

MC/19/1770

Date Received: 1 July 2019

Location: Land South Of 1 Lyra Close Rainham Gillingham Medway

Proposal: Construction of six 3-bedroom houses with associated car barn (demolition of existing storage building)

Applicant The Deborah Patience Will Trust

Agent Gordon White & Hood
Mr William Bates Gordon White & Hood
Beresford House
1 Newtown Street
Leicester
LE1 6WH

Ward: Rainham Central Ward

Case Officer: Tom Stubbs

Contact Number: 01634 331700

Recommendation of Officers to the Planning Committee, to be considered and determined by the Planning Committee at a meeting to be held on 13th November 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 7468/02 Rev J & 7468/03 Rev C received 18 September 2019 and 7468/04 Rev D and 7468/05 Rev C received 11 September 2019.

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

- 3 No development shall take place until a Construction Environmental Management Plan (CEMP) that describes measures to control, amongst other matters, hours of construction working, deliveries to the site, noise, dust and lighting arising from the construction phase of the development and pollution incident control and site contact details in case of complaints 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 highway safety and with regard to Policies BNE2 and T1 of the Medway Local Plan 2003.

- 4 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 first occupation of any of the development.

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

- 5 No development 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

- 6 No development shall take place above ground floor slab level until an Air Quality Mitigation Scheme has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be prepared in accordance with the Medway Air Quality Guidance (April 2016) and shall specify the measures that will be implemented as part of the development to mitigate the air quality impacts associated with development related road transport emissions and shall include:

- all gas fired boilers to meet a minimum standard of <40mgNO_x/kWh; and
- one electric vehicle charging point per dwelling.

The approved details shall be implemented prior to the first occupation of the dwelling which they serve and shall be maintained as approved thereafter.

Reason: In the interests of sustainability and air quality with regard to Policy BNE24 of the Medway Local Plan 2003.

- 7 No development shall take place above slab level until a scheme for protecting the proposed development from noise that implements the measures described in the submitted noise assessment 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 the first occupation of each dwelling to which they relate and they shall be maintained as approved thereafter.

Reason: In the interests of amenity and in accordance with to Policy BNE2 of the Medway Local Plan 2003.

- 8 Prior to the first occupation of any of the dwellings hereby approved a plan indicating the positions, design, materials and type of boundary treatment to be erected shall be submitted to and approved in writing by the Local Planning Authority. The boundary treatment shall be completed in accordance with the approved details before the dwellings are occupied and shall thereafter be retained.

Reason: To ensure that the appearance of the development is satisfactory and without prejudice to conditions of amenity in accordance with Policies BNE1 and BNE2 of the Medway Local Plan 2003.

- 9 Prior to the first occupation of any of the dwellings hereby approved details of fence holes for hedgehogs shall be submitted to and approved in writing by the Local Planning Authority and these approved details implemented. Thereafter they shall be retained as approved.

Reason: In order to ensure movement routes for hedgehogs and in accordance with Policies BNE37 and BNE38 of the Medway Local Plan 2003.

- 10 Prior to the first occupation of any of the dwellings hereby approved full details of both hard and soft landscape works (including hardsurfacing details and species, size and numbers/densities of plants) and a timetable for implementation shall be submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the approved details and any trees or plants which within 5 years of planting are removed or become

seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species.

Reason: To ensure a satisfactory external appearance and provision for landscaping in accordance with Policies BNE1 and BNE6 of the Medway Local Plan 2003.

- 11 Prior to the first occupation of any of the dwellings hereby approved details of how the development will enhance biodiversity shall be submitted to and approved in writing by the Local Planning Authority and these approved details implemented. The submitted details shall include the provision of bat roost/bird nest boxes and planting of native species and they shall be retained thereafter.

Reason: In order to enhance biodiversity in accordance with Policies BNE37 and BNE38 of the Medway Local Plan 2003.

