

MC/19/1748

Date Received: 28 June 2019

Location: Plot 1 St Anthonys Way Medway City Estate Rochester

Proposal: Construction of 8no. units for Class B2/B8 use (with ancillary trade counter(s)) and sui generis use(s) within the specified categories: ((i) Storage, distribution of sales of tiles, floor coverings, bathroom and kitchen furniture and fittings and other building materials; (ii) Machinery, tool and plant hire; (iii) Auto Centre for fitting and associated sale of tyres and car parts (including MOT); and (iv) Plumbers and Building Merchants) totalling 12,300 sqm, together with the creation of new access and parking.

Applicant Location 3 Properties Limited and Sainsbury's Supermarket...,
Mr Alan Gibbons

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Milton Keynes
BS1 6DP
United Kingdom

Ward: Strood Rural Ward

Case Officer: Tim Chapman

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 subject to:

- A. A unilateral undertaking for the following contributions
- £90,805 to be secured for the improvements on the Medway City Estate Roundabout
 - £29.195 to be secured for a Medway City Estate wide travel Plan

B. The imposition of 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;

Transport

Access Junction (General Arrangement Plan) 37781-2005-100-001C

Access Junction (Geometry & Visibility) 37781-2005-100-002C

Access Junction (Swept Path Analysis - Pantehcon) 37781-2005-100-003C

Access Junction (Swept Path Analysis - Rigid Truck) 37781-2005-100-004C

Access Junction (Swept Path Analysis - Max Articulated Vehicle)
37781-2005-100-005C

W151860C-TA-V2 - Transport Assessment June 2019

W151860C-TN-V2 - Technical Note 1 - June 2019

Landscaping

19.0601 rev.C - Landscape Plan

Soft landscaping Specification - 170619

Landscape Management Plan - June 2019

Drawings / DAS

18257 Rev F Design and Access Statement

18257 P0001[C] Site Location Plan

18257 P0002[H] Proposed Site Layout

18257 P0003[D] Fencing Layout

18257 P0004[B] Cycle Shelter Smoking Shelter and Bin Store

18257 P0005[C] External Finishes

18257 P1001[C] Unit 1 Warehouse Layout

18257 P1002[H] Unit 1 Building Elevations

18257 P1003[A] Unit 1 Roof Layout

18257 P2001[A] Unit 2A-2D Warehouse Layout

18257 P2002[D] Unit 2A-2B Building Elevations and Section

18257 P2003[A] Unit 2A-2B Roof Layout

18257 P3001[B] Unit 3A-3C Warehouse Layout

18257 P3002[E] Unit 3A-3C Building Elevations and Section

18257 P3003[B] Unit 3A-3C Roof Layout

18257 P4001[A] Unit 4A-4B Warehouse Layout

18257 P4002[E] Unit 4A-4B Building Elevations and Section

18257 P4003[B] Unit 4A-4B Roof Layout

18257 F0007 C Indicative Aerial Perspective North
18257 F0008 B Indicative Aerial Perspective South West
18257 F0009 B Indicative Eye Level Perspective

Other Application Documents

Air Quality Mitigation Statement - August 2019

WYG Updated Ecological Appraisal - June 2019 (with further responses 4/9/19)

WYG Planning Statement - June 2019

CSG Flood Risk Assessment, Surface Water Strategy and Sustainable Drainage Systems Assessment - May 2019

CSG Geoenvironmental Assessment Report June 2019

Electrical services - Proposed External Lighting Plot

(40103-QODA-00-XX-DR-E-0901 Rev P) (Submitted with Ecology Update (4/9/19))

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

- 3 No development shall take place until a scheme for the provision and management of the retained buffer zone alongside the Whitewall Creek shall be submitted to and agreed in writing by the local planning authority. Thereafter the development shall be carried out in accordance with the approved scheme and any subsequent amendments shall be agreed in writing with the local planning authority. The buffer zone scheme shall be free from built development including lighting, and formal landscaping. The scheme shall include:
- plans showing the extent and layout of the buffer zone.
 - Details of the species to be planted/seeded, that must be native and of local provenance, suitable for the Creekside environment.
 - details demonstrating how the buffer zone will be protected during development.
 - A management plan detailing how the area will be managed in perpetuity, including litter and vegetation management.
 - Lighting plans for the development that demonstrate how light-spill towards the watercourse will be minimized so that there will be no significant ecological impact.

Reason(s) Development that encroaches on watercourse has a potentially severe impact on their ecological value, such as artificial lighting, road noise, disturbance and litter. Land alongside watercourses and estuaries is particularly valuable for wildlife and it is essential this is protected. A management plan that is specific about what is planted and how the site will be managed will ensure that the Whitewall Creek is protected from the impacts of development, particularly from disturbance, lighting and litter.

- 4 Prior to commencement of the development (not including remediation works and material movement), all points detailed in Chapters 5 to 7 of the Geoenvironmental Assessment Report compiled by CSG Consulting Engineering (dated June 2019 reference 886-R-01) submitted with this application, shall be implemented. This includes the following key points:
- a) The site has been classified as Gas Situation 2. The applicant will need to provide details of the gas protection measures which are to be installed in the proposed buildings to the LPA for approval prior to development works commencing at the site.
 - b) A piling method statement will need to be submitted to the LPA for approval prior to piling works commencing at the site.

Prior to commencement of any works, a Remediation Strategy, Implementation Plan and Verification Plan should be submitted to and approved by the LPA.

