

MC/19/2361

Date Received: 5 September 2019

Location: Patmans Wharf Upnor Road Upnor Rochester

Proposal: Change of use from boat storage yard to residential, construction of six 3 bed terraced houses and two 2 bed flats with associated landscaping and parking.

Applicant Patman Trust,
Mr Alan Patman

Agent Harrison Mutch
Mr Ian Mutch Wyseplan Building
Occupation Road
Wye
Ashford
TN25 5EN

Ward: Strood Rural Ward

Case Officer: Hannah Gunner

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 27th May 2020.

Recommendation - Refusal

- 1 In the absence of an acoustic assessment it is considered that the potential impact of noise from the established commercial premises (GPS Marine and pub car park), that are in close proximity to the proposed residential development, would be at unacceptable levels detrimental to the amenity of the future occupants. As such, the proposed development would fail to secure the amenities of the future occupants of the development with regard to noise, contrary to the set objectives of Policy BNE2 of the Medway Local Plan 2003, and paragraphs 127f, 180 and 182 of the NPPF.

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

Proposal

Change of use from boat storage yard to residential, construction of six 3 bed terraced houses and two 2 bed flats with associated landscaping and parking.

The six proposed houses are to be gable fronted 'town house' style properties with undercroft parking, bin and cycle storage at ground floor level along with the main entrance and a utility room. The living room and kitchen is located at first floor level along with a rear terrace and at second floor level are three bedrooms (one with en suite shower room) and bathrooms occupy the space.

Each of these houses is provided with a private rear garden area and terrace (at first floor) that overlooks the River Medway.

The houses would measure approx. 10.75m high, 6m wide and 10.8m deep (13.2m including first floor terrace).

The proposed detached building would accommodate two, 2 bedroom flats. The building would also be three storeys high with ground floor parking and storage with stairs leading to the first and second floor flats. The accommodation is arranged as open plan living/kitchen area with a balcony overlooking the River Medway, bathroom and two bedrooms.

The building is of a similar design with gable features as the town houses.

Material palette would consist of yellow stock bricks, white acrylic render, black stained weatherboarding and blue/black slate.

A Design and Access Statement and Flood Risk Assessment has been submitted with the application.

Site Area/Density

Site Area: 0.197 hectares (0.487 acres)

Site Density: 40.609 dph (16.427 dpa)

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, Dickens Society, Environment Agency**, have also been consulted.

Sixty-two letters have been received raising the following objections:

- Upnor is a sailing village
- The loss of the boatyard will be detrimental to the sailing heritage
- This is one of the last wharfs in Medway – protected in Medway Local Plan
- Traffic issues – 1 road in and out of village already at capacity. More traffic will worsen issue.

- Not enough car parking proposed within scheme
- There are no services in the village – this is an unsustainable location
- Cumulatively – this results in overdevelopment of Upnor
- The proposal will destroy the character of the village
- Concerns in relation to the contamination on site
- The construction will cause months of disruption
- Telecommunications infrastructure is at capacity
- Loss of the view of the river from existing houses
- Design is not in keeping with the rest of Upnor
- Not enough schools/doctors/shops to accommodate new housing
- Rivers edge should accommodate marine businesses
- This would be a cramped development on the site – too many units
- The site is unsuitable – piling would cause damage to neighbouring properties as a result of vibrations
- How will foul sewage be disposed?
- This will cause damage to the historic environment
- There is potential for this site to be heavily contaminated
- How will emergency vehicles access village is traffic and parking conditions are worsened?
- Boat fair traffic causes issues in Upnor – which will be worsened by this proposal
- The proposal does not have large enough amenity spaces within it.

Kelly Tolhurst MP has sent in an objection in relation to this application which reiterates the concerns of the residents. The main concern expressed within the objection however, is with regards to the proximity of this proposal to GPS Marine, stating that there is concern that GPS are an established business that use hammers, grinders, welding equipment plus there are large numbers of vehicle movements. Future residents could complain about noise and cause problems for this business.

Councillor John Williams has objected to the application. Main points of concern are:

- Loss of sailing facilities
- Detrimental to life of the village
- Already parking and traffic problems in the village – which would be exacerbated
- Add Arethusa Centre to this and there is too much development in Upnor
- GPS Marine is noisy and would impact the new residents
- There is contamination on site
- Need to save villages from overdevelopment
- Need to conserve character and heritage of the area.

Frindsbury Extra Parish Council have stated that they have no objections in principle however they have raised an issue in relation to the emergency access on Galleon Way caused by the dangerous cliff edge which will worsen traffic situation and also state concern in relation to the height of the proposals.

