

MC/19/1506

Date Received: 10 June 2019

Location: The Cricketers Sturdee Avenue Gillingham Medway

Proposal: Demolition of garage and redevelopment of the existing public house car park to create 2 x two bedroom houses with associated car and cycle parking and landscaping

Applicant Punch Partnerships (PML) Ltd,

Agent WYG
Mr Ross Brereton 11th Floor
1 Angel Court
London
EC2R 7HJ

Ward: Watling 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 16th October 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: 17.2244.100 Rev P2, 17.2244.101 Rev P1, 17.2244.102 Rev P1, 17.2244.103 Rev P1 and 17.2244.104 Rev P2 received on 10 June 2019.

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

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

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

- 4 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 5 to 7 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 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.

- 5 No development shall take place until an 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 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 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 until a detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment has been prepared and submitted to and approved in writing by the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

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 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.

- 8 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 5, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 6, 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 6 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.

- 9 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 to be submitted to and approved by the Local Planning Authority 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.

- 10 No development shall take place, including demolition of the existing garage, 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.

- 11 No dwelling shall be occupied until the boundary treatment to be erected has been completed in accordance with the details shown on approved drawing number: 17.2244.100 Rev P2. Upon completion the approved boundary treatment 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 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 If the demolition of the garage hereby approved does not commence by 15 January 2021 (18 months from the date of the submitted bat surveys), the results of further bat surveys shall be submitted to i) establish if there have been any changes in the presence and/or likely absence of bats, and ii) identify any new likely ecological impacts that might arise from any changes.

Where the survey results indicate that changes have occurred that will result in ecological impacts not previously addressed in the approved scheme, a

programme of ecological mitigation measures and a timetable for their implementation will be submitted to and approved in writing by the local planning authority prior to the commencement of the demolition work. Works will then be carried out in accordance with the proposed new approved ecological measures and timetable, unless varied by a Natural England European protected species mitigation licence subsequently issued by Natural England.

Reason: To ensure satisfactory arrangements are made to safeguard the habitats in the interests of ecology in accordance with Policy BNE37 of the Medway Local Plan 2003.

- 14 Prior to the completion of the development hereby approved, details of how the development will enhance biodiversity shall be submitted to and approved in writing by the Local Planning Authority. These shall include the recommendations in sections 6.4.1 and 6.4.2 of the Preliminary Ecological Appraisal (Ecosupport) dated June 2019. The approved details will be implemented and thereafter retained.

Reason: To enhance the ecology of the site and its surroundings and in accordance with Policy BNE38 of the Medway Local Plan 2003.

- 15 No dwelling shall be occupied until full details of both hard and soft landscaping works and a timetable for implementation has been 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.

- 16 No dwelling herein approved shall be occupied until the area shown on approved layout drawing no: 17.2244.100 Rev P2 as vehicle parking space has been provided, surfaced, marked out on site and drained. 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.

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.

- 17 No dwelling herein approved shall be occupied until the bin store/cycle stores shown on approved layout drawing number: 17.2244.100 Rev P2 have been provided. Thereafter they shall be retained.

Reason: To ensure the provision and permanent retention of bicycle spaces in accordance with Policy T4 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 relates to a hard surfaced area at the south-eastern end of the curtilage of the Cricketers PH. The site is at the end of the pub garden and was used as a car park, but it is now fenced off. The site has a frontage to Sturdee Avenue of approx. 30m in length and varies in depth from approx. 10m at the south-eastern end, increasing to approx. 33m. There is a disused garage to the rear of the site, which has become overgrown and covered in vegetation.

The proposal is to demolish the garage and to build a pair of semi-detached houses on the land.

House 1 would measure approx. 6m wide by 10m deep and comprise an entrance hall and kitchen to the front and living dining area to the rear, with two bedrooms (one with en-suite) and a bathroom on the first floor. The roof would have gables to the front and the rear with a ridge at right angles to the highway.

House 2 would be approx. 10m wide and 6m deep and comprise a central entrance hall with living room to the left and kitchen/dining room to the right and two bedrooms (one with en-suite) and bathroom on the first floor. It would have a gabled roof with a ridge parallel to the highway and a return gable to the front.

Four car parking spaces would be provided at the end of the site, and each property would have a bin/cycle store in the rear garden.

The application is accompanied by a Planning, Design and Access Statement, an Arboricultural Implications Assessment, a Preliminary Geo-environmental Assessment, a Preliminary Ecological Appraisal and a Phase 2 Bat Survey.

Site Area/Density

Site Area: 0.09 hectare (0.22 acre)
Site Density: 22 dph (8.8 dpa)

Relevant Planning History

MC/19/1889	Construction of 2x pergolas to rear Decision: Approved Decided: 17 September 2019
MC/07/0812	Erection of a metal and glass shelter to the side with internal heating and lighting together with the resiting of the existing air conditioning system on the flank of the building. Decision: Approved Decided: 25 June 2007
MC/03/2476	Installation of internally illuminated fascia sign Approved 9 January 2004
MC/02/1179	Construction of single storey rear extension to kitchen and erection of extraction flue Decision: Approved Decided: 2 January 2003
MC/02/1328	Construction of a non-illuminated entrance sign over existing pub garden gateway Decision: Approved Decided: 22 August 2002
MC/00/1452	Alterations to extract system Decision: Approved Decided: 9 January 2001

Representations

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

Five letters (including two from the same household) have been received raising the following objection:

- The car park has 14 spaces (not 10 as stated) and is used by local shops as well as the pub;
- The loss of the car park will increase on street parking and add to existing problems in area;
- Loss of light;
- Overlooking/loss of privacy.

