

**Planning application**

**MC/20/1973**

Date Received: 13 August 2020

Location: Land At Port Victoria Road Isle Of Grain  
Rochester Medway

Proposal: Outline application with some matters reserved (appearance and scale) for construction of five dwellings houses with associated estate road, provision of 12 on site car parking spaces, new pavement along the site road frontage and on site reptile habitat and removal of porta cabin to the North- Resubmission of MC/18/1871

Applicant Mr & Mrs Murison

Agent Bloomfields  
Mrs Vicky Bedford 77 Commercial Road  
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Tonbridge  
TN12 6DS

Ward: Peninsula Ward

Case Officer: Majid Harouni

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 14th October 2020.**

**Recommendation: Approval subject to:**

A. The applicant shall enter into a legal agreement with the Council to deliver the following:

i- the existing Army Cadets building together with associated foundation, hard standing, drainage, plumbing and wiring on land marked blue in drawing 1377-P104 Rev B shall be demolished, broken up and the resulting materials removed

from the land and the land shall be kept in perpetuity as part of the landscape and wildlife habitat of the development approved under ref MC/20/1973 prior to the first occupation of any of the dwellings in the said development.

ii- Prior to the commencement of the development mention in (i) above, the applicant shall submit for approval in writing by the Local Planning Authority a restoration method statement. The method statement shall have regard to the terms and requirements of conditions no 6, 7, 9, 12, 13, 16, 21 and 23 of permission under ref MC/20/1973. In addition the method statement shall provide details of any fill materials, integration of the blue land with the designated reptile translocation and habitat land as identified by drawing mention in (i) above, implementation programme, long term management and maintenance of the combined land. The approved restoration method statement shall be implemented in full to the satisfaction of the Local Planning Authority prior to the occupation of any of the approved dwellings and retained as such for the lifetime of the development.

iii- Prior to the occupation of any of the dwellings approved as part of this development, the applicant shall submit details of interpretation boards regarding the historical and heritage context of the adjoining Scheduled Monuments for approval of the Local Planning Authority. The approved interpretation boards shall be installed and retained as such thereafter.

B. And the following conditions:

- 1 Approval of the details of the scale and appearance of the buildings (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 18 months 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 plan:  
1377 P101 Rev B, 1377 P102 Rev B, 1377 P103 Rev B, 1377 P104 Rev B and 1377 P200 received 13/08/2020 and 21/09/2020.

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

- 5 No development above ground floor slab level of any part of the development hereby approved shall commence until schedule/sample of the materials and finishes to be used in the construction of the external walls, roofs, windows, doors and guttering of the buildings hereby permitted have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out 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 Local Plan.

- 6 No development above ground floor slab level of any part of the development hereby approved shall commence until a detailed landscape scheme has been submitted to and approved in writing by the Local Planning Authority. The full details of hard and soft landscaping and a programme for implementation on site. Details shall include the following:

- i- Proposed hard surfacing materials; refuse or other storage units, lighting etc);
- ii- Soft landscape works shall include planting plans, written specifications (including cultivation and other operations associated with grass and plant establishment, aftercare and maintenance); schedules of plants, noting species, plant sizes and proposed umbers/densities where appropriate; tree pit details including species, size, root treatment and means of support; implementation programme.
- iii- All planting, seeding and turfing comprised in the approved scheme of landscaping, shall be implemented during the first planting season following occupation of the houses or completion of the development, whichever is the earlier or in accordance with a programme to be submitted to and agreed in by the Local Planning Authority.

Details shall be approved in writing by the Local Planning Authority and thereafter implemented in accordance with the approved timetable.

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

- 7 A landscape management plan, including long term design objectives, management responsibilities and maintenance schedules for all landscape areas and green infrastructure, other than small, privately owned, domestic gardens, shall be submitted to and approved in writing by the Local Planning Authority prior to the first occupation of the development. The landscape management plan shall be carried out as approved.

Reason: Pursuant to condition 197 of the Town and Country Planning Act 1990 and to protect and enhance the appearance and character of the site and locality, in accordance with Policies BNE1 and BNE6 of the Medway Local Plan 2003.

