

**MC/19/2949**

**Date Received:** 8 November 2019

**Location:** 272-274 Luton Road Luton Chatham Medway

**Proposal:** Outline planning application with some matters reserved (Appearance and Landscaping) for construction of four 1 bed flats, two 2 bed flats together with a retail unit (Class A1) and a Sui Generis unit for the sale of motorbikes and associated items (Sui Generis) on the ground floor - Demolition of existing building

**Applicant** Barneys Bikes,  
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**Ward:** Luton And Wayfield Ward

**Case Officer:** Madeline Mead

**Contact Number:** 01634 331700

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**Recommendation of Officers to the Planning Committee, to be considered and determined by the Planning Committee at a meeting to be held on 5th February 2020.**

**Recommendation - Approval with Conditions**

- 1 Approval of the details of the appearance of the buildings and the landscaping (hereinafter called "the reserved matters") shall be obtained from the Local Planning Authority in writing before any development is commenced.

Reason: To accord with the terms of the submitted application and to ensure that these details are satisfactory.

- 2 Plans and particulars of the reserved matters referred to in Condition 1 above shall be submitted in writing to the Local Planning Authority for approval. Such application for approval shall be made to the Authority before the expiration of three years from the date of this permission and the reserved matters shall be carried out in accordance with the approved details.

Reason: To comply with Section 92 of the Town and Country Planning Act 1990.

- 3 The development to which this permission relates must be begun no later than the expiration of 2 years from the final approval of the reserved matters or in the case of approval on different dates, the final approval of the last such matter to be approved.

Reason: To comply with Section 92 of the Town and Country Planning Act 1990.

- 4 The development hereby permitted shall be carried out in accordance with the following approved plans:

Drawing numbers PL 100 Rev P2 (proposed floor plans, ground and first floor site plans) received 8 November 2019; 712-SL01 received 12 November 2019; and PL 102 Rev P1 (elevations in relation to the scale of the development) received 13 January 2020.

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

- 5 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 affecting nearby residents; dust control measures; pollution incident control and site contact details in case of complaints. The construction works shall thereafter be carried out at all times in accordance with the approved Construction Environmental Management Plan.

Reason: Required before commencement of development to avoid any irreversible detrimental impact on surrounding residential amenities and in accordance with Policy BNE2 of the Medway Local Plan 2003.

- 6 No development above slab level shall take place until an acoustic assessment has been undertaken to determine the impact of noise from transport related sources and shall be made in accordance with BS8233 2014: Guidance on Sound Insulation and Noise Reduction for Buildings. The results of the assessment and details of a scheme of acoustic protection shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include details of acoustic protection sufficient to ensure internal noise levels (LAeq,T) no greater than 30dB in bedrooms and 35dB in living rooms with windows closed and a

maximum noise level (LAmax) of no more than 45dB(A) with windows closed. Where the internal noise levels will be exceeded with windows open, the scheme shall incorporate appropriate acoustically screened mechanical ventilation. The scheme shall include details of acoustic protection sufficient to ensure amenity/garden noise levels of not more than 55dB (LAeq,T). 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.

Reason: To ensure that the development does not prejudice the amenities of future occupants of the flats in accordance with Policy BNE2 of the Medway Local Plan 2003.

- 7 No development above slab level shall take place until an air quality assessment and an emissions mitigation assessment has been submitted to and approved in writing by the Local Planning Authority. The air quality assessment shall include an assessment of air quality at the application site and details of any scheme necessary for the mitigation of poor air quality affecting the residential amenity of this development. The emissions mitigation assessment should include a damage cost assessment that uses the DEFRA emissions factor toolkit and should include details of mitigation to be included in the development which will reduce the emissions from the development during construction and when in operation. 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.

Reason: To ensure that the development does not prejudice the amenities of future occupants of the flats in accordance with Policy BNE24 of the Medway Local Plan 2003.

- 8 The refuse bins/storage shall be provided in accordance with the details shown on drawing number: PL 100 Revision P2, received on 8 November 2019, prior to the commercial units being occupied and the occupation of any of the flats herein approved and shall be retained thereafter.

Reason: To ensure the development provides adequate facility in accordance with Policy BNE2 of the Medway Local Plan 2003.

- 9 The proposed development shall not be brought into use until details of the cycle parking facilities have been provided on the site in accordance with details which have first been submitted to and approved in writing by the Local Planning Authority. The approved cycle parking facilities shall be provided prior to the first occupation of any of the flats herein approved and shall be retained available for use thereafter.