The Dickens Country Protection Society have made representations stating that on the basis this is in the SSSI there is concern over loss of recreational use.

It should be noted that the application site is not within the SSSI.

The Environment Agency initially raised objections with this application relating to the fact that the submitted information did not address the impact of the proposal on the Medway Estuary Marine Conservation Zone or detail the works required on the existing flood defences.

Additional information has now been submitted and the objections have been removed, subject to the suggested conditions.

One further letter of representation has been received from resident who has already objected re-iterating concerns re environment agency comments, flood risk, view, character, and noise.

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.

The policies contained in the Draft South East Inshore Marine Plan 2020, have been considered given the location of the site directly adjacent to the river's edge.

Planning Appraisal

Background

The site has been used for some years as an "out of water" boat storage yard. Surfacing is generally concrete throughout and the water's edge is defined by a concrete wharf wall.

There is no slipway so moving vessels in and out of water has been accomplished by means of a crane. To facilitate this there are crane rails set into the concrete surface permitting traverse along the long wharf edge.

There is a small mobile type building close to the point of entrance from Upnor Road for office and rest facilities.

The applicants state that the boat yard use has been reducing in demand for some years and a number of the stored boats have effectively been abandoned having not moved for some years. Some owners can no longer be traced.

Furthermore, the wharf edge is now deteriorating and the revenue generated by the boat storage use is insufficient to permit substantial investment in improvements.

Principle

Patmans Wharf has been in Upnor for a number of years and sits within an area that has a number of uses within it. There is predominately residential use within Upnor overall, however the application site is located adjacent to Upnor Depot which comprises commercial and maritime industrial uses.

The wharf itself appears as a derelict yard with many of the boats appearing to be abandoned. There is little benefit to the area in terms of its visual contribution and the land use designation within the Local Plan proposals map (2003) indicate the site to be within the defined area ME250 for residential development. Whilst the Local Plan is substantially out of date, it is recognised that all of the land within this area (apart from this site) have been developed over the years or have planning approval for residential development.

The principle of this land being used for the purpose of residential development is therefore considered to be acceptable as it is a recognised site within Policy H1 of the Local Plan 2003. Policy H4 of the Local Plan supports residential development where there is a clear improvement to the environment.

In addition to this, the NPPF assumes a presumption in favour of sustainable development.

In relation to this matter it is considered that this development could be considered sustainable, in accordance with paragraph 8, for the following reasons:

Economic – Whilst this development is only for 8 residential units the proposal supports the limited expansion of Lower Upnor and will support the small number of surrounding local businesses.

Social – The 8 proposed units create both 3 bed family homes as well as smaller 2 bed flats. The units on offer are therefore considered to be varied and also represent demand within this immediate area. The proposal is considered to contribute toward the wider need for housing within Medway.

Environmental – The application could be considered to be an effective use of the land, especially as it has been recognised as part of a wider area for housing development within the Local Plan.

Overall, the proposal is considered to be acceptable in principle as it would result in the redevelopment of land that is in poor condition and allows for the micro-economy of Upnor to be further supported by residents. The application is therefore considered to comply with Policies H1 and H4 of the Medway Local Plan 2003 and paragraph 8 of the NPPF 2019.

Design

The design of the proposed houses is that of a gable-fronted terrace. Between each of the units the roofs have a valley so that even though they are terrace, the roofs appear separate from each other. The properties are shown to be 3 storeys with the ground

floor consisting of an open carport area, entrance hall, store and utility. The first floor accommodates the communal living areas which consist of an open plan kitchen/dining/living space. The second floor hosts the three bedrooms (2 x double, 1 x single) along with the main bathroom and en-suite shower for the master bedroom.

The properties all have a modest size rear garden which can be accessed via a spiral staircase from the first floor terrace.

The carports are shown to be secured with railing gates at the front. This will allow for views through to the rear to be available, ensuring that links to the river are not 'cut off' as a result of the proposal.

It is considered that the design of the houses is satisfactory and the style and shape is considered to be reminiscent of traditional boat/net sheds associated with fishing and water activity.

The design of the flats is considered to be fairly simple with the general building being fairly square. The roof adds interest to the building as it creates gables and pitches within the same elevation and ensures that the building is not too bulky or simplistic in its design. The design also incorporates balconies looking toward the river so that there is private amenity space for each flat.

As with the terrace houses, this aspect of the proposal is considered to be acceptable in design terms and will not dominate the area in the wider context.