- 8 Any tree and/or shrub planted pursuant to condition 7 and being removed or severely damaged; dying or becoming seriously diseased within 5 years of planting shall be replaced with a tree or shrub of a similar size and species unless approved in writing by the Local Planning Authority.

Reason: In the interests of visual amenity in accordance with Policy BNE1 of the Medway Local Plan 2003.

- 9 Prior to the commencement of any development, details shall be submitted to, and agreed in writing by, the Local Planning Authority showing the existing and proposed site levels and the finished floor /slab levels of the buildings hereby permitted. The development shall be carried out in strict accordance with the approved details.

Reason: In the interest of visual amenity of the surrounding properties and in compliance with Policy BNE2 of the Local Plan.

- 10 No development shall take place until the applicant, or their agents or successors in title, has secured the implementation of a programme of archaeological work in accordance with a written specification and timetable which has been submitted to and approved by the Local Planning Authority.

Reason: To ensure that features of archaeological interest are properly examined and recorded.

- 11 Prior to the first occupation of the dwellings hereby permitted details of historical interpretation boards to be incorporated within the development shall be submitted to and approved in writing by the Local Planning Authority. The submitted details shall include location, design, dimensions and materials of the proposed interpretation and measures for their ongoing management and maintenance. The approved details shall be installed prior to the first occupation of the development hereby permitted and retained thereafter.

Reason: To ensure a satisfactory visual appearance and to ensure the development makes a positive contribution to local character and distinctiveness

- 12 Prior to any works commencing on site (including vegetation clearance) the reptile mitigation within Reptile Survey and Mitigation Strategy (KB Ecology; July 2020) must be implemented as detailed. If works have not commenced on site by July 2022 an updated Reptile Survey and Mitigation Strategy must be submitted to the LPA for written approval and the works must be carried out as detailed within the report.

Reason: To protect and enhance the natural environment in accordance with section 15 of the National Planning policy Framework.

- 13 Within 6 months of works commencing on site an ecological enhancement and management plan must be submitted to the LPA for written approval. The plan must provide details of how the site will be enhanced for biodiversity and how the reptile receptor site will be managed. The reptile mitigation area must be managed in perpetuity. The plan must be implemented as approved.

Reason: To protect and enhance the natural environment in accordance with section 15 of the National Planning policy Framework.

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

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

- 15 The dwellings herein approved shall not be occupied until the area shown on the submitted layout as access road, turning area and vehicle parking space as showing in drawing 1377-P104 Rev B have 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 (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 space.

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

- 16 If, during development, contamination not previously identified is found to be present at the site then no further development shall be carried out until the developer has submitted a method statement, and obtained written approval from

the Local Planning Authority. The Method Statement must detail how this unsuspected contamination shall be dealt with.

Reason: In the interest of safety the construction works on site and residential amenities of the future residents.

- 17 Prior to the commencement of the development a Construction Environmental Management Plan (CEMP) shall be 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; wheel cleaning/chassis cleaning facilities; dust control measures; pollution incident control; parking, delivery and removal information, 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, unless any variations are otherwise first submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of residential of the adjoining properties and in compliance with Policy BNE2 of the Local.

- 18 No development above ground floor slab level of any part of the development hereby approved shall commence until details of one electric vehicle charging point per dwelling with dedicated parking together with details of all gas fired boilers to meet a minimum standard of <40mgNOx/kWh; have been submitted to and approved in writing by the local planning authority. The approved details shall be implemented in full and retained in working order thereafter.

Reason: To ensure that provision is made for the parking and charging of battery powered cars in compliance with Policy BNE24 of the Local Plan.

- 19 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) (Order) 2015 as amended no development within Schedule 2, Part 1, Classes A, B, C, D, E and F shall be carried out without the permission of the Local Planning Authority.

Reason: To enable the Local Planning Authority to control such development in the interests of amenity, in accordance with Policies BNE1 and BNE2 of the Medway Local Plan 2003.

- 20 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 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.

- 21 No dwelling shall be occupied until a plan indicating the positions, design, materials and type of boundary treatment to be erected 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.

- 22 No dwelling shall be occupied until the pavement along the northern side of Chapel Road has been extended eastward to include the application site full frontage with Port Victoria Road, Isle Of Grain to the satisfaction of the Local Highway Authority.

