverwood  
Stone Street  
Westenhanger  
CT21 4HT

Ward: Strood Rural Ward

Case Officer: Wendy Simpson

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 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: CB-001, CB-002, CB-003, CB-004, CB-005, CB-006, CB-007 received on 23 July 2019, and CB-009 Rev 02 received on 21 August 2019.

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

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

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

- 4 The dwelling herein approved shall not be occupied until the area shown on layout drawing CB-009 rev 01, as vehicle parking space for both the new dwelling and 3 Swingate Avenue, has been provided, surfaced and drained. Thereafter these parking areas 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.

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.

- 5 Prior to the commencement of development above foundation/slab level details of the design, number and location of bird bricks to be built into the fabric of the house hereby approved shall be submitted to and approved in writing by the Local Planning Authority. The approved details must be implemented in full prior to the first occupation of the dwelling hereby approved and retained as such thereafter.

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

- 6 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 arising from the demolition and 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.

- 7 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.

- 8 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.

**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 the construction of a detached two-storey dwelling within the side garden area of 3 Swingate Avenue, together with the provision of 4 parking spaces (2 for the new and 2 for the existing dwelling 3 Swingate Avenue).

The application site is broadly triangular in shape. The new plot would be created to the western side of the original house. The plot would measure about 7m in width and 15.1m in depth on the west, reducing to 11.8m on the east side. The house would be set back within the plot by about 7m from the road. It would be set in along the western boundary by about 0.35m and 1m from the eastern boundary. A rear garden measuring about 7.6m at its deepest and 4.2m (at its shallowest on the east side) would be provided for the dwelling.

The new dwelling would be finished in red brick and roof tile that would match similar materials on the existing dwelling and others in the area. The front of the house incorporates a porch front entrance. The eaves height of the dwelling would be about 5m and ridge height of about 7.25m.

The proposed dwelling would have a GIA of about 81.6m<sup>2</sup> and would be laid out at ground floor level as hallway, WC, kitchen and a lounge/diner to the back with access to

the rear garden, and two bedrooms (one with en suite bathroom) and a family bathroom at first floor.

Four parking spaces (two for each dwelling) would be provided. The remaining side area to the side of the existing dwelling would be enclosed to provide garden/amenity area for the existing dwelling area in addition to the rear garden area.

### **Site Area/Density**

Site Area (new housing plot): 0.0094 hectares (0.023 acres)

Site Density (new housing plot): 106.38 dph (43.48 dpa)

### **Relevant Planning History**

None for the application site, however the following planning records are material to the consideration of this application.

MC/13/1636            2 Swingate Avenue, Cliffe ME7 7QZ  
Construction of two storey 3 bedroom detached dwelling with associated parking (Approved)

Approved and currently under construction:

MC/17/0443            Garage Block Thatchers Lane (At Junction with Swingate Avenue) Cliffe Rochester ME3 7RG  
Demolition of garages and construction of two storey building comprising 2x (over 55s) 1-bed flats with associated parking and refuse area (Approved)

In addition, a recent appeal decision:

MC/18/1929            30 Swingate Avenue, Cliffe, ME3 7RA  
  
Demolition of an existing garage and subdivision of the plot to facilitate the construction of a detached 2 bedroom residential dwelling with associated access, parking and amenity space. Altered vehicular access and construction of two additional parking spaces to the existing dwelling. (Refused – Appeal dismissed)

### **Representations**

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

**Ten** letters have been received from 7 households raising the following objections:

- Out of keeping with the layout of built development in the area
- Site too cramped
- The tight spacing is detrimental to the street scene
- Block light and sun to 5 Swingate Avenue
- Overshadowing of 1 Swingate Avenue
- Increase of resident numbers and traffic in the village
- Noise, disturbance and inconvenience from construction
- The removal of trees in the site will increase overlooking
- Insufficient parking spaces

**Cliffe and Cliffe Woods Parish Council** has raised objection to the proposed development on grounds that it would result in a cramped appearance and over development of the site.

**The Dickens Country Protection Society** object to the proposal on the grounds of it being a cramped form of development and out of character with 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**

### *Background*

It is noted that a not too dissimilar development, planning ref: MC/18/1929, has recently been refused planning permission and subsequently dismissed on appeal by the Planning Inspectorate at 30 Swingate Avenue. The development under that appeal application sought the subdivision of the plot and construction of a detached dwelling.