Reason: To ensure that adequate and suitable cycle parking provision is made on site and in accordance with Policy T4 of the Medway Local Plan

- 10 The separating walls between units 2 & 3 and 5 & 6 shall resist the transmission of airborne sound such that the weighted standardised level difference (DnT,W +Ctr) shall not be less than 50 decibels as measured and calculated in accordance with BS EN ISO 16283-1 2014.

Reason: To ensure that the development does not prejudice the amenities of future occupants of the flats in accordance with Policy BNE2 of the Medway Local Plan 2003.

- 11 The separating ceiling and floor between the ground floor and first floor shall resist the transmission of airborne sound such that the weighted standardised level difference (DnT,W +Ctr) shall not be less than 60 decibels as measured and calculated in accordance with BS EN ISO 16283-1 2014.

Reason: To ensure that the development does not prejudice the amenities of future occupants of the flats in accordance with Policy BNE2 of the Medway Local Plan 2003.

- 12 All windows on the southeastern elevation 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. This work shall be completed before the flats are occupied and shall be retained 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.

- 13 Upon cessation of the Sui Generis use herein approved, the premises shall revert to retail (Class A1) use.

Reason: To protect the future use of the premises within a neighbourhood centre in accordance with Policy R10 of the Medway Local Plan 2003.

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

## **Proposal**

This application seeks outline planning permission for the demolition of the existing building and the redevelopment of the site to provide four 1-bed flats, two 2-bed flats together with a retail unit (Class A1) and a Sui Generis unit for the sale of motorbikes and

associated items on the ground floor. Appearance and landscaping are reserved for future consideration should this application be acceptable.

The submitted plans are indicative in terms of the matters reserved, however they show the proposed building would be “L” shaped, three storeys in height and of flat roofed construction. Winter garden balconies are shown to the front and side elevations. The building is proposed to have a width (along Luton Road) of approx. 14m, depth of up to approx. 21.8m and height of up to approx. 10m.

The building would comprise at ground floor level two commercial units, cycle storage, and two refuse storage areas. At first and second floor level three flats on each level, one 2-bedroom and two 1-bedroom flats. All flats provide a kitchen/living/dining area, bathroom, bedrooms and each has a winter garden balcony.

### **Site Area/Density**

Site Area: 0.035 hectares (0.087 acres)

Site Density: 0.21 dph (0.5 dpa)

### **Representations**

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

**Four** letters have been received raising the following objections:

- The number of units proposed does not make effective or efficient use of the site.
- The accommodation proposed fails to recognise the need for different types of housing in this area.
- Uninspiring design
- Cramped and dominant form of development
- Not in keeping with surrounding properties
- 1.5 floors higher than the majority of properties on the street.
- Road safety
- Insufficient parking in the area to accommodate flats and commercial.
- No garden for future occupants of the development.
- Inadequate rubbish storage area.

### **Development Plan**

The Development Plan for the area comprises the Medway Local Plan 2003 (the Local Plan). The policies referred to within this document and used in the processing of this application have been assessed against the National Planning Policy Framework 2019 and are considered to conform.

## Planning Appraisal

### *Principle*

The site is located within the urban area of Chatham within an area identified within the Local Plan as a neighbourhood centre. Policy R10 of the Local Plan aims to resist the loss of existing shopping facilities, including retail, service and food and drink uses (Classes A1, A2 and A3) unless an improvement to local amenity or the provision of community facilities occurs that outweighs the loss. The application proposes to create two units at ground floor level one unit is proposed as retail (Class A1) use and the other is proposed for the use of the existing business that operates for the site, for the sale of motorbikes and associated items (Sui Generis). As a retail unit Class A1 is proposed and the existing business has operated from this premises for a number of years it is therefore considered that the proposal is in accordance with this policy.

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 clear improvement in the local environment.

In addition, Policy H5 of the Local Plan supports high density housing in or close to town centres, near existing or proposed public transport access points or along routes capable of being well served by public transport and which are close to local facilities. Paragraph 11 of the NPPF contains a presumption in favour of sustainable development, whilst Paragraph 59 seeks to boost the supply of housing.

Subject to compliance with the detailed matters of these policies which are set out in the assessment below, the principle of the site for mixed commercial and residential development in this location is considered acceptable and in accordance with these policies.