- 12 Prior to the first occupation of any of the dwellings hereby approved details of any/all external lighting shall be submitted to and approved in writing by the local planning authority. The submitted details shall include:

- Identification of those areas/features on site that are particularly important for foraging and commuting bats;
- Details of where external lighting will be installed and the exact nature of the lighting so that it can be clearly demonstrated that areas to be lit will not disturb bat activity.

Only the external lighting approved pursuant to this condition shall be installed in site and it shall be maintained as such thereafter.

Reason: In the interests of amenity and ecology and in accordance with Policies BNE2, BNE37 and BNE39 of the Medway Local Plan 2003.

- 13 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 and where remediation is necessary a remediation scheme must be prepared, 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 the remediation strategy 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 before any of the development is first occupied.

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.

- 14 Prior to first occupation the landing window on the first floor side elevation of plot 6 shall be fitted with obscure glass and apart from any top-hung light, that has a cill height of not less than 1.7 metres above the internal finished floor level of the room it serves, shall be non-opening. The window shall be retained as such thereafter.

Reason: To ensure the development does not prejudice conditions of amenity by reason of unneighbourly overlooking of adjoining property in accordance with Policy BNE2 of the Medway Local Plan 2003.

- 15 The dwellings hereby approved shall not be occupied until the area shown on the submitted layout as vehicle parking, turning and access has been provided, surfaced and drained. Thereafter this area shall be kept available for such use (Including the car barn which shall be used for vehicle parking only) and no permanent development, whether or not permitted by the Town and Country Planning (General Permitted Development) (England) 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 and garaging (car barn), turning and access space.

Reason: Development without provision of adequate accommodation for the parking or garaging, turning and access of vehicles is likely to lead to hazardous on-street parking and manoeuvring and in accordance with Policies T1 and T13 of the Medway Local Plan 2003.

- 16 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) 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.

- 17 The existing land levels should be reduced as indicated within the proposed site layout plan ref 7468/02 Rev J received on 18 September 2019.

Reason: In the interests of amenity and in accordance with to 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.

Recommendation

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

Proposal

This application seeks planning permission for the construction of six 3-bedroom houses with associated car barn (demolition of existing storage building).

The application would provide an extension to the existing housing at Lyra Close and provide turning circle, with on street parking and car barn. The existing land onsite created by tipping would be reduced between 0.6 to 0.9m onsite. The proposal would not impede on the rear accesses to Salisbury Avenue

The dwellings would consist of four gabled roof 3-bedroom semi-detached dwellings (house type A, plots 1, 2, 5 and 6) measuring approx. 5.2m in width, 9.9m in depth and 5m to the eaves and 9m to the ridge. They would consist of a hall, w/c and open plan kitchen/diner/lounge at ground floor and three bedrooms and a bathroom at first floor level.

There would also be two 3-bedroom gabled roof detached dwellings with integral garage (house type B, plots 3 and 4) measuring approx. 8.5m in maximum width, 12.4m in maximum depth and 5m to the eaves and 8.3m to the ridge. They would consist of a hall, w/c and open plan kitchen/diner/lounge at ground floor and three bedrooms and a bathroom at first floor level.

The hipped roof car barn would measure approx. 14m wide, 5.5m deep and 2.5m to the eaves and 5.1m to the ridge. It would provide two parking spaces for plots 1 and 2 and a visitor space.

Site Area/Density

Site Area: 0.160 hectares (0.396 acres)

Site Density: 37.430 dph (12.623 dpa)

Representations

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

Eleven letters of objection from nine properties have been received (two in response to amended plans) in summary raising the following concerns:

- Overdevelopment of the site and proposed houses out of character of the four bedroom detached properties on Lyra Close;
- Impact on privacy, noise, outlook and loss of light to neighbours due to land level changes and extension of existing close;
- Poor access, vehicle and pedestrian safety from traffic generated and impact on Lyra Close and Salisbury Avenue and lack of parking spaces for households and visitors;
- Impact on air quality from the proposed use due to increased traffic;
- Bats are seen within the area and it is considered they come from the building onsite to be demolished;
- Loss of trees on the boundary;
- Loss of access to garages at rear of Salisbury Avenue; and
- Amendments have no overcome objections.