The LPA's reason for refusal is as follow:

*“The proposed development, by reason of its siting in the garden of No. 30 together with its plot size, would result in insufficient space around the property and a poor relationship with adjoining properties, which would fail to respect the established character of the area and would represent a cramped form of development detrimental to the street scene. As such the proposal fails to comply with the provisions set out in paragraphs 122, 124 and 127 of the National Planning Policy Framework 2018, and Policies BNE1, H4 of the Medway Local Plan 2003”.*

The Inspector's conclusion in dismissing the appeal is that whilst the additional house would make a modest contribution to the housing supply, the proposal would result in

significant harm to the character of the area with regards to its impact on the grain of development, eroding the openness to the side of no. 30 and appear as an overly intensive and discordant cluster of built form.

However, at this northern end of Swingate Avenue there are other recent infill residential developments that are material to the consideration of the application in terms of the emerging character and build pattern in the area.

### *Principle*

The starting point for the consideration of this proposal is whether the principle of development in this location is acceptable. The NPPF seeks to pursue sustainable development in a positive way through a presumption in favour of such development, including within the rural area, unless the policies within the NPPF provide clear reasons for refusing development, or any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits (paragraphs 11 and 78). The NPPF promotes an effective use of land in meeting the need for homes, in a way that makes as much use as possible of previously-developed or 'brownfield' land.

Policy H11 of the Local Plan asserts that housing development in the rural area will be restricted to minor development within the confines of particular villages and settlements, such as Cliffe.

The application site is located within the village confine of Cliffe and within a predominantly residential area, and as such is considered to be a sustainable location for such residential development.

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

### *Design/Character of the area*

The Government attaches great importance to the design of the built environment. Good design is considered a key aspect of sustainable development and is indivisible from good planning. Paragraph 127 is key to the achieving well designed places and requires that developments (in part) function well and add to the overall quality of the area, are visually attractive as a result of good architecture, layout and appropriate and effective landscaping; are sympathetic to local character and history, including the surrounding built environment and landscape setting.

In accordance with the NPPF, Policy BNE1 requires the design of development to be appropriate in relation to the character, appearance and functioning of the built and natural environment.

Notwithstanding the Planning Inspectorate's decision in relation to 30 Swingate Avenue decision MC/18/1929, there are key differences seen within this part of the street that are relevant to the appraisal of the current application.

Immediately opposite the application site, 3 Swingate Avenue, in the former side garden of 2 Swingate Avenue, a similar dwelling granted under planning ref: MC/13/1636, has been constructed on a plot of a similar width to the subject site.

A former garage site adjacent to that infill plot, to its eastern side, has also obtained planning permission for a two storey building comprising two flats under planning ref: MC/17/0443.

The spacing between these dwellings are far less than the spacing between the original dwellings in the street and in part are contributing towards the creation of a more mixed street scene at this eastern end of Swingate Avenue, of which the proposed dwelling would form a part.

Furthermore, the remaining space between the proposed house and the adjacent houses no. 5 and no. 3 are greater, at 4m and 5.5m (respectively), allowing the sense of space to be maintained and as such ensures that the development does not appear 'cramped' within the streetscene, when compared to that of the refused planning application at 30 Swingate Avenue.

On balance and notwithstanding that some representations consider that this proposal is also 'cramped', it is considered that there would remain sufficient space at first floor level to either side of the proposed house that would not result a substantial harm to the character of this part of Swingate Avenue. In addition, the proposed development would be more in keeping with the evolving character and appearance of the area given the new infill development on the opposite of the application site and new developments in the immediate surrounding area, which creates a denser pattern of development.

It is considered that the design and scale of the proposed house would sit comfortably within the row of existing houses of which it would be part, subject to the use of suitable materials which can be controlled by the use of a planning condition.

The parking layout for the proposed dwelling has been changed during the progress of the application and will allow for the creation of planting bed areas in the front garden area of the new dwelling to prevent a hardening of the street scene. The proposal also includes the provision of 2 car parking spaces for 3 Swingate Avenue, which will not dominate the front garden area of that site and will not have a detrimental visual impact.

Subject to conditions related to materials no objection is raised under policy BNE1 of the Medway Local Plan 2003 or the relevant parts of paragraph 127 of the NPPF in respect to the design of the proposed development and no harm will arise to the street scene or character of the area of which it would form a part.