Reason(s) The site lies adjacent to the River Medway and associated Creek and overlies a principal aquifer. National Planning Policy Framework (NPPF) paragraph 170 states that the planning system should contribute to and enhance the natural and local environment by preventing both new and existing development from contributing to or being put at unacceptable risk from, or being adversely affected by unacceptable levels of water pollution. Government policy also states that planning policies and decisions should also ensure that adequate site investigation information, prepared by a competent person, is presented (NPPF, paragraph 178).

- 5 No occupation of any part of the permitted development shall take place until a verification report demonstrating completion of works set out in the approved remediation strategy and the effectiveness of the remediation shall be submitted to and approved, in writing, by the local planning authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met. It shall also include any plan (a "long-term monitoring and maintenance plan") for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action, as identified in the verification plan. The long-term monitoring and maintenance plan shall be implemented as approved.

Reason(s) The site lies adjacent to the River Medway and associated Creek and overlies a principal aquifer. National Planning Policy Framework (NPPF) paragraph 170 states that the planning system should contribute to and enhance the natural and local environment by preventing both new and existing development from contributing to or being put at unacceptable risk from, or being adversely affected by unacceptable levels of water pollution. Government policy also states that planning policies and decisions should ensure that adequate site investigation information, prepared by a competent person, is presented (NPPF, paragraph 178).

- 6 If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the local planning authority) shall be carried out until the developer has submitted a remediation strategy to the local planning authority detailing how this unsuspected contamination shall be dealt with and obtained written approval from the local planning authority. The remediation strategy shall be implemented as approved.

Reason(s) The site lies adjacent to the River Medway and associated Creek and overlies a principal aquifer. National Planning Policy Framework (NPPF) paragraph 170 states that the planning system should contribute to and enhance the natural and local environment by preventing both new and existing development from contributing to or being put at unacceptable risk from, or being adversely affected by unacceptable levels of water pollution. Government policy also states that planning policies and decisions should ensure that adequate site investigation information, prepared by a competent person, is presented (NPPF, paragraph 178).

- 7 No infiltration of surface water drainage into the ground is permitted other than with the express written consent of the local planning authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to controlled waters. The development shall be carried out in accordance with the approval details.

Reason(s) The site lies adjacent to the River Medway and associated Creek and overlies a principal aquifer. National Planning Policy Framework (NPPF) paragraph 170 states that the planning system should contribute to and enhance the natural and local environment by preventing both new and existing development from contributing to or being put at unacceptable risk from, or being adversely affected by unacceptable levels of water pollution.

- 8 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 in consultation with the Lead Local Flood Authority.

Those details shall include (if applicable):

- i. a timetable for its implementation (including phased implementation where applicable).
- ii. appropriate operational, maintenance and access requirements for each sustainable drainage component are adequately considered.
- iii. proposed arrangements for future adoption by any public body, statutory undertaker or management company.

Reason: To manage surface water during and post construction and for the lifetime of the development as outlined at Paragraph 165 of NPPF.

- 9 Within the implementation schedule submitted pursuant to condition 8 a signed verification report carried out by a qualified drainage engineer (or equivalent) must be submitted to and approved in writing by the Local Planning Authority to confirm that the agreed surface water system has been constructed as per the agreed scheme and plans. The report shall include details and locations of critical drainage infrastructure (such as inlets, outlets and control structures) including as built drawings, and an operation and maintenance manual for the unadopted parts of the scheme as constructed.

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

- 10 No development shall take place until full details of an Air Quality Mitigation Scheme that implements the measures described in the approved Air Quality Mitigation Statement, reference 377811/3001, dated August 2019, has been submitted to and approved in writing by the Local Planning Authority. All works, which form part of the approved scheme, shall be completed before any part of the development is occupied and shall thereafter be maintained in accordance with the approved details.

To protect and improve air quality in the area in accordance with Policy BNE24 of the Medway Local Plan 2003

- 11 No development shall take place until a Construction Environmental Management Plan (CEMP) has been submitted to and approved in writing by the Local Planning Authority. The Construction Environmental Management Plan shall include amongst other matters details of: hours of construction working; measures to control noise; pollution incident control and site contact details in case of complaints, and shall include the construction air quality mitigation measures contained with the approved Air Quality Mitigation Statement, reference 377811/3001, dated August 2019. The construction works shall thereafter be carried out at all times in accordance with the approved Construction Environmental Management Plan, unless any variations are otherwise first submitted to and approved in writing by the Local Planning Authority.

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

- 12 The access shall not be used until vision splays 67 metres x 2.4 metres have been provided on both sides of the vehicular access point(s) and no obstruction of sight, including any boundary treatment, more than 0.6m above carriageway level shall be permitted within the splays thereafter.

Reason: To ensure that the development permitted does not prejudice conditions of highway safety or efficiency in accordance with Policy T1 of the Medway Local Plan 2003.

- 13 No part of the development shall commence until full details of the following highway improvements as shown on the approved plans have been submitted to and approved in writing by the Local Planning Authority:

- a) relocation of bus stop
- b) implementation of pedestrian informal crossing
- c) additional footpath to the front of the site

The approved details shall thereafter be implemented in full prior to first occupation of the development

Reason: to ensure the development preserves conditions of highway safety, pedestrian safety and the free flow of traffic, in accordance with Policies T1, T2 and T3 of the Medway Local Plan.

- 14 No commercial unit/building herein approved shall be occupied until the area shown on the submitted layout as vehicle parking space for that unit/building has been provided, surfaced 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 2018 (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 parking. NB - This looks like a residential condition to me. Is it a relevant reasonable restriction on an employment scheme the parking provision for which will always be controlled by parking standards for the use from time to time.

Reason: Development without provision of adequate accommodation for the parking 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.

- 15 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.

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

- 16 Prior to first occupation, details of historic interpretation boards shall be submitted and approved in writing by the local planning authority and implemented as approved.