### *Layout and Scale of the proposed development*

The proposed development is on a corner plot on the junction of Luton Road and Albany Road. The building is currently single/two storeys in height with floor space within the roof of the two storey part. The ground floor of the property is currently in use for the sale of motorbikes and associated items with storage at first floor level and within the roofspace. The existing roof is pitched to the two storey element and flat roofed to the areas that are single storey. The surrounding area is mainly two storey terraced houses with pitched roofs. The end properties on some of the terraces on the application side of the road are larger three storey buildings. There is also a mix of heights of houses within the vicinity due to the land levels.

The proposed building would be three storeys in height to both of the elevations that front the road and would be single storey to the rear adjacent to number 276 Luton Road. It is proposed for the development to be flat roofed.

Matters of appearance and landscaping have been reserved for future consideration and therefore will not be considered in detail as part of this appraisal.

It is considered that the layout and scale of the proposed development would respect the character of the area and would not have a detrimental impact on the street scene subject to the considerations and approval of the relevant reserved matters. The proposal is therefore in accordance with Policies BNE1 and H4 of the Local Plan and paragraphs 70, 124 and 127 of the NPPF.

### *Amenity*

There are two main amenity considerations, firstly the impact of the proposed flat block 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 127f of the NPPF relates to the protection of these amenities.

#### Neighbouring Residential Amenity

The proposed development is bounded by two storey terrace dwellings and a single storey garage to the south western boundary. Although matters of appearance have been reserved for future consideration the illustrative plans show windows are proposed to the south eastern elevation of the building which would serve entrance corridors to the flats and secondary windows to kitchen/living/dining rooms. These windows could have an impact on neighbouring properties in terms of loss of privacy, however, the plan indicates these windows are to be obscure glazed and a condition is therefore recommended to secure this. With regard to the impact of the development on the surrounding properties, due to the siting of the proposed building it is not considered that it would have a detrimental impact on the neighbouring properties in terms of sunlight, outlook and privacy.

In terms of daylight, the proposed development would have an impact on the ground floor windows on the rear elevation of the neighbouring property number 276 Luton Road. These windows are already impacted by either the existing buildings at the application site or by the two storey rear projection at number 276 Luton Road. Overall, it is acknowledged that the proposed development would have a further impact in terms of loss of daylight on number 276 Luton Road, however, it is not considered that the impact would be detrimental to the occupiers of the property.

#### Amenity of Future Occupiers

With regard to the amenities of the future occupiers, the proposed flats have been considered against the Technical housing standards - nationally described space standard dated March 2015.

The proposed flats would comprise four 1B2P units and two 2B3P units. The national described standards require a gross internal floor area of 50m<sup>2</sup> for a 1B2P and 61m<sup>2</sup> for

a 2B3P. A single bedroom should have a floor area of at least 7.5m<sup>2</sup> and be at least 2.15m wide and a double bedroom floor area of 11.5m<sup>2</sup> and be at least 2.55m wide. All of the proposed flats would meet with these standards. The proposal is therefore considered to provide adequately sized living accommodation for future occupants of the units.

The development provides each of the flats with either a winter garden that all measure over 5m<sup>2</sup>. The site is also in close proximity to Luton Millennium Green.

The development is for mixed use with residential properties over commercial premises. To reduce the risk for the transmission of noise from the commercial premises having a detrimental impact on the residential properties, a condition is recommended to mitigate against this.

Due to the proposed layout with bedrooms adjacent to living rooms in neighbouring flats, if the application were considered to be acceptable, conditions would be imposed for the resistance to transmission of airborne noises through walls to mitigate noise and disturbance between certain flats.

Adequate refuse storage provision for future occupants has been provided at ground floor level. A separate refuse storage area has also been provided for the commercial units.

The construction of the development itself could lead to noise and nuisance dust emissions to nearby residential properties and therefore it is recommended that a condition is imposed requiring the submission of a Construction Environmental Management Plan.

Subject to the suggested conditions, no objection is raised in terms of the amenities of both the future occupiers and neighbour amenities under Policies BNE2 and H4 of the Local Plan and paragraphs 127f and 170 of the NPPF.

### *Air Quality*

Paragraphs 170 and 181 of the NPPF and Policy BNE24 of the Local Plan requires the assessment of the application with regard to the air quality. Due to the proximity of the development to the existing Central Medway Air Quality Management Area (AQMA), it is necessary to consider mitigation of poor air quality affecting the residential amenity of the flats. A condition is recommended requiring an Air Quality Assessment be submitted that shows what level of mitigation would be necessary for the residents, the assessment would also need to provide damage mitigation costs for the development.