## *Amenity*

Policy BNE2 of the Local Plan and paragraph 127 of the NPPF require the amenities of both neighbours and future occupiers of these units be taken into account.

### Future occupiers

The proposed internal space exceeds the minimum space requirements of the Government's nationally Described Space Standards for the intended level of occupation.

The rear garden space would be less deep than the garden depths required within the Medway Interim Housing Standards, which would be 10m as standard and 7m where there are no privacy issues. The proposed garden depth is about 7.6m and at its shallowest about 4.2m. However the housing standard only requires the garden width to be that of the house whereas the rear garden proposed is wider than the house by about 1.3m at about 7m width. As such, the garden size is considered to be sufficient to serve the needs of the proposed house. Permitted development rights for extensions is recommended to be removed by condition to ensure that, sufficient garden space is retained for future occupiers' needs and, the amenities of neighbouring occupiers is protected.

### Neighbour

In terms of privacy there is already mutual overlooking of gardens in this area as all the properties have two storeys. No new situation of overlooking will result from this proposal. Due to the relative location and scale of the proposed and existing dwellings and the orientation of the plots, the proposed development would not result in harm to the neighbours' amenities in terms of loss of outlook, daylight or overshadowing.

In relation to the remaining garden space for 3 Swingate Avenue, part of the side garden will be enclosed so that there are two triangular garden spaces – to the rear and the side of the house – will combine to make a single enclosed garden space. This garden area is considered to be sufficient to serve the needs of the dwelling.

In respect to noise and disturbance for neighbours during the construction period a condition can be used to require the agreement of a Construction Environmental Management Plan (CEMP).

Subject to conditions, including the removal of permitted development rights for enlargements and small HMOs, no objection is raised in relation to amenity matters under Policy BNE2 of the Local Plan and paragraph 127 of the NPPF.

## *Highways*

Paragraph 127 of the National Planning Policy Framework requires that new development functions well within the area in which it is situated and policy T13 relates to



the council's adopted vehicle parking standards. Policy T1 relates to the impact of development on the highway network.

The application intends to provide a new crossover to serve the development and parking for the existing house. The proposal would provide 2 car parking spaces for each dwelling, which would meet the Medway Interim Parking Standards. The drawings show the provision of a shed for cycle parking.

Subject to suitably worded planning conditions, the application is considered to be acceptable in respect of highways and parking policies T1 and T13 of the Medway Local Plan 2003 and paragraph 109 of NPPF.

### *Ecology*

The site is currently a mature garden and although a number of shrubs and small trees are to be removed as a result of this proposal it is not considered to warrant the requirement for a habitat survey in this urban site that is maintained. A condition can also be used to require bird bricks to be built into the fabric of the new building so as to be permanent features, to compensate/enhance for the shrub/small tree habitat being removed.

Therefore, subject to condition no objection is raised.

### *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 (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 (SAMB) produced by Footprint Ecology in July 2014. The interim tariff stated above should be collected for new dwellings, either as new builds or conversions (which includes HMOs and student accommodation), in anticipation of:

- An administrative body being identified to manage the strategic tariff collected by the local authorities;
- A memorandum of understanding or legal agreement between the local authorities and administrative body to underpin the strategic approach;

- Ensure that a delivery mechanism for the agreed SAMM measures is secured and the SAMM strategy is being implemented from the first occupation of the dwellings, proportionate to the level of the housing development.

The applicants have paid this tariff. No objection is therefore raised under Paragraphs 175 and 176 of the NPPF and Policies S6 and BNE35 of the Local Plan.

#### *S106 Matters*

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 obligations proposed comply with these tests because.....

#### *Local Finance Considerations*

No local finance considerations.

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

The principle of residential development in this location is acceptable, the proposed dwelling would be sympathetic in design and scale to the existing built form at this eastern end of the Swingate Avenue and would not result in harm to the evolving character and streetscene.

The proposed dwelling would provide a good living accommodation for future occupiers of the unit and would not result in harm to the living conditions of neighbours. The proposal provides adequate parking for both the new dwelling and 3 Swingate Avenue. The proposal has mitigated harm to the Thames/Medway Marshes SPA/Ramsar as by the payment of the cumulative tariff.

Subject to conditions the proposal complies with Policies S6, H11, BNE1, BNE2, BNE37, BNE38, BNE39, T1 and T13 and paragraphs 11, 78, 109, 124 and 127 of the NPPF 2019.

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

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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/>