Reason: To provide an understanding of the historic importance of the historic dockyard opposite the site.

- 17 Prior to occupation, details of external lighting shall be submitted to and approved in writing by the Local Planning Authority and implemented as approved.

Reason: to both protect the visual amenities of the area and in the interests of ecological importance.

- 18 Prior to occupation, a minimum 10% of parking spaces shall be provided with Electric Vehicle charge points. Details of the type, phasing and location for the electric vehicle charging points shall be submitted to and approved by the Local Planning Authority and implemented as approved.

Reason: In the interests of improving air quality and to comply with Policy BNE24 of the Medway Local Plan 2003

- 19 Prior to first occupation of any of the units hereby approved, the cycle storage, bin stores and smoking shelter approved on drawing number 18257-P0004B shall be provided on site and thereafter retained in accordance with the approved details.

Reason: To ensure satisfactory provision on site for cycle parking refuse store and smoking shelter.

- 20 Prior to first occupation of any of the units or in the first planting season following practical completion of the development, whichever is the sooner, the landscaping approved under drawing number 19.0601 rev C and the boundary treatment shown on drawing number 18257 P003 rev D shall be undertaken. The landscaping and boundary treatment shall thereafter be maintained and any species found dead or dying within a 5 year period of implementation shall then be replaced with planting of the same species and size in accordance with the approved plan.

Reason: In the interests of the visual amenity of the area and to ensure a high quality appearance of the site in accordance with Policy BNE1 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 is a full planning application for 8no. units for Class B2/B8 use (with ancillary trade counter(s)) and sui generis use(s) within the specified categories: ((i) Storage, distribution of sales of tiles, floor coverings, bathroom and kitchen furniture and fittings and other building materials; (ii) Machinery, tool and plant hire; (iii) Auto Centre for fitting and associated sale of tyres and car parts (including MOT); and (iv) Plumbers and Building Merchants) totalling 12,300 sqm, together with the creation of new access and parking.

It is proposed to construct a new vehicular access onto Anthony's Way in order to service the proposed development which comprises 8 B2/B8 Warehouse units across four buildings, totalling 12,300m². The proposed accommodation schedule is as follow:

Unit	Total Area (sq.m)
Unit 1	2,787
Unit 2A	2,954
Unit 2B	3,773
Unit 3A	552
Unit 3B	347
Unit 3C	347
Unit 4A	640
Unit 4B	901
Total	12,300

The five smaller units (3A to 4B) are laid out in two terraces in the North West corner of the site (south of Terance Butler Avenue). The three larger units are located to the north of George Summers Close. The largest individual block, Unit 1 is set back from the both Anthony's Way and the new access road, with external storage yard and service yard between the building and the new access road, and car parking between the building and Anthony's Way. The other two large units (2A and 2B) are further within the site and are orientated to face into the site (broadly north-south). The footprint of all built development is within flood zone 1 and at the lowest risk of flooding.

The buildings vary in height from 9m (units 3A-3C), 12m for Unit 1 and Units 4A and 4B, up to 14m (Units 2A and 2B). Units 3A- 3C will be single storey while Units 1, 2A, 2B, 4A and 4B will include ancillary office use on the first floor.

The design of the buildings is in the form of modern employment units with signage and glazing on the each frontage, and parapet walls above, each hiding a shallow pitched

roof. Materials include steel and aluminium panels finished in grey and copper, with black framed windows and curtain walling, and white louvres providing sun protection for the glazing. The entrances and glazing of units 1, 2A and 2B face North into the site, while unit blocks 3 to 4 are oriented East West to face one another across a service yard.

Landscaping is proposed surrounding the site, providing a landscape buffer between the development and Anthony's Way, Whitewall Creek and George Summers Close to the South. The development provides a pedestrian footway along the length of the site boundary with Anthonys Way.

In terms of parking the proposal puts forward 117 car parking spaces, 10 disability spaces and 14 bays for HGVs.

Relevant Planning History

- | | |
|------------|---|
| MC/18/1818 | Construction of retail and employment buildings together with a drive through restaurant.
Appeal against non determination, although Planning Committee resolved that it would have refused permission on the grounds that insufficient information has been submitted to demonstrate that the traffic implications of the development would not be detrimental to the capacity, functioning and safety of the public highway.
Appeal allowed 20 September 2019 |
| MC/16/1084 | Construction of retail development (Use Class A1) together with associated access, servicing and infrastructure works, car parking and landscaping.
Refused 31 August 2017 on the ground of adverse retail impact and lack of park and ride facility as required by Medway Local Plan Policy T17.
Appeal lodged and then withdrawn. |
| MC/14/1413 | Application for a Lawful Development Certificate (Existing) to confirm the lawful commencement of planning permission MC/10/2125
Approval 29 July, 2014 |
| MC/10/2125 | Construction of a Park and Ride facility and Class A1 retail store together with associated car parking, delivery yard, vehicular access, highway improvement works, landscaping and other works including land reclamation.
Approval 6 May, 2011 |
| MC/10/0936 | Town and Country Planning [Environmental Impact Assessment] [England and Wales] Regulations 1999 - request for a scoping |

opinion for development of a Class A1 retail food store with associated facilities and a park and ride facility -
EIA Required - 19 April, 2010