Reason: In the interests of highway safety and amenity of the local residents.

- 23 No development shall take place until a "bat sensitive lighting plan" for the site boundaries has been submitted to and approved in writing by the local planning authority. The lighting plan shall:

- a) Identify those areas/features on site that are particularly sensitive for bats and that are likely to cause disturbance in or around their breeding sites and resting places or along important routes used to access key areas of their territory;
- b) Show how and where external lighting will be installed so that it can be clearly demonstrated that areas to be lit will not disturb or prevent the above species using their territory.

All external lighting shall be installed in accordance with the specifications and locations set out in the plan and these shall be maintained thereafter in accordance with the approved plan.

Reason: To protect and enhance the natural environment in accordance with section 15 of the National Planning policy Framework.

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

## **Proposal**

This application is in outline for the erection of 5no. detached dwelling houses along the road frontage with a single associated vehicular access off Port Victoria Road and an extension of the pavement along the full frontage of the application site with Port Victoria Road.

The matters that are to be determined at this stage comprise the access, the housing estate layout and the landscaping of the application site; details regarding the appearance and scale are reserved for future consideration.

The proposal also involves the removal of the cadet's building from the land to the north which is within the applicant's ownership but not within the application site and to incorporate the blue land within the landscape and ecology area.

This is to alleviate impact on the scheduled monument and to provide an ecology area for the translocation of reptiles from the part of the application site that is proposed for residential developed.

In addition the applicant has proposed to install 2 interpretation boards to explain to visitors the heritage background of the scheduled monument.

## **Site Area/Density**

Site Area: 0.3hectares (0.78 acres)

Site Density: 15.2 dph (6.6 dpa)

## **Relevant Planning History**

There have been several applications made on the site for several different uses, including outline/full applications for residential development.

MC/18/1871 outline for the erection of 6no dwelling houses comprising a pair of semi-detached and 4 detached houses with associated estate access road, provision for 14 on-site car parking spaces including 2 visitor parking  
Refused 08/07/2020

1991 Stationing of a temporary re-locatable building for use as a doctor surgery  
Permission granted for a temporary period of 4 years only.

ME/88/1519 Erection of a detached house  
Refuse because the land was outside the village boundary thus inappropriate form of development

ME/88/0333 Erection of 10 detached houses  
Refused because the land was outside the village boundary



- ME/85/744 Erection of a bungalow dwelling  
Refused, because the land was outside the settlement boundary.
- ME/82/790 Erection of stable building and use of land for equestrian purposes  
Refuse  
Appeal dismissed because of harm to the amenities of the adjoining residential properties.
- ME/79/1075 Outline residential development  
Refused because the land was outside the settlement
- 1972 Erection of a single storey building for use as Army Cadet  
Granted 1972

## 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.

5 letters of objection have been received raising the following comments:

- The entrance will be on a blind bend and is a one-track piece of road, many accidents and near misses have happened since living here.
- There are already parking issues this development will add to the problem.
- Two cars cannot pass each other, let alone months of lorries.
- Views and noise levels will increase which will affect our wildlife, which we all love being close to.
- The services like school bus, doctor surgery cannot cope now, let alone more people,
- Port Victoria Rd has only one way out, and construction lorries etc will exacerbate the problem, and increase the risk of collisions not only for drivers and pedestrian a like.
- There is already an issue with oversubscribed parking in that particular area. This is also the only access in and out for Port Victoria Road and Sea View Road, and from experience when even small Lorries have come down this road for deliveries etc the only way to pass is to wait till they reverse or to mount the footpath.
- Views of the residents towards the river will be obstructed and their quality of life adversely affected.
- This site is outside the village
- There are numerous amounts of wildlife on this site that would need to be protected,
- Bus services in the village run one every hour and none after 6 pm.
- The development will add to road congestion and air pollution.
- The sewage plant is at already at full capacity.
- There is a covenant on the land which states no houses could be built on it and I do not see this anywhere in the proposals.