KCC's Biodiversity Officer has written making the following comments:

- Bats: they are satisfied with the bat survey and agree that bats are currently not using the building as a roost. However, if building works do not take place within 18 months further bats surveys will be required.
- Nesting birds: the potential for nesting birds is identified in the ecological appraisal and the recommendations should be implemented to minimise the potential for

- impacts. The applicant should be reminded of their legal obligations with an informative attached to any the planning permission.
- Ecological enhancements: the proposal provides opportunities to incorporate features into the design which are beneficial to wildlife, such as native species planting and the installation of bat/bird nest boxes.

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 public house is to be retained in this application and no matters of principle are raised in this regard. The loss of the car park will be considered under highways (below).

The principle of residential development, therefore 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 infilling. 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.

Design, appearance and street scene

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 surrounding area comprises predominantly 1930s two storey houses, although there are semi-detached properties in the vicinity. A pair of semi-detached houses has recently been built on site opposite the pub.

In terms of design and appearance, therefore, it is considered the proposal would respect the character of the area and would comply with 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 74 sq. m. for a two storey/two bedroom/four person dwelling and 11.5 sq. m. for a double bedroom. The submitted drawings show that each house would have a GIA of 80 sq. m. with bedroom sizes of 12 sq. m. for both bedrooms in House 1 and 12.5 sq. m. and 13 sq. m. for House 2.

House 1 would have a private rear garden of approx. 14.5m deep and House 2 would have a 12.2m deep garden.

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 nearest residential properties to the proposed development are the terraced houses on the opposite side of Sturdee Avenue, the front of which would be approx. 16m from the front of the proposed houses. This is considered to be normal for frontage to frontage distances between properties and therefore it is considered that there would not be an adverse impact of those properties in terms of light, privacy or outlook. The properties to the rear in Carlton Avenue would be at an angle and a minimum of 25m from the rear of the proposed houses. The proposal would not, therefore have an adverse impact in terms of neighbour amenity and no objection is, therefore raised under Policy BNE2 of the Local Plan and Paragraph 127f of the NPPF.

Highways

The submitted drawing shows four car parking spaces, to serve the proposed development which would comply with the Council's adopted Vehicle Parking Standards, and secure cycle parking is shown for each dwelling.

However, the proposal also falls to be assessed in terms of the impact of the loss of the existing parking, although this is not being used at the present time. The applicant has provided an on-street parking survey to demonstrate availability within the local vicinity. It is noted the applicant outlines that there is informal space outside of the pub for vehicle parking. This space is, however, limited due to the presence of a bus stop, double yellow lines and a pedestrian crossing. The survey was undertaken on Friday 10 May and Saturday 11 May. Concerns were raised regarding the inclusion of Haig Avenue and Harold Avenue, as these are narrow carriageway which if were to be used as parking could cause an obstruction to the footpath. These have been removed from the parking survey and calculation done to represent the parking stress.

Parking Stress was found to be at its highest on Friday Night with 93% of parking spaces occupied. However even at this level there is sufficient capacity leftover to accommodate any overspill from the loss of the pub car park and therefore no objection would be raised.

The application is considered to be acceptable in respect of the transport and parking policies T1, T2 and T13 of the Medway Local Plan 2003 and paragraph 109 and 110E of National Planning Policy Framework 2018.

Trees

There are no trees on the application site. There are, however, trees on neighbouring land close to the site boundary which have branches overhanging the site. However, none of these trees are close to the site of the proposed houses and car park and should not, therefore be affected by the proposed development. A condition is, however, recommended to ensure that these trees are not damaged by operatives carrying out work on the site. Subject to this condition, no objection is raised under Policy BNE43 of the Local Plan.

Ecology

A Preliminary Ecological Appraisal was submitted with the application and subsequently updated. This focused on two potential features of ecological importance, namely bats and birds. In addition a search was carried out for badger sets, although none were found.

The disused garage building, which is to be demolished was surveyed for bats and it was found at the time that no bats were using the building as a roost. KCC has, however, advised that if building works do not take place within 18 months further bats surveys will be required. This can be addressed by a planning condition.

The site was identified as having a limited potential for nesting birds, due to the quality of the habitat and its urban surroundings. Nevertheless, there is potential for bird activity in the trees on neighbouring land. It is recommended that an informative be attached to any planning permission, reminding the applicant should be reminding the applicants of their legal obligations in this regard.

There is scope within the proposed development for ecological enhancements and a condition is recommended to secure these.

Subject to these conditions, no objection is raised in terms of ecology under Policies BNE38 and BNE39 of the Local Plan and Paragraph 175 of the NPPF.

Contamination

The application is accompanied by a Geo-environmental Assessment, which appears in line with current guidance. This concludes that there is potential for contamination at the proposed development site and, therefore a condition is recommended requiring the

submission and approval of an investigation and remediation scheme. Subject to this condition, no objection is raised under Policy BNE23 of the Local Plan and Paragraph 178 of the NPPF.

Climate change and ecology

The site is in a sustainable location, approx. 1 km from Gillingham town centre and on a bus route with a bus stop directly outside with a frequent service to the town centre and railway station. It is within a local centre close to shops and a public house. There are also schools within walking distance.

Provision is to be made for ecological enhancement within the scheme.

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 (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 19 August 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 Policy H4 of the Local Plan and paragraphs 59 and 68 of the NPPF. The application 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/>