- MC2009/0671 Variation of conditions of planning permissions MC2003/1301 (construction of park & ride car park with ancillary building; non food retail warehouse with ancillary builders yard; garden centre & car parking; & engineering & other works including land reclamation), MC2007/0238 (variation of condition 18 of planning consent MC2003/1301 to allow a wider range of goods to be sold being; crockery, glassware china and kitchenware; books and stationery; and televisions, video recorders, dvd players, hifi's, microwave ovens, ovens and similar new DIY electrical equipment) and MC2007/0239 (variation of condition 19 of planning consent MC2003/1301 to allow sub-division of retail unit into separate units of no less than 929m2
Approved, 15 January 2010
- MC2007/0239 Variation of condition 19 of planning consent MC2003/1301 to allow sub-division of retail unit into separate units of no less than 929m2.
Approved, 13 June 2007
- MC2007/0238 Variation of condition 18 of planning consent MC2003/1301 to allow a wider range of goods to be sold being; crockery, glassware china and kitchenware; books and stationery; mobile phones; and televisions, video recorders, dvd players, hifis, microwave ovens, ovens and similar new DIY electrical equipment
Approved, 13 June 2007
- MC2003/1301 Construction of park & ride car park with ancillary building; non-food retail warehouse with ancillary builders yard; garden centre & car parking; & engineering & other works including land reclamation
Approved, at 'Call In' Public Inquiry
25 September 2006

Representations

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

Frindsbury Extra Parish Council has no objection in principle but has expressed concerns about the resulting traffic movements, and refer to the existing traffic congestion. It requests Section 106 funding to address this issue, and suggests that the rest of the site outside the development 'red line' but within the developer's ownership should become an ecological reserve.

Natural England have commented that the construction and operation of the new headwall [supporting structure to a new surface water drain discharging into Whitewater Creek] should be assessed in terms of its impact on the water quality of the Medway Estuary MCZ and if there are impacts, mitigation should be provided.

Highways England The proposal will result in a minimal additional impact on the Strategic Road Network (SRN) that is unlikely to materially affect the safety, reliability and / or operation of the SRN and as a result they have no objection.

Historic England has no objection but concern expressed that the proposal represents a low level of harm to the significance of the dockyard buildings and to the Chatham Historic Dockyard conservation area. Landscape screening and interpretation boards suggested to provide mitigation.

Environment Agency has no objection subject to condition.

KCC Biodiversity originally requested additional information regarding loss of boundary hedgerow and landscaping, lighting and bird impacts. Following receipt of this information and amendments to the scheme to include additional landscaping they have made further comments regarding the proposed landscaping and lighting. In terms of reptiles translocation has previously been carried out.

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 (the NPPF) and are considered to conform.

Planning Appraisal

Site and Surrounding Area

The site has an area of 2.92 hectares and is largely flat and overgrown. It is located on the west side of the Medway to the immediate south of the Medway Tunnel.

This land is located to the east of Anthony's Way and to the south of Vanguard Way. Anthony's Way is the principal access into the Medway City Estate, while Vanguard Way is a dual carriageway and links to the Medway Tunnel, which leads to Chatham, Gillingham and those parts of the Medway Towns to the east of the Medway.

The development site has a frontage onto Anthony's Way and is bounded to the north and east by Whitewall Creek, a tidal inlet of the Medway and part of the Medway Estuary Marine Conservation Zone (MCZ). To the south, the site is bounded by George Summers Close, which serves units on the wider industrial estate to the south. To the immediate

north of the site there is a McDonald's drive-thru restaurant and Texaco petrol filling station, which includes a small convenience store.

To the south of the development site lies the main portion of Medway City Estate, which comprises a range of industrial and warehousing units.

Principle of Development

The main issues for consideration are land use, the loss of the park and ride facility and highways matters including the likely highways impact of the proposal in the context of the complicated planning history of the site.

The proposed scheme comprises the development of a mixed use employment scheme. In the 2003 Local Plan the site is covered by policy T17, which seeks to secure a park and ride facility as part of any development while adjacent land is covered by Policy ED1 relating to encouraging employment uses.

Park & Ride

The site is presently covered by spatial policy T17, which designates it for a park and ride allocation. This allocation was a long-term proposal for the Council being repeated again in the Medway Local Transport Plan 2011-2026. However the assumptions for this allocation were based on an older transport evidence base that is now being replaced by the one emerging for the new evolving Local Plan.

The emerging evidence base for transport is being directed by the Strategic Transport Assessment (STA). The initial STA work has indicated that a park and ride scheme is not a potential solution to the transport issues that Medway currently faces. As a result the emerging Local Plan evidence base is indicating there is no need to protect this site for a park and ride use in the future. It is recognised that this is a departure from the present 2003 Local Plan and will still need to be confirmed by the evolving Local Plan submission version that will outline transport policy and allocations when published.

Employment

Unlike the previously considered proposal, including the Sainsbury's consent and the recent appeal decision, the current proposal is for B2 (general industrial) and B8 (storage and distribution) uses. While these units include an element of ancillary trade counter retail use, overall the uses are considered as employment uses for planning purposes.

The proposed site is presently empty with no existing employment use and does not fall within any spatial employment policy. It is adjacent to an existing employment site covered by Local Plan employment policy ED1 that may influence the use of the site. However the value of this designation needs to be ascertained due to the age of the evidence on which it was based to understand its relevance.

In order to assess the value of the existing employment sites in 2015 the Council undertook an employment land needs assessment (ELNA). The ELNA assessed the need for employment over the plan period to 2035 and the condition of existing employment sites in Medway to consider if any change was necessary. It was identified that a total of 90ha of employment land was necessary to meet the needs of Medway to 2035 and that Medway City Estate was worthy of protection.

It can be concluded that policy ED1 covering Medway City Estate does have value and so weight and that this site is an ideal expansion area to build on the present success of the location.

Highways matters

Within the last 10 years the site has been subject to three previous planning applications which have relevance: MC/10/2125, MC/16/1084 and MC/18/1818.