### **St James Isle of Grain Parish Council**

Has raised objection to the proposal and provided an 11 page commentary as to why the proposal is not acceptable. The key areas of concern relate to the impact of the development on the scheduled monument, impact on the street scene, impact on the amenities of the nearby residential properties, additional demand on the existing infrastructure (doctor surgery, school and place of worship, public transport, public open space and highway).

In addition concern has also been raised with regard to the long term maintenance of the ecology area and the interpretation boards.

### **Natural England**

Has no objection - subject to appropriate mitigation being secured.

### **KCC ecology**

States the following:

Breeding populations of slow worms and common lizards have been recorded on site, and information has been submitted detailing that an on-site receptor site will be created. When we originally commented on the application, we had a number of concerns with the proposals – particularly as the receptor site is significantly smaller than the donor site.

The additional information has been provided clarifying why they are satisfied the receptor site can support the reptile population:

- By creating one hibernaculum<sup>1</sup> and three brash/log piles;
- By managing the retained habitat to keep it in a mid-successional state and establish a grassland/scrub mosaic
- The retained habitat will be subdivided into two plots and managed by experienced operatives on a two-year rotation with one plot cut each year. Buffer zones of longer vegetation will be kept around the hibernacula and around any brash/log piles.
- No public access to the receptor site
- The site has good connectivity to the surrounding area.

Although we would prefer the receptor site to be larger, we do accept that there is sufficient space to support the population.

Information has been submitted confirming that the habitat on the site has remained unchanged since the previous surveys were carried out and as such, we accept that the above conclusions are still valid.

A reptile mitigation strategy has been submitted and we are satisfied that it is appropriate however we highlight that if works are not carried out in the next two years the submitted information will no longer be valid. To address this point, we suggest an appropriately worded condition.

## Enhancements and Management

One of the principles of the National Planning Policy Framework is that “opportunities to incorporate biodiversity improvements in and around developments should be encouraged, especially where this can secure measurable net gains for biodiversity”.

We advise that if planning permission is granted a detailed enhancement plan is submitted as a condition of planning permission. The enhancement plan must include details of management for the reptile receptor site – we suggest an appropriately worded condition.

## Statutory Designated Sites

The development includes proposals for new dwellings within 6km of the Medway Estuary and Marshes Special Protection Areas (SPAs) and Wetlands of International Importance under the Ramsar Convention (Ramsar Sites). Medway Council will need to ensure that the proposals fully adhere to the agreed approach within the North Kent Strategic Access Management and Monitoring Strategy (SAMM) to mitigate for additional recreational impacts on the designated sites and to ensure that adequate means are in place to secure the mitigation before first occupation. A decision from the Court of Justice of the European Union has determined that an Appropriate Assessment is required to be carried out as part of this application by the Local Planning Authority. The ruling has detailed that mitigation measures cannot be taken into account when carrying out a screening assessment to decide whether a full ‘appropriate assessment’ is needed under the Habitats Directive. Therefore, we advise that there is a need for an appropriate assessment to be carried out as part of this application.

## **Southern Water**

Has stated that there are main water and sewerage facility available in the locality.

## **KCC Archaeology**

In terms of the impact of the proposed development on non-designated archaeological remains, I am content that the impact on these could be mitigated by means of a programme of archaeological works such that any remains are appropriately investigated and recorded. In this regard, appropriate conditions are recommended.

## **Historic England**

We have previously commented on previous iterations of this scheme, at which point we had some concerns about the application. Specifically, we stated that the proposal would cause harm to the heritage significance of the nearby scheduled Grain Fort through impact upon its setting. In particular, we noted that the development would detract from an appreciation of the clear field of fire around Grain Battery; and that it would also intrude into important sight-lines from the Battery’s southern-most gun emplacement.

Since that time the scheme has been revised. The proposal is now for five houses rather than six and would also see the development re-sited along the road frontage so that the houses themselves are slightly further from the fort and the development as a whole is

entirely outside the firing arc of the southern gun emplacement. In addition to the new heritage interpretation boards previously proposed, the application now also includes the removal of the Cadet building which is intrusive within the fort's setting.