Some issues raised such as damage to the private access road are not planning considerations.

KCC Ecology initially raised concerns regarding a lack of ecological information. However following the submission of further details they confirm that sufficient information has now been provided. They recommend a condition regarding bats and lighting to ensure a sensitive lighting design strategy for bats.

They note that habitats are present on and around the site that provide opportunities for breeding birds and that any work to vegetation that may provide suitable nesting habitats should be carried out outside of the bird breeding season (March to August) to avoid destroying or damaging bird nests in use or being built, with appropriate mitigation (including examination by an experienced ecologist prior to starting work) if this would not be the case. An informative to draw attention to this is recommended.

The ecology report notes that hedgehogs are likely to present in the area. As hedgehogs are a priority species under the NERC Act 2006 they advise there is a need to ensure hedgehog movement is permitted through the site by creating gaps within fencing within the curtilages of the development and a condition to secure this is recommended. A condition to secure enhancements for biodiversity in alignment with paragraph 175 of the National Planning Policy Framework 2019 is also recommended.

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

Principle

The application site lies within a residential area and was previously used as a commercial use under B8 use. Policy H4 of the Local Plan states that the use of vacant land or change of use of buildings no longer required for non-residential use will be permitted for residential development subject to a clear improvement in the local environment. Paragraph 11 of the NPPF states that housing applications should be considered in the context of the presumption in favour of sustainable development. While paragraphs 117 and 118 encourage making efficient use of land and encourage development on brown field sites, but seek to safeguard and improve the environment and ensuring safe and healthy living conditions. There is no objection in principle to the residential development on site subject to compliance with the detailed matters of these policies which are set out in the assessment below.

Design and trees

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

The street scene of Lyra Close consists predominately of two storey detached properties, some with detached garages to the front, within a residential close with a shared highway for vehicles and pedestrians. The proposal would continue the shared highway and provide an additional six dwellings. Although these properties are semi-detached or smaller than current properties within Lyra Close, they would be reflective of the wider mixed character of the area as a the whole including Salisbury Avenue and are of an appropriate size, scale and layout for the site. The car barn parking would be reflective of the character of detached garages to the front.

The proposed layout plan shows areas of predominantly hard landscaping from driveways and footpaths, however this is reflective of Lyra Close. However soft landscaping and indigenous planting could be achieved which would help to soften the development and an appropriate condition is recommended. The application has been supported by a tree survey for the removal of the trees. These trees are not covered by TPOs and there is no objection for their removal.

The proposal is considered to be in accordance with Policies BNE1 and H4 of the Local Plan and Paragraphs 124 and 127 of the NPPF subject to the aforementioned conditions.

Amenity

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

Neighbouring Residential Amenity

With regards to privacy and outlook, the scheme would have habitable windows within the front and rear elevations of the proposed dwellings and by virtue of the distance and relationship to neighbouring properties this would not result in unacceptable loss of privacy from these windows. House type A has a flank elevation serving the landing at first floor level. Due to its relationship to 1 Lyra Close this could result in overlooking and loss of privacy to their immediate rear garden area. As this window serves a non habitable room the privacy concern can be addressed by obscure glazing and an appropriate condition is recommended.

With regards to sunlight and daylight, by virtue of the siting, size and scale of the development, the lowered land levels, orientation of the site and path of the sun and relation to neighbours properties and the windows in those properties there would be no unacceptable impact on neighbouring properties. A sunlight and daylight assessment has been made in relation to 1 Lyra Close, using BRE guidance as part of the assessment, which indicated that the level of overshadowing throughout the day from plots 5 and 6 would not be unacceptable and the habitable room windows would receive sufficient lateral daylight over the proposed properties.

In terms of noise and air quality due to traffic to the site the previous B8 would have significantly greater trip rates than the proposed houses if the site were brought back into use. Therefore the proposal would not result in a significant increase in noise or impact on air quality levels via traffic to any extent that would warrant refusal. However an appropriate condition is recommended for air quality mitigation as per the Air Quality Planning Guidance to offset any impact on the Rainham Air Quality Management Area (AQMA) which is in close proximity.