The 2010 application (MC/10/2125) related to a standard foodstore (intended to be Sainsbury's) and a Park & Ride (P&R) facility in accordance with Local Plan Policy T17. This was supported by a TA (Transport Assessment) and follow-up work by Mayer Brown. The application was approved on 06/05/11 subject to; conditions, including the provision of a Park & Ride (P&R) facility and shared parking spaces within the Site; a S106 requiring a sum of £600,547 (to contribute to the P&R) and the implementation of a shuttle bus strategy and S278 Agreement for the provision of highway works, including improvements to the A289/Anthony's Way roundabout. It is understood that the consent has been lawfully implemented. However, the Section 106 Agreement stated that the retail development could not be occupied until the S278 works had been completed as well as the delivery of the park and ride.

The 2016 application (MC/16/1084) relates to a retail scheme comprising a discount foodstore, non-food retail units and no P&R provision. This was supported by a TA prepared by Vectos along with a follow-up technical note. The TA proposed the improvement of Antony's Way in conjunction with site access improvements. With regard to off-site impacts, the TA referred to the development contributing towards off-site highway improvements on a pro-rata trip impact basis, but then sought to offset these costs against the Anthony's Way site access works. The 2016 application was refused on 30/08/17. The subsequent appeal against this refusal was withdrawn in light of discussion relating to the 2018 scheme.

The 2018 application (MC/18/1818) was for a mixed-use scheme comprising a discount foodstore, non-food retail units (smaller floorspace - 7095 m²), trade counters and a drive-thru unit, omitting the park and ride element. The application was appealed on the basis of non determination, although the Planning Committee subsequently resolved that it would have refused planning permission on the grounds that insufficient information had been submitted to demonstrate that the traffic implications of the development would not be detrimental to the capacity, functioning and safety of the public highway. The appeal has been allowed.

The key issue at the appeal related to Policy T1 of the Local Plan which states:

In assessing the highways impact of development, proposals will be permitted provided that:

- (i) the highway network has adequate capacity to cater for the traffic which will be generated by the development, taking into account alternative modes to the private car; and*
- (ii) the development will not significantly add to the risk of road traffic accidents; and*
- (iii) the development will not generate significant HGV movements on residential roads; and*
- (iv) the development will not result in traffic movements at unsociable hours in residential roads that would be likely to cause loss of residential amenity.*

In her introductory paragraph (para 7) of her decision the Inspector commented “*The Council confirmed at the hearing that the alleged conflict related to parts (i) and (ii) of this policy (Policy T1) only. In summary, (i) advises that proposals will only be permitted if the highway network has adequate capacity to cater for traffic which would be generated by the development, taking into account alternative modes to the private car and (ii) the development will not significantly add to the risk of road traffic accidents.*”

In her decision the Inspector continued as follows:

10. Reflective of its employment location, traffic surveys undertaken confirm that Anthony’s Way is most heavily trafficked during the AM and PM peak as people arrive and depart from work. There was broad agreement between the parties that the PM peak represented the highest traffic flows along this road and again this was born out by the traffic surveys undertaken. I also observed from my site visits traffic queuing along Anthony’s Way on the approach to the Vanguard Way roundabout.

11. As a result of the existing traffic situation, the Council have undertaken a number of initiatives to improve the flow of traffic in this area. These include yellow lines providing loading restrictions along Anthony’s Way which came into force in January 2019 for an 18 month period. Additional improvements have also occurring on the wider network including the installation of traffic signals at the westbound entrance to the tunnel in 2016. The Council advised that monitoring of these signals has demonstrated that the signals are successful in generating gaps in the traffic, and delivering time saving benefits to the flow of traffic as a result. There is a Local Growth Fund to deliver traffic and modal shift improvements for users of the Medway City Estate as well as physical improvements to increase traffic capacity. Although it was acknowledged that funding for elements of the capacity improvements is yet to be secured by the Council, these initiatives nevertheless demonstrate a commitment to existing and proposed area wide highways improvements in order to address the existing barriers to movement within the Medway City Estate. In my view, taking into account the evidence provided, these existing and potential initiatives have the ability to have a beneficial impact on addressing the existing highways congestion to the benefit of the free flow of traffic in the area.

12. *The appeal proposal would upgrade the existing access at Terance Butler Avenue to a traffic signal-controlled junction. In addition, the existing highway would be widened as well as a traffic control signal to Enterprise Close. A signal-controlled pedestrian crossing would also be introduced. A number of concerns raised by the Council relate to the flow and functioning of the highway. I observed on my site visit vehicles attempting to exit and enter Terance Butler Avenue to access the existing McDonalds drive thru restaurant. At present, vehicles attempting to cross back onto Anthony's Way can delay the free flow of the traffic in this area. In my view, the addition of a signalised junction and other highways improvements I have outlined would assist in managing the flow of traffic in this area. They represent a proportionate package of highways measures to the scale of development proposed.*

13. *The appellant has put forward a Unilateral Undertaking which would provide a contribution of £75,000 towards the development of a Medway City Estate wide travel plan. The Council acknowledge that this would assist in addressing the non-car accessibility of the site and I concur with this view. I shall return to the relative merits of this Unilateral Undertaking later within my decision*

14. *The appellant utilised a VISSIM microsimulation modelling to provide an appropriate base model to assess the impact of the proposal on the immediate area. The Local Model Validation report, June 2019 explains the approach adopted in detail. The Council identified concerns in connection with the choice of model used, its input and parameters. However, there is little evidence before me to support the concerns expressed. In my view, the appellant has set out detailed evidence concerning the modelling work undertaken, including a detailed justification for the choice of model and inputs.*