We are encouraged by these sensitive design changes and we agree that this will further reduce harm to the scheduled monument, by reducing the impact that the proposal has upon its setting. We think that some harm to the monument's setting will remain (through the development's intrusion into its open field of fire) but that the level of harm remaining is low. We also think that the provision of interpretation boards and in particular the removal of the Cadet building will constitute positive heritage benefits delivered by the development.

### *Conclusion and Recommendations*

We think that the proposal will cause only a low level of harm to heritage significance, and that this level of harm has been reduced since the last application, through careful consideration and improved design.

We think that the provision of interpretation boards and in particular the removal of the Cadet hut would also constitute heritage benefits that should to some extent offset and mitigate the harm posed by the development.

In determining the application, we therefore recommend that you weigh the low level of harm to heritage caused by the proposal against the public and heritage benefits of the proposal (NPPF, paras. 194 & 196).

If you are minded granting permission, we recommend that suitable provision is put in place (for example a S.106 Agreement) to ensure that the planned Cadet hut demolition and interpretation board provision is pursued and completed.

You should also take into account the advice of the KCC Heritage Conservation Team with regard to the development's impact upon undesignated archaeology; we would defer to their advice in this regard.

### **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**

#### Background

Members will recall that proposal for 6 dwelling units with associated car parking and estate access drive was considered by this Committee and refused for the following reason.

*The proposed development by reason of its sitting within the setting of Grain Fort and obstruction of the line of fire of the Grain batteries would adversely impact on the setting of the nearby Scheduled Monument. It is considered that the cumulative community benefits resulting from the development would not outweigh the identified resulting long term harm to the scheduled Monument and as such the proposed development would be contrary to Policy BNE20 of the Local Plan and would not be in compliance with paragraph 196 of the NPPF.*

Since the Council's decision the applicant further consulted Historic England and revised the proposal by reducing the numbers of the dwelling units to 5 and located them entirely along the site road frontage and away from the field of fire of the scheduled Monument which is the eastern part of the site.

The application site comprises a semi-square area of land on the north side of Port Victoria Road. The land is surrounded from the west by a Public Right of Way (PROW - footpath and bridleway) and from the north and east by a large public open space.

As the relevant history shows, in 1972 permission was granted for the erection of a single-storey building for use as Army Cadet just to the north of the application site and south of the scheduled monument. However, this permission was granted almost 4 years before the designation of the Grain Fort as a scheduled Monument in 1976. Therefore, the impact the Cadet building would have on the setting of the nearby heritage asset was not a material consideration in 1972.

The cadet use of the building ceased and it was used as a changing room by the local football team and for birthday parties until 2014 and since then the building has been used for casual storage purposes.

Medway Local plan proposal map shows the application site to be just outside the built confines of the village of Grain and designated as part of a much larger public open space area.

However, the application site is privately owned and is fenced off from the rest of the public open space and as such is not available for public use.

In addition, notwithstanding the 2m high fencing around the land, there is evidence that from time to time fly-tipping take place on this land which detracts from the visual amenity and character of the area.

The village confines and residential properties in Victoria Road extend south- southeast by over 65m beyond the frontage of the application site onto Victoria Road.

The 1940s aerial photos show that the application site formed part of the WWII defence infrastructure. Some remains of the structures associated WWII are still present on site.

The Medway Local Plan proposal map shows Scheduled Monuments beyond the Army Cadet's building to the north and the designated public open space to the east. The Grain Foreshore Country Park is also beyond the Cadets building.

## Principle

The application site has not been identified in the Local Plan for development. In addition, as mentioned above, the site is outside the built confines of the village of Grain. However, the current application must be considered on its own merits having regard to the national and saved local plan policies currently in force.

Paragraph 11 of the NPPF sets out a clear presumption in favour of sustainable development. For decision making this means approving development that accords with an up to date development plan or (paragraph 11d) where the policies in the development plan are out of date because the LPA cannot demonstrate a 5 year supply of deliverable housing sites, assessing proposed sites in terms of their sustainability.

Paragraph 8 of the NPPF sets out the 3 overarching objectives of sustainability – economic, social and environmental.

In traditional sustainability locational terms, the application site is just outside the settlement but adjacent to and in front of substantial residential properties. The area has good vehicular access to local services and facilities (bus stop is less than 50m away in Chapel Road) connecting the application site to the local employment areas and services and the Medway Towns centres. The site is also in close proximity to shops and facilities in the village.