The material palette is considered to be consistent and will complement this waterside location. It is noted that there is a common theme and similarity in materials in the terrace and the flats whilst still being able to encompass some differences that set them apart. For instance, the yellow stock bricks and white acrylic render are both common and dominant features within the proposed terrace and also within the flat block. However the houses also incorporate a black weatherboard in 3 of the 6 units which help to give the proposal a nautical feel whilst the flats incorporate a red brick band course and red brick features over the windows, which reflect a style featured within the houses on the other side of the green. Materials are therefore considered to be acceptable for this proposal.

Boundary treatments are considered to be lacking in detail with no detailed drawings of any of the treatments. The boundary treatment between the housing and the river (wharf edge) is also not detailed. This detail could be secured by condition to ensure that a suitable treatment can be achieved.

The general layout of the proposal is considered to work overall, with each of the houses having private amenity space and ample parking whilst the flats have both a private balcony and parking as well as access to an amenity space to the north.

On this basis, no objection is raised on design grounds including with regards to Policy BNE1 of the Medway Local Plan 2003 and paragraph 124 of the NPPF 2019.

Impact on adjacent Conservation Area.

The proposed development is located adjacent to the Upnor Conservation Area and therefore could be considered to be within its setting. With regard to this application, the significance of the Upnor Conservation Area is experienced through its waterfront location and its association with the river and the dockyard. The current use of the site as a boatyard is considered to contribute to the historic maritime character of the adjacent Conservation Area, and therefore can be considered to contribute positively to its setting, both in its current use and appearance. Whilst it is regrettable to see the loss of the boatyard, the impact of this loss may be outweighed by the delivery of high quality waterfront homes.

Paragraph 194 of the NPPF requires clear and convincing justification for the loss of significance to a designated Heritage Asset – the Upnor Conservation Area. The applicant states in their submitted Design and Access statement that *‘the boat yard use has been reducing in demand for some years and a number of the stored boats have effectively been abandoned having not moved for some years, indeed, some owners can no longer be traced’* and that revenue from the boat storage is insufficient to provide for the necessary repairs and improvements to the wharf; therefore some justification for the loss of the boatyard is provided.

Paragraph 196 of the NPPF notes that where the harm to a designated heritage asset is considered to be less than substantial, the harm should be weighed against the public benefits of the proposal, which in this instance could include the delivery of new homes on a brownfield site.

Given the above, it is considered that there is no concern to the development and its impact on the setting of the Conservation Area, including with regard to Policy BNE14 of the Medway Local Plan 2003.

Amenity

The two aspects to review relate to the impact and amenity of the proposal on future occupiers and also on the existing neighbouring occupiers.

In relation to future occupiers it is necessary to look at the units that are being proposed but also the proximity to the industrial uses that are established and how they might impact amenity.

Unit sizes:

	Overall	Bedroom 1	Bedroom 2	Bedroom 3
Houses (3B5P)	131ml	16.15 ml	11.5 ml	8.6 ml
Flats (2B3P)	66 ml	16.15 ml	9.5 ml	-

Given the above table, all flats and houses are compliant with National Housing Standards as the houses are over 99m² and the flats are over 61m². There are no concerns in relation to the amenity of the future occupiers in terms of the size of the units. All units are provided with amenity space also, so there is no concern in relation to the space standard, internally and externally.

Noise from existing sources on future occupants

Policy BNE2 of the Local Plan states that all development should secure the amenities of its future occupants, and that design of development should have regard to (ii) noise, vibration, heat, smell and airborne emissions. The reason is that noise can significantly affect the quality of life. The policy text acknowledges that 'noise may come from a variety of sources, including road, rail and air traffic, industrial processes and recreational activities, and certain forms of development, for example residential development, can be particularly sensitive to noise'. Paragraph 124 of the NPPF lays emphasis that 'good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities. Being clear about design expectations, and how these will be tested, is essential for achieving this.

In addition to the above, paragraphs 180 and 182 expects policies to ensure new development is appropriate for its location taking account of (noise) pollution on health and (para. 182) that policies and decisions should ensure that new development can be integrated effectively with existing businesses and community facilities. Existing businesses and facilities should not have unreasonable restrictions placed on them as a result of development permitted after they were established.

The site is located adjacent to existing established Maritime industrial business – GPS Marine and a pub car park. It has been brought to the Council's attention (by the adjacent Maritime industrial business – GPS Marine) that there are often neighbour complaints in relation to noise that comes from the jetty and business in general. There is concern that any future occupants would make complaints against the business and cause problems for them going forward. It would be unreasonable to place restrictions on the existing businesses.