15. *This work has been used to test the impacts of the proposed development on the highway network. The evidence explains in detail the rationale for the development scenarios tested, including allowances for modal shift and a Medway City Estate travel plan which forms part of the proposal. The results demonstrate that between the different scenarios tested, northbound journey times along Anthony's Way would increase by between 40 and 44 seconds, southbound journey times along Anthony's Way would increase by between 34 and 36 seconds, westbound traffic on Vanguard Way would increase between 32 and 83 seconds and the maximum queue on Vanguard Way would be between +16-+26 vehicles. The Council expressed concerns regarding the assumptions and evidence used to support this assessment however, there is little evidence before me to support the concerns expressed. Taking into account the existing highways situation, the evidence demonstrates that although journey times would increase, this would not be to the detriment of the capacity and functioning of the highway network. As a result, I am unable to agree with the Council's assertion that the proposal would cause material harm to the safe and efficient operation of the highway network."*

She concludes on highway capacity as a result:

“19. Taking all of the above into account, I conclude that the proposal would not be detrimental to the capacity or functioning of the public highway. As a result, there is no conflict with policy T1 of the Medway Local Plan, or the Framework.”

The Inspector then moved on to Highway Safety and made the following comments:

20. It was explained to me that the concern in relation to highways safety was a general concern that if delays are increased along Anthony’s Way approach to the Vanguard Way roundabout, drivers may take more risks in an attempt to jump the queue and the potential for accidents may increase as a result.

21. The proposal before me would introduce a signalised junction at the site access at Terrance Butler Avenue as well as at Enterprise Close. A signal-controlled pedestrian crossing would also be introduced as well as extending the pedestrian footway to provide greater connectivity to the bus stops. To my mind, these changes would present an improvement on the existing situation, providing a signalised control at the junction, dedicated crossing point and a safer pedestrian route through the provision of an extended footpath. Taking into account these measures, I cannot agree that the appeal proposal would lead to an increased risk of accidents taking place.

22. As a result, I conclude that on the basis of the evidence presented to me, the development would not significantly add to the risk of road traffic accidents. There would be no conflict with part (ii) of policy T1 of the Medway Local Plan. There would also be no conflict with the Framework and in particular, paragraphs 108 and 109.”

These decisions, and in particular the recent appeal decision are important considerations in the assessment and determination of the current application and must carry considerable weight.

Highway Capacity

The applicant proposes to create 12,300 sqm of new commercial space within the site. It is proposed to provide a flexible mix of B2/B8 land uses. During the course of the application, concerns were raised with regard to the applicant’s calculation of trips.

The applicant within Technical Note 1 (June 2019), sought to overcome these concerns by providing a worst case scenario. This was that all development within the site would be Class B2 in Land use. The assessment demonstrated that there would be additional traffic generated on the highway network in the peak hour.

It is noted within this application and the recent appeal, the applicant has sought to highlight that both applications would generate less vehicles than the original supermarket permission. However that approval had a mitigation scheme in place to reduce the impact.

It is noted that whilst the level of traffic generated is considerable, with sufficient contribution it could be mitigated to pass under the threshold of a severe impact, which as stated within paragraph 109 of the NPPF, would lead to a reason for refusal.

Therefore it is considered a contribution of £90,805 would reflect the impact on the highway for this size and type of development.

Travel Plan

The TA includes walking and cycling isochrones for the Site, based on 15 and 30 minute journeys. These represent theoretical catchments of 1.2km for walking and 7.5km for cycling, which are reasonable for staff trips to and from the Site.

With regard to bus services, on weekdays there are two services per hour in each direction on Anthony's Way which is an acceptable level of service. However, there is only an approximately hourly service in each direction on Saturdays, and there are no services on Sundays.

Therefore, in the absence of additional bus services, the proposed development is considered to have limited accessibility by public transport particularly at weekends. .

However, the applicant has offered a contribution of £29,195 to be used towards the development of a Medway City Estate-wide Travel Plan, which would assist in addressing the non-car accessibility of the Site.

Access

It is proposed to construct a new priority junction to access the site from Anthonys way, as illustrated in drawing 18257 P0002. It is noted that due to the location of the new access the northern bus stop along Anthonys way would need to be relocated. The applicant has proposed a new location as well as providing new footpath and pedestrian refuge island for users to safely cross Anthonys Way.

Whilst the highway authority are resistant to creating new accesses along the main artillery routes though Medway City Estate, it is considered, on this occasion, that as the new access is sited at least 70m away from the nearest roads (Enterprise Close and George Summers Close) and the relocated bus stop is within a suitable location, no objection would be raised.

Furthermore the applicant has provided a Road Safety Audit Stage One, which subject to minor amendments raises no safety concerns.

Parking

The level of parking is below that of the maximum parking standard, however as the applicant has indicated agreement to a significant contribution to a travel plan, it is

considered that this mitigation is sufficient to address any perceived shortfall within the parking provision. Furthermore the applicant has made reference within the TA and Air Quality Management Plan of electric charging points being provided. As these have been secured via AQMP no additional condition would be required.

Conclusion to highways

In conclusion, it is considered that the proposal would have an impact, however with the mitigation to be secured via a s106, the impact is not considered severe and no objection would be raised in terms of Policies T1, T13 and T17 of the Medway Local Plan or paragraphs 108 and 109 of the NPPF.

Design

The site is one of the last undeveloped plots on Medway City Estate. It consists largely of marsh land and includes the distinctive Whitewall Creek- a small inlet that reaches almost up to the main roads of Anthony's Way and the approach road to the Medway Tunnel. The site is in a highly prominent position adjacent to the approach road and overlooking the estuary and the covered slips of Chatham Dockyard.

