

MC/19/3104

Date Received: 26 November 2019

Location: Garages Adjacent To Lynsted Road Twydall Medway Gillingham

Proposal: Construction of 5 two-bed four-person (2B4P) residential dwellings, ancillary car parking and the incorporation of gardens in Westerham Close, utilising the existing vehicular and pedestrian access, together with associated works and landscaping.

Applicant Medway Council - HRA Housing Services,
Mr Adam Spokes

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Ward: Twydall 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 5th February 2020.

Recommendation – Approved Subject to:

- A. A Section 106 under the terms of the Town and Country Planning Act 1990 being entered into to secure the following:
 - i) Contribution to bird disturbance mitigation (unless secured separately by a SAMMs Mitigation Contribution Agreement)
- B. And 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 1120 Rev P3 (excluding the annotated designated refuse collection area), 2070 Rev P2, 2071 Rev P2 received on 28 November 2019, drawing numbers 1100 LR Rev P3 (excluding the annotated designated refuse collection area), 1200 rev P3, 2100 Rev P3, 3120 Rev P1 and 3121 Rev P2 received on 5 December 2019, drawing number 1105 LR Rev P3 (excluding the annotated designated refuse collection area) and 1203 Rev P2 received on 8 January 2020.

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 working, 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, the countryside, wildlife and habitat and with regard to Policy BNE2 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 8 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 in accordance with Policy BNE23 of the Medway Local Plan 2003.

- 5 No development shall take place until an investigation and risk assessment, to focus on the area of the footprint of the garages, 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 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 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 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 8.

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 No development shall take place until details of a Waste Management Strategy have been submitted to and approved in writing by the Local Planning Authority. The Waste Management Strategy shall provide details of how waste collection vehicles are able to enter and exit the site as well as the frequency of collection of both recyclable materials and general household waste. The management of waste within the site shall thereafter be carried out in accordance with the approved details.

Reason: Required prior to commencement of development to ensure adequate waste collection without prejudice to the amenities of existing and future residents in accordance with Policy BNE2 of the Medway Local Plan 2003.

- 10 No development shall take place above slab level until an Ecological Enhancement Plan which shall include details of biodiversity enhancements and a timetable for delivery of these enhancements shall be submitted to and approved

in writing by the Local Planning Authority. The Ecological Enhancement Plan shall be implemented in accordance with the approved details and shall thereafter be retained.

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

- 11 No development shall take place above slab level until details of the provision of 1 electric vehicle charging point per dwelling have been submitted to and approved in writing by the Local Planning Authority. Details shall include the location, charging type (power output and charging speed), associated infrastructure and timetable for installation. The development shall be implemented in accordance with the approved details and shall thereafter be maintained.

Reason: In the interests of sustainability in accordance with paragraph 110E of National Planning Policy Framework 2019.

- 12 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.

- 13 No dwelling shall be occupied until full details of both hard and soft landscape works (including details of the surfacing of the access, turning, pedestrian, parking areas and others) and a timetable for implementation have 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.

- 14 No dwelling shall be occupied until a plan indicating the positions, design, materials and type of boundary treatment to be erected (including sections to show the height of the boundary treatment from both the site and the adjoining land) has been submitted to and approved in writing by the Local Planning Authority. The boundary treatment shall be completed in accordance with the approved details before any dwelling is occupied and shall thereafter be retained.

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

- 15 No dwelling shall be occupied until the area shown on the submitted layout as vehicle parking and turning space 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 2015 (as amended) (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 turning space.

Reason: Development without provision of adequate accommodation for the parking and turning of vehicles is likely to lead to hazardous on-street parking and turning and in accordance with Policies T1, T2 and T13 of the Medway Local Plan 2003.

- 16 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 only 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.

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 five 2-bed 4-person (2B4P) residential dwellings, ancillary car parking and the incorporation of gardens in Westerham Close, utilising the existing vehicular and pedestrian access, together with associated works and landscaping.

The application would involve the redevelopment of the garage block and provide five properties for social housing. The development would include a hipped roof terrace of three properties to the north of the site and gable roof semi-detached dwellings to the east. This part of the site would also involve the change of use of part of the communal garden area of properties in Westerham Close. The layout would provide 10 parking

spaces and turning spaces between the dwellings. The scheme would also retain the existing pedestrian footpaths linking the site and Westerham Close. Each property would have direct access to their rear gardens which would have secure cycle storage within them. Bin stores would be provided for each property within their front gardens screened by a brick wall.

The two storey terrace of three properties would measure approx. 15.8m in width, approx. 9.5m in depth, approx. 5.5m to the eaves and approx. 9.8m to the ridge. They would each consist of a hall, w/c, kitchen and diner/lounge at ground floor and two bedrooms and a bathroom at first floor level.