The application is not supported by a noise or acoustic assessment. The Council's Environmental Protection Officer has comment as follows:

'There is a significant history of complaints associated with activities at GPS Marine. And whilst a statutory nuisance does not appear to have been established, the high numbers of complaints received by the noise and nuisance team does indicate the potential for the activities carried out to affect the amenity of existing local residents. I am not sure on about what planning controls exist in terms of the nearby commercial premises (including GPS Marine), but this could be a significant additional factor in consideration of the potential impacts of noise (for example 24 hour a day operation) upon the development.

There may also be effects on amenity due to the proximity to the nearby pub car park.

In the absence of an acoustic assessment looking at the potential impacts of noise from commercial premises that are in close proximity to the proposed development I am unable to advise on the acceptability of permission being given, and reaffirm my recommendation that permission should be refused as there is no guarantee that noise can be sufficiently mitigated, hence why a condition would not be appropriate'.

As such, whilst the design aesthetics are acceptable, the proposal has failed to provide satisfactory evidence to justify the impact on the amenity of the future occupants from the established noise sources adjacent the site.

Officers are therefore concerned that without a supporting acoustic assessment, the proposed development would not secure the amenity of the future occupants of the development in regard to noise.

Consequently, in the absence of an acoustic assessment it is considered that the potential impact of noise from the established commercial premises (GPS Marine and pub car park), that are in close proximity to the proposed residential development, would be at unacceptable levels detrimental to the amenity of the future occupants. As such, the proposed development would fail to secure the amenities of the future occupants of the development in regard to noise, contrary to the set objectives of Policy BNE2 of the Medway Local Plan, and paragraphs 127f, 180 and 182 of the NPPF.

Construction Noise

The construction of the development will have an impact on the surrounding properties. In order to reduce the potential for nuisance caused by works a Construction Environmental Management Plan condition can be appended to mitigate this impact, if planning permission were to be granted.

Loss of view

Objections have been received on loss of view. It should be noted that the current boundary treatment of the wharf consists of a 6ft close boarded fence which sits on a concrete plinth that varies in height. This existing boundary treatment significantly obscures any view of the river. The views across the river are therefore not to be lost and this proposal will in fact enhance visual access to the water as it will have more openings and opportunities for views through (from either side of the terrace as well as through the ground floor areas). The main vehicular entrance to the site is in front of an open space of 18m+ with views through. As such, despite the fact that there are buildings being erected on the site, it is considered that there will be enhanced opportunities to see through the site and therefore the 'loss of view' would not be significant.

The fact that these houses are in front of a public open space, the nearest properties to be impacted by this development are over 50m to the northwest. Concerns have been raised that the development would result in overshadowing, however given the distance to the nearest residential dwelling, there is no overshadowing that will occur. There will also be no loss of daylight or sunlight as a result of this development to nearby residents.

The matter of parking and increased parking pressures is set out in the Highways section below.

Impact on River Medway

It is recognised that this application results in the existing boatyard/wharf use being abandoned entirely and the land being partly changed for residential use, whilst some of the existing concrete is to be removed in its entirety, along with the wall and piling and returned to foreshore. Details of this aspect of the proposal are not included within the application. It is considered that the carrying out this foreshore restoration is welcomed however a detailed methodology of how this is to be achieved will be required, along with a Marine Licence from the Marine Management Organisation (MMO), which will have to be obtained prior to the commencement of any works on site. The applicant has been informed of this requirement and a condition is recommended to secure this to ensure that the Marine Licence is in place and a detailed methodology is agreed.

The proposal including the restoration of the foreshore is considered to be compliant with Policies BNE1 and BNE2 of the Medway Local Plan 2003 as well as Policies SE-CO-1, SE-HER-1, SE-SCP-1, SE-WQ-1, SE-MPA-1, SE-MPA-4, SE-NG-1 and SE-CBC-1 of the Draft South East Inshore Marine Plan 2020.

Highways

As stated already, many of the neighbour concerns that have stated that they feel there is already an issue with parking and traffic within Upnor and that this will exacerbate the issues further causing congestion.

Firstly, the issue of parking. Each house is provided with a car port which is ample enough for accommodate 2 vehicles. The car ports are a minimum of 3.1m in width x 10.5m deep. As well as this parking, each of the flats has a parking space provided within the ground floor of the flat block and there are an additional 3 visitor car parking spaces shown.

It is therefore considered that the parking provision for this development is acceptable.

In relation to the wider traffic issue in Upnor, there is no evidence that supports the statements made by occupants that there is a capacity issue when it comes to traffic in Upnor. The Council's Transport and Highway Officer has raised no highway or parking concerns to the proposed development.