The proposal is for an employment park which contrasts with the permission for a larger scheme for a Sainsbury's superstore plus a park and ride facility. The reduced site and footprint of the current proposal, plus greatly reduced car parking as compared to the Sainsbury's scheme, means that White Wall Creek will be preserved along with a fair proportion of the immediate marshy ground. This scheme is therefore far more sensitive to its estuarine setting than the Sainsbury's scheme and indeed the scheme recently allowed on appeal.

The layout consists of a row of fairly uniform 'sheds' at right angles to Anthony's Way and the river, and facing out the north. Two terraces of smaller units are proposed on the North-West corner of the site, facing each other over a parking and service yard. Parking is to be on a forecourt in front of Unit A1 and to the North of 2A and 2B. In this respect the design and layout of the retail park is conventional.

The design responds to its context by having a fairly muted colour palette of grey with some copper used for emphasis.

Interpretation boards, will be placed to on site providing an understanding of the historic dockyard opposite. These will provide a further connection to the area's past.

Overall, the scheme will be smart and well designed. Distinctiveness is given by materials and detailing that will provide a smart and upmarket feel to the employment area representing an improvement on what is in existence elsewhere on the estate. It is considerably more sensitive to its estuarine and landscape setting than the larger supermarket scheme that was given permission a few years ago.

The proposal is therefore acceptable in design terms in consideration to Policy BNE1 of the Local Plan.

Amenity

Given the nature of the surrounding uses, which are primarily industrial and commercial, the proposed development once completed raises no issues in terms of the receipt of light, privacy or outlook. No condition is recommended in relation to hours of operation for similar reasons and also that would then potentially allow occupiers to operate more flexibly in relation to peak times and thus assist with the highway issues on the estate. Therefore it is not considered that there would be any conflict with the provisions set out under Local Plan Policy BNE2.

During construction, the issues relate to the potential for noise and to a lesser extent dust. These concerns can be addressed through a construction and environment management plan and an appropriate condition is recommended.

Subject to an appropriate condition, no objection is raised in relation to impact on amenity and the proposal is considered acceptable in relation to the provisions of Policy BNE2 of the Local Plan.

Air Quality

The proposed uses are likely to attract additional vehicle trips to the area. Some of these are likely to pass through the central Medway Air Quality Management Area which is close to the site. It is noted that there are likely to be increases in peak vehicle trips.

It is considered appropriate that air quality mitigation is secured in regard to off-setting the vehicle emissions associated with the development in line with the requirements of the 2016 Medway Air Quality Planning Guidance. It is noted that there is a commitment to providing 3 electric vehicle charging points in the car park; however, the Medway guidance would require the development to provide charging points at the following rate for commercial/retail/industrial development as standard mitigation:

“10% of parking spaces to be provided with Electric Vehicle charge points* which may be phased with 5% initial provision and the remainder at an agreed trigger level. (* this shall be the best technology available at the time of planning approval)”

In addition to the standard mitigation above, an air quality emissions mitigation assessment and statement should be produced which assesses the likely local emissions from the development, and determines the appropriate level of mitigation required to help reduce the potential effect on health and the environment. It is considered that this matter can be addressed by an appropriately worded condition.

Land contamination

In terms of land contamination, the Environment Agency are satisfied subject to the imposition of the recommended relevant contamination conditions. No objection is therefore raised in relation to Policy BNE23 of the Local Plan.

Flood risk and drainage

The applicants have submitted a Flood Risk Assessment (FRA), together with a Surface Water Strategy and a Sustainable Drainage System Assessment.

Having assessed the development against the Environment Agency's floodplain mapping for Planning, the majority of the development lies within flood zone 1, with small areas of the site around the north and eastern boundaries located in Flood Zone 2. In terms of the Environment Agency's Flood Data Mapping related to risk of flooding from rivers and seas once again the majority of the site is located in an area which is considered to be at very low risk of flooding. This means the chance of flooding is less than 1 in 1000 or a 0.1% risk, whilst the parts of the site to the northern and eastern boundaries are identified as 'Low flood risk'. Low flood risk is defined as lying between 1 in 1000 (0.1%) risk and a 1 in 100 (1%) risk.

The applicants have advised that in accordance with good practice the proposed buildings are located within the Flood Zone 1 and in terms of the Flood Zone 2 classifications on the northern and eastern boundaries of the site will only contain the extremities of the proposed car parking area. Furthermore the applicants have confirmed that the site levels within the site will not be altered to any great extent such that it would affect the flood zone designations

Accordingly, this development is considered to conform to the frameworks Technical Guidance. No objections have been raised by the Environment Agency and the proposed development is considered to be acceptable in terms of paragraphs 99 - 103 of the Framework and policy CF13 of the Development Plan.

In terms of site drainage, the Lead Local Flood Authority has confirmed that they have no objection to the principle of the scheme proposed. However, they point out that any new outfall will require Flood Defence Consent from the Environment Agency under the Water Resources Act 1991 and associated byelaws. The outfall should be set above the Mean Low Water Spring (MLWS) level and should include a flap to prevent ingress during higher tides into the system and suitable toe protection where required.

The LLFA goes on to advise that the system should be designed to accommodate a tide locked situation, and refer to a joint probability analysis where relevant. Some attenuation / treatment should be provided for the "first flush" rainfall event.

Bearing in mind the above the LLFA has recommended an appropriate condition be imposed, securing the details of the should consent be forthcoming.

Ecology and Biodiversity

The Local Planning Authority has sought advice from its Consultant Ecologists in regard to the proposed development and they have advised that the applicant and their ecologists have a good understanding of the ecological constraints associated with this site.