Due to the close proximity to a number of neighbouring properties, there is a potential impact from noise and dust during construction, and accordingly a condition is recommended for a Construction Environment Management Plan (CEMP).

Furthermore given the size of the proposed dwellings in terms of the number of bedrooms, it is recommended that permitted development rights be removed relating to the change of use from a C3 dwellinghouse to a C4 small HMO.

Amenity of Future Occupiers

The proposed dwellings have been considered against the Technical housing standards - nationally described space standard dated March 2015 (the national standard) and both house types would exceed the required gross internal floor areas of 84m² for a three bedroom 4 person dwelling over two storeys (house type A) and 102m² for a three bedroom six person dwelling over two storeys (house type B). All double beds and single bedrooms meet the national standards area and width requirements and all habitable rooms would also be provided with suitable outlook. As guidance, the Medway Housing Standards (interim) November 2011 (MHDS) states that gardens should 10m in depth and 7m when constraints exist. The proposed depth of the gardens would measure between 11m and 12m exceeding this standard.

There is a potential from noise impact on the future occupiers from the playfootball site located to the west of the site. The application has been supported by a noise assessment and adequate noise levels can be achieved with modest glazing and ventilation. However no details of proposed ventilation and glazing has been provided and an appropriate condition is therefore recommended.

Subject to the recommended conditions, no objections are raised in terms of the amenities of both the future occupiers and neighbour amenities under Policies BNE2 and H4 of the Local Plan and paragraph 127f of the NPPF.

Highways

The application proposes that each of the six three bedroom houses would be provided with two off road parking spaces in the form of either a garage measuring 3m wide and 7m deep, off road or within the car barn which would also include a single visitor parking space. This would be in accordance with the Medway Council's Interim Residential Parking Standards for properties of this size. Appropriate conditions are recommended to secure and protect this provision. A further condition is recommended for the provision of electric car charging points per dwelling.

In relation to traffic impacts and highways safety, the proposal utilises the existing shared highway and access to the site onto Lyra Road which leads to Salisbury Avenue as the previous B8 land use. The proposals would provide a limited number of pedestrian and low vehicle movements while trips would not significantly differ from the existing commercial use. Consequently there would be no severe impact to highway safety or the highway network.

An objection was raised by residents regarding loss of access to garages to the rear of Salisbury Avenue however the proposed plans do not impact on the access way running adjacent to the site.

Subject the abovementioned conditions, the application is considered to be acceptable in respect of the transport and parking policies T1, T2 and T13 of the Local Plan and paragraph 109 of NPPF.

Contamination

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

The application has been supported by a desk top study, ground investigation contamination analysis documents. The reports are considered acceptable and the intrusive investigation has identified elevated levels of lead and PAH compounds have been detected onsite which exceed the residential end use criteria. A remediation strategy for the site has been proposed which is considered acceptable. Subject to the recommended conditions to ensure this remediation scheme is undertaken no objection is raised to the proposal under Policy BNE23 of the Local Plan and paragraph 178 of the NPPF.

Ecology

Following initial concerns the application is now supported by a preliminary ecological appraisal and bat emergence survey. KCC Ecology, the Councils specialist advisors, have now confirmed that this is sufficient to address ecology concerns. Subject to conditions regarding bats and lighting, hedgehog routes and biodiversity enhancements no objection is raised under Policy BNE37 of the Local Plan and paragraph 175 of the NPPF.

Bird Mitigation

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

Conclusions and Reasons for Approval

The proposal is considered acceptable in terms of principle, design, amenity and highway aspects and with regard to all other material planning considerations. The proposal accords with the provisions of Policies S6, H4, BNE1, BNE2, BNE35, BNE37, T1, T2, T3 and T13 of the Medway Local Plan 2003 and the advice in paragraphs 11, 105, 108, 109, 117, 118, 127, 175 and 176 of the NPPF. Accordingly, the application is 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/>