With the abovementioned condition imposed it is considered that the development would comply with Paragraphs 170 and 181 of the NPPF and Policy BNE24 of the Local Plan.

## *Noise*

Paragraph 180 of the NPPF and Policy BNE2 of the Local Plan requires the application to be assessed with regard to noise. Due to the proximity of the development to major road transport links along Luton Road and that the flats would provide balcony amenity space it is possible that transport noise may have a detrimental impact on the residential properties if no mitigation measures are included within the development. It is therefore recommended that a condition be imposed requesting an acoustic assessment and mitigation scheme for transport related noise be submitted. With the abovementioned condition imposed it is considered that the development would comply with paragraph 180 of the NPPF and Policy BNE2 of the Local Plan.

## *Highways*

The existing commercial use does not have the benefit of off road parking for employees or customers. In terms of the proposed commercial space, it is not considered that this would significantly alter to the existing situation and therefore no objection is raised.

The Medway Council's Interim Residential Parking Standards require the provision of a minimum of one parking space per unit for a 1-bedroom flat and 1.5 parking spaces per 2-bedroom unit, making a requirement for the residential aspect of the development to provide seven parking spaces to serve the future residents.

The application is proposed as a car free development for the residential use, the parking standards note that reductions will be considered if the development is within an urban area that has good links to sustainable transport and where day-to-day facilities are within easy walking distance. The site is located within Luton Road retail centre, close to bus routes and key facilities/amenities. The residents would purchase the flats knowing that they have no allocated parking space and will not be able to park on site.

A study commissioned by the Department of Transport shows declining car ownership in young people and car ownership in this ward is much lower than the national average, however it is noted that the applicant has provided a parking survey demonstrating there is sufficient capacity to accommodate additional vehicles that may be generated from the proposal. Paragraph 103 of the NPPF seeks development located in sustainable locations, limiting the need to travel and offering choice of transport modes to reduce congestion and emission and improve air quality and public health. National Policy also promotes the use of walking and cycle over private car.

The proposed level of cycle storage needs to be clarified, however the drawings indicate a sufficient space for storage and therefore should the application be approved a condition is recommended.

Subject to conditions, the proposal would not result in any detrimental increase in risk to highways or pedestrian safety and is considered to be acceptable in terms of Policies T1,

T2, T3, T4 and T13 of the Medway Local Plan 2003 and paragraphs 102, 103, 109 and 110 of the NPPF.

### Flood/Drainage

The development site lies within flood zone 2 and in an area at medium risk of surface water flooding. It is advised, to raise the finished floor levels to above the expected flood depths and to install flood resilience measures to ensure the commercial units on the ground floor are minimally effected during times of heavy rain.

An informative is recommended to make the applicant aware of this advice. The development is considered to accord with Policy CF13 of the Local Plan and Paragraph 164 of the NPPF.

### *Climate Change and Energy Efficiency*

The applicant has indicated that all materials and construction techniques will be used to exceed the requirements of the latest building regulations and in particular Part L (Energy Use).

Sustainable construction techniques are to include:

- High levels of insulation
- Sustainably sourced materials with significant recycled content
- Natural daylight maximised within buildings
- Heat recovery systems
- Intelligent building controls and energy efficient lighting
- Minimising use of water

The close proximity of amenities including public transport, public park, 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 is also provided, and as such the development offers the opportunity for a sustainable transport solution.

### *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 the tariff and completed the SAMMS Mitigation agreement. No objection is therefore raised under Paragraphs 175 and 176 of the NPPF and Policies S6 and BNE35 of the Local Plan.

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

The proposal is considered acceptable in terms of design, amenity and highway aspects and with regard to all other material planning considerations. The proposal accords with the provisions of Policies BNE1, BNE2, BNE24, BNE35, CF13, H4, H5, R10, S6, T1, T2, T3, T4 and T13 of the Local Plan and Paragraphs 11, 102, 103, 109, 110, 124, 127, 127F, 164, 170, 175, 176, 180 and 181 of the NPPF, the application is accordingly 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.

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### **Background Papers**

The relevant background papers relating to the individual applications comprise: the applications and all supporting documentation submitted therewith; and items identified in any Relevant History and Representations section within the report.

Any information referred to is available for inspection in the Planning Offices of Medway Council at Gun Wharf, Dock Road, Chatham ME4 4TR and here <http://publicaccess1.medway.gov.uk/online-applications/>