In terms of reptiles, the Council's Consultant Ecologists advise that having reviewed the reptile mitigation strategy, they are generally satisfied the proposed mitigation and receptor site is appropriate to retain the reptile population. Should planning permission be granted they advise that the mitigation strategy must be implemented as a condition of planning permission prior to any works commencing on site. The Council's Consultant Ecologists have however identified a number of minor points within the mitigation strategy which need to be amended, but advise that they are satisfied that the mitigation strategy does not need to be updated and resubmitted for comments prior to determination of the planning application. Therefore, subject to the imposition of an appropriately worded condition, this proposal is considered to be acceptable in terms of its impact on reptiles.

With regard to breeding birds, the information submitted with the application details that the grassland and scrub was going to be cut during the winter months to prevent birds nesting within the site. The Council's Consultant Ecologists advise that if this did not occur an ecologist must survey the site prior to the reptile mitigation strategy commencing. If any nesting birds are recorded no vegetation clearance can commence within that immediate area (approx. 5-10 metre buffer) until all the young have fledged.

In terms of hibernacula, it is noted that a hibernacula is proposed to be located along the northern boundary of the receptor site. Some works are proposed in relation to the roads within that area and (MC/16/0300) although the exact scheme has not been finalised it would be appropriate to relocate the hibernacula further south within the site. This will ensure that the hibernacula will not be negatively impacted by adjacent works and this can be suitably controlled by Planning Condition.

The mitigation strategy has made recommendations for long term management and monitoring of the receptor site and an appropriate condition is recommended.

Whitehall Creek is adjacent to the proposed development site and the proposed development has been designed to include a clear boundary between the proposed development and the Creek. Native shrubs/trees will be planted along the boundary of the development to create a screen. Such a screen must be designed in consultation with ecologists to ensure that the planting is beneficial to the creek and the birds using the creek and mudflats and an appropriate condition is recommended

It is noted that Breeding and Wintering Bird surveys were carried out in 2002 and 2010 and it confirmed that UK Priority Species and RSPB red and Amber listed birds of conservation concern were present within the creek and mudflat area. Whilst no updated

survey was carried out in 2015/16 no significant changes to the Creek or immediate area have occurred since the surveys were carried out and the Council's Consultant Ecologists have agreed with the conclusions that the survey results are still valid. The phase 1 survey has made a number of recommendations to protect the creek and associated species during the construction and operational phase of the development and the Council's Consultant Ecologists recommend that these be secured within the Construction Management Plan. The Construction Management Plan should also include details of the timings of the proposed works which will create large vibrations/noise (such as piling) as these should be carried out outside the most sensitive time of year for breeding/wintering birds.

In terms of the proposed lighting, from an ecology/biodiversity perspective, the Council's Consultant Ecologists have advised that they accept that there is a high level of artificial lighting within the surrounding area. However, they consider that there is a need to ensure that the proposed development does not result in an increase in lighting within the Creek and adjacent habitats. Whilst a lighting plan has been submitted with the planning application, it does not provide any context to the immediate surrounding area and as a result an appropriate condition is recommended requiring an updated lighting plan, which includes a map of the surrounding area,

In terms of a management and monitoring plan the Council's Consultant Ecologists consider that should planning permission be granted a site wide management and monitoring plan is produced. Such a plan must incorporate the receptor site area and the habitat between the proposed development site and the Creek. An appropriate condition is recommended.

Impact on the historic environment

The concerns of Historic England relate to the impact of the proposal upon the views and interpretation of the historically Chatham Dock Yard. This needs to be addressed in order for the application to meet the requirements of paragraphs 190, 194 and 196 of the NPPF and section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990. In this case, Historic England consider these impacts to be low level having regard to surrounding land uses and previous permissions for this site, particularly the Sainsbury scheme. Notwithstanding that, officers have negotiated additional landscape screening along the Eastern (River Medway) and Northern boundaries. This, along with the controls regarding lighting via condition will minimise any impact on the historic dockyard. While a condition securing the provision of interpretation boards will help an understanding of the Historic dockyard.

Section 106 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 into 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 namely contributions of £90,805 towards highway improvements and £29,195 towards a MCE wide travel plan, comply with these tests.

Local Finance Considerations

None relevant

Conclusions and Reasons for Approval

The location of the site represents a natural extension of the employment area of Medway City Estate and its development for employment purposes will assist in meeting the employment needs of Medway. The designation of the site for a park and ride is now outdated and contrary to the emerging evidence to inform the evolving Local Plan through the Strategic Transport Assessment.

The scheme has been well designed and the buildings will raise the standard of external design of industrial units in the area and the design and layout is sensitive to the riverside location and proximity across the river to the historic Dockyard. Good landscaping is proposed which will not only enhance the appearance of the site but also aid ecological issues.

The key issue in the determination of the application has been one of highway capacity/safety and this has been carefully considered, reflecting comments from the Inspector on the recent appeal. Subject to contributions towards highway improvements and the estate wide travel plan, no objection is raised in highway terms. In addition the provision of a footpath along the site, the relocation of a bus stop and road alterations to assist pedestrian movement across Anthony's way will make the site more accessible for employees travelling by means other than private car.

As a result the development is considered acceptable and is recommended for approval subject to a S106 agreement and appropriate conditions. The development therefore accords (or no longer conflicts with) with Policies BNE1, BNE2, BNE5, , BNE6, BNE23, BNE24, T1, T13 and T17 of the Medway Local Plan 2003 and the relevant paragraphs of the NPPF 2019.

The application would normally be determined under delegated powers but is being referred to Planning Committee for decision due to the Committee involvement in previous decisions on this site.

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/>