The two storey semi-detached dwellings would measure approx. 10.5m in width, approx. 9.5m in depth, approx. 5.5m to the eaves and approx. 9m to the ridge. They would each consist of a hall, w/c, kitchen and diner/lounge at ground floor and two bedrooms and a bathroom at first floor level.

The plans show a bin collection area within the access road.

Site Area/Density

Site Area: 0.149 hectares (0.368 acres)

Site Density: 33.534 dph (13.571 dpa)

Representations

The application has been advertised on site and by individual neighbour notification to the owners and occupiers of neighbouring properties and KCC Biodiversity, Kent Wildlife Trust and the Royal Society for the Protection of Birds have also been consulted.

Two petitions with 19 signatures from 18 addresses were received from the residents of Westerham Close prior to the application being submitted. The first petition regarding the loss of communal garden area, loss of privacy, noise disturbance and impact on bats and slow worms. (However these issues have all be covered by the letters of representation below). The second petition requesting that Westerham Road become a residents parking area, which was passed to relevant department.

4 letters of objection (of which two signed the petition) have been received raising the following concerns:

- Noise and disturbance of garage access.
- Impact on highway and parking pressure – Questions on method of calculating trips and also vehicles entering the site.
- Question the suitability of the bat survey.
- Residents sandwiched between two proposed development in close proximity.
- Loss of privacy

- Noise and disturbance and increased use of pedestrian access on Westerham Close.
- Loss of shared garden for Westerham Close.
- Lack of infrastructure to support new residents.

KCC Biodiversity have confirmed the ecological information provided with the application is sufficient to determine the application. The Bat Scoping Survey indicates that there is limited potential for bats within the garages, although there is little detail to explain this they agree with the conclusion and the report does not need an update. A condition is recommended to provide biodiversity improvements in line with the NPPF and the need for an appropriate assessment and mitigation due to proximity to North Kent Marshes SPA/Ramsar Sites.

A further update was received following consultation responses and they indicate although bats are commuting in the area, due to the garages single skin construction it is unlikely to retain consistent temperatures required by bats with limited roosting opportunities, but does suggest that any landscaping and the lighting design to minimise impacts on nocturnal species. The site is not suitable for other protected species so no further surveys are required.

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 currently comprises a residential garage site. 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. It is recognised that the site is in a backland position but its development would not threaten the comprehensive development of a wider area, therefore subject to details there is no overriding objection with regard to Policy H9 of the Local Plan and paragraphs 68 and 70 of the NPPF.

There is no objection in principle to the residential development in this urban area which is also of a social nature which would assist to meet the current deficit, subject to

compliance with the detailed matters of these policies which are set out in the assessment below.

Design

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 surrounding streets of Lynsted Road, Eastcourt Green, Beechings Way and Westerham Close have a mixed residential character with houses of two storey and single storey nature and a variety of garden sizes. The proposed brick dwellings are of a suitable size and scale with a design that would be in keeping with the character of the area. The layout utilises the existing entrance road and pavement and would introduce a shared road parking and pedestrian route. A pedestrian footpath would be created to the east of plot 3 which would connect into the existing footpath from the garage site and Westerham Close. The landscaping would predominantly be hardstanding with some small grassed front gardens. The layout takes account of the siting of existing dwellings within the area, maximises the ability to provide adequate garden space and parking and is considered acceptable.

As part of the garages formed the boundary treatment to the adjoining properties, a new 1.8m boundary fencing is proposed.

The scheme results in the loss of a communal garden space of the properties in Westerham Close, however the properties would still benefit from approx. 8m deep shared gardens, therefore the loss is not considered detrimental.

The proposal is considered to be in accordance with Policies BNE1, H4 and H9 of the Local Plan and Paragraphs 124 and 127 of the NPPF subject to a materials, landscaping, and boundary treatment conditions.

Amenity

There are two main amenity considerations, firstly the impact of the proposed dwellings 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, their windows and their gardens this would not result in unacceptable loss of privacy or overlooking.

With regard to sunlight and daylight, by virtue of the siting, size and scale of the development, the land level difference between the site and Westerham Close, 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 properties in Westerham Close, using BRE guidance as part of the assessment, which indicated that the level of overshadowing throughout the day from the plots 1-3 would cause overshadowing of the rear gardens of 21 and 22 Westerham Close after 2pm, which is not considered unacceptable. Whilst plots 4-5 would cause a large proportion of overshadowing in the late afternoon to 19 Westerham Close but it is not considered to be at an unacceptable level as there will be a large proportion of sunlight in the morning until midday and part of the garden would be without overshadowing in the late afternoon. 20 Westerham Close is also affected in the afternoon at a lesser level. Habitable room windows would receive sufficient lateral daylight over the proposed properties and suitable levels of outlook.