Overall it is considered that this application is compliant with Policies T1 and T13 of the Medway Local Plan 2003 and paragraph 109 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 have submitted a SAMMs agreement. No objection is therefore raised under Paragraphs 175 and 176 of the NPPF and Policies S6 and BNE35 of the Local Plan.

The applicant has completed and signed the agreement and made a cheque payment for the total amount of J2003.12 contribution towards bird mitigation. The proposal would therefore comply with Policies S6 and BNE35, and paragraphs 175 and 176 of the NPPF.

Other matters

Contamination

A Phase 1 Desk Study was submitted (Lustre Consulting ref. 2100-190813-AR dated August 2019). The report was in line with current guidance and, based on the findings which raised issues concerning potential contamination at the site due to ground raising and historical use, recommended an intrusive investigation. Any contamination issues can be addressed by condition.

Flooding

Local residents have raised concerns to flooding. However, no concerns in relation to flooding have been raised by the Council's Lead Local Flood Authority or the Environment Agency. All habitable rooms are above ground level and as such, there is no concern to the proposal on flood risk grounds.

Climate change

All materials used in the construction of all buildings and the layout of the site in general will meet the requirements of the latest Building Regulations and in particular Part L (Energy Use). All materials used in the building construction will meet the BRE Green Guide A+ rating. (Materials which have the lowest overall environmental impact

over the lifecycle of a product as calculated by BRE Environmental Assessment Method).

Photovoltaic panels for electricity generation will be incorporated onto each roof slope such as to provide 8m² of panel for each dwelling. The panels are sited on the south facing roof slopes and the pitch of 45 degrees will make best use of the solar energy.

Energy consumption will be reduced through energy saving devices. Fixed light fittings will be designated energy efficient fittings, e.g. using LED lamps. All kitchens/utility rooms will have white goods including fridge, freezers, washing machines, dishwashers and tumble dryers as 'A+++' rated as far as possible, while taps, fittings and WCs will be low water consuming.

A high rating electric car charging point will be installed at each covered parking position thus providing 1 per dwelling.

Heating and domestic hot water will be provided by electric heat pump technology utilising under floor heating to provide energy efficient comfort conditions.

Triple glazing will be used on south-east facing windows and doors. Double-glazing will be used on all other elevations. Cavities between glass panels will be filled with Argon. This will provide a high standard of both sound and thermal insulation.

As much use as possible will be made of recycled (and recyclable) materials including, wherever possible, materials arising from the clearance of the old built fabric (e.g. hardcore materials from crushing on-site concrete). Preference will also be given to recycled materials wherever possible.

Provision is made in ground floor level storerooms for appropriate storage of refuse and recycling bins. This will also provide storage space for bicycles.

In terms of carbon footprint, wherever possible preference will be given to hiring labour from the local area.

Local Finance Considerations

None relevant here

Conclusions and Reasons for Refusal

No objection is raised to the redevelopment of this 'redundant' wharf, which currently holds no aesthetic value within the village of Upnor. NO objection is raised to the design aspect and relationship to neighbouring resident including its impact in highways and parking.

In line with the MMO draft plan, policies SE-CO-1, SE-HER-1, SE-SCP-1, SE-WQ-1, SE-MPA-1, SE-MPA-4, SE-NG-1 and SE-CBC-1 of the Draft South East Inshore Marine Plan 2020, have been considered.

Notwithstanding the acceptability of the development of the above grounds, in the absence of an acoustic assessment it is considered that the potential impact of noise from the established commercial premises (GPS Marine and pub car park), that are in close proximity to the proposed residential development, would be at unacceptable levels detrimental to the amenity of the future occupants. As such, the proposed development would fail to secure the amenities of the future occupants of the development with regard to noise, contrary to the set objectives of Policy BNE2 of the Medway Local Plan 2003, and paragraphs 127f, 180 and 182 of the NPPF.

Update since last Planning committee meeting held on 29 April 2020

The application has been deferred from the Planning Committee held on 29 April 2020, where Members raised concerns to the impact of the existing noise sources on the future occupants of the development. Following the deferral, the Council's Environmental Protection Officer reconsidered that the use of a noise planning condition would be ineffective, and objects to granting permission that:

- Allowing residential development in close proximity to commercial premises that by its very nature could lead to significant levels of noise disturbance and other effects on amenity, for example due to dust and odour.
- The effect on the ability of an established business to legitimately operate as it has been doing due to the presence of the development.

The application is therefore being referred to the Planning Committee for determination with a recommendation for Refusal.

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/>