Concerns have been raised regarding the impact of noise and disturbance on residents mainly from children using the garden areas of the proposed houses and increased use of the footpath. By virtue of dense urban area it is not considered that the proposal would result in a detrimental impact with regards to noise. The existing garage block entrance is adjacent to the side elevation of 1 Lynsted Road. When the 27 garages, were all tenanted and suitable for use as car parking, it use would have provided more trips than the proposed scheme. It is therefore considered that the proposal would not have a detrimental impact on the occupiers of 1 Lynsted Road with regard to noise.

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).

The development does result in the loss of a community garden facility for the bungalows at Westerham Close and objections are raised from the consultation process in this regard, however the properties would still benefit from approx. 8m deep shared gardens and as such the loss is not considered detrimental.

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 meet the required gross internal floor areas of 79m² for a 2 bedroom, 4 person dwelling over two storeys. All double bedrooms meet the national standards for 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 approx. 7 and 7.8m and therefore no objection.

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, H4 and H9 of the Local Plan and paragraphs 127f and 130 of the NPPF.

Highways

Concerns have been raised within the consultation responses regarding the impact on neighbouring roads. The application provides ten off road parking spaces for the development and each dwelling would have a secure cycle space in the rear garden. This would be in accordance with the Medway Council's Interim Residential Parking Standards for properties of this size. The parking layout is appropriate for vehicle manoeuvring. Conditions is recommended to secure and protect this provision and that an electric car charging point is provided per dwelling in accordance with paragraph 110e of the NPPF.

Concerns have been raised regarding the impact on highway safety and large vehicles being able to gain access. The applicant has submitted a transport technical note which indicates trip rates which is considered to be acceptable. The site currently contains 27 garages, it is considered that if all of the garages were tenanted, the level of trips could be potentially higher than those generated by the proposed development and therefore the proposal is not considered to have a detrimental impact on highway safety. Swept path analysis has been provided which shows fire engines are able to enter the site and manoeuvre within the site.

The plans show a bin collection area within the access road area and the design and access statement indicates that waste vehicles can reverse into the site, however no details of swept path analysis have been provided to confirm this, furthermore it is also considered that the collection area would be more appropriately located off the access road. Consequently a suitably worded waste management plan condition would be required if planning permission were recommended for approval.

Subject the abovementioned conditions, the application is considered to be acceptable in respect of the transport and parking policies H9, T1, T2, T4 and T13 of the Local Plan and paragraphs 109 and 110 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 ground investigation provided no soil samples with contaminants of concern, however no soil sample were taken from within the garages themselves where there is still potential for contamination. Although the report submitted with the application is acceptable, if planning permission were to be granted

further ground investigation works will be required by condition for the investigation of the garages area.

Subject to the recommended conditions no objection is raised to the proposal under Policy BNE23 of the Local Plan and paragraph 178 of the NPPF.

Ecology

The application is supported by a Bat Scoping Survey and Ecological Impact Assessment. Letters of representation have been received raising concerns over slow worms and bats. The submitted documents indicate that there is limited potential for bats within the garages. This is due to their single skin construction and therefore it is unlikely they can retain consistent temperatures required by bats with limited roosting opportunities. However, it is suggested that any landscaping and lighting is considerate to minimise the impact on any bats. The site has limited suitability for the site to contain other protected species and no further surveys are required. A condition is recommended to provide biodiversity improvements. Subject to the suggested condition 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 paid this tariff and completed 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.

Climate Change and Energy Efficiency

The applicant has indicated that all materials will to exceed the requirements of the latest building regulations and in particular Part L (Energy Use) and provide dwellings with EPC ratings of B. The dwellings would utilise efficient boilers, extraction fans and energy efficient lighting.

Sustainable underground drainage will be installed where possible and hard piped water storage butts will be provided for each unit for garden watering purposes.

The close proximity of amenities including public transport, public park, leisure facilities, businesses and shopping facilities from the proposed development mean the length of journey is minimal promoting walking and making it not essential to own a car. Secured bike storage can be provided within the secured rear private gardens or within garages, as such the development offers the opportunity for a sustainable transport solution. Electric car points are also conditioned as part of this application.

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, H9, BNE1, BNE2, BNE23, BNE35, BNE37, T1, T2, T4 and T13 of the Medway Local Plan 2003 and the advice in paragraphs 11, 68, 70, 109, 110, 117, 118, 124, 127, 130, 175, 176 and 178 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 applicant being Medway Council and 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/>