In social terms, having regard to the Council's position with respect to lack of 5 years deliverable housing supply, the construction of 5 new houses would make a small but positive contribution towards meeting the shortfall as well as potentially providing housing to meet local needs. This would represent a material social consideration in favour of the development.

In economic terms the construction of the houses would generate jobs as well as spending locally by the future residents of the proposed houses which would help to sustain and support local services and shops.

In environmental terms, the proposal would make good use of this vacant land that is untidy, overgrown and as the representation from one of the local residents indicated has been used for dumping rubbish/fly-tipping over the years. The proposal, therefore, would result in environmental improvement of the site and amenities of the nearby residents and users of the adjoining PROW and public open space.

The overall conclusion in terms of the principle of development is that although the application site is not within the settlement boundary, it would make effective use of the land which is located immediately adjacent to the settlement of Grain. It is considered that

the site is in an accessible and sustainable location where there would be no significant harm caused by the development.

The proposal then needs to be considered against other material considerations and policies.

### Open space

The Local Plan proposals map identifies the application site to be part of the protected open space where Policy L3 is relevant.

This policy L3 (i) states that:

Development which would involve the loss of existing formal open space, informal open space, allotments or amenity land will not be permitted unless sports and recreational facilities can best be implemented, or retained and enhanced through the redevelopment of a small part of the site.

Although the application site is identified to be part of a much large public open space, in practice, it is a privately owned piece of land that is enclosed by 2m high palisade fencing and as such is not accessible by members of the public. Therefore, its development would not adversely impact on the public open space currently available to the local residents and the development of the site would help to tidy up the site and improve visual amenities of the nearby residents. Also the proposal to demolish and clear the Cadets building from the blue land would enhance the setting of the scheduled Monument and the associated field of Fire. This has been clearly confirmed by Historic England where they say:-

*“...the removal of the Cadet building will constitute positive heritage benefits delivered by the development.”*

### Layout

The layout and siting of the proposed houses and access are matters for determination at this stage. The layout shows 5 detached dwelling houses along the site frontage with Port Victoria Road together with associated vehicular access and parking.

The houses would be set back from the road frontage and would follow the built frontage in line with the character of the other houses in the locality.

The proposed houses would be north south facing with more than 10m deep respective back gardens. It is considered given the orientation of the proposed houses and relationship with the surrounding properties proposal would not adversely impact on the day light sunlight or privacy of the occupiers of the properties to the west or south.

The proposal would also relate well with the character, density and appearance of the wider surrounding area.

Although the scale and appearance of the proposed houses will be decided at the Reserved Matters stage, it is expected that all the proposed 5no houses would be 2 storey.

The proposed layout would also provide a green amenity space along the north and eastern part of the site which provides opportunities for ecology enhancement and biodiversity in this development.

It is considered that the proposed siting of the houses along the road frontage and away from the eastern boundary together with removal of the existing Army Cadets building would positively contribute to and enhance the setting of the scheduled monument. The proposal therefore accords with Policies BNE1 and BNE20 of the local plan and the principles of good design as set out in the NPPF.

### Amenity

It is considered given the distance and orientation of the proposed houses as shown in in the submitted layout, no harmful impact will result on the amenities of surrounding residents.

In terms of the amenities of prospective occupiers, it is considered that internal floorspace can be provided to meet or exceed national standards while external garden area will meet the Council's standards. Therefore it is considered that the proposal would be in accordance with Policy BNE2 of the Local Plan.

### Highways

The proposed development would provide a satisfactory access and sightlines on to Port Victoria Road.

The proposal also makes provision for adequate on-site turning for vehicles and for two on-site car parking spaces per dwellings plus two visitor parking spaces.

In addition, the development would also extend the existing pavement eastward to cover the full frontage of the application site which would improve connectivity in this part of the road to the benefit of the wider community. The proposal therefore would comply with policies T1 and T13 of the local plan.

### **Scheduled Monument**

Section 66(1) of the Planning (Listed Building and Conservation Areas) Act 1990 requires that when considering whether to grant planning permission for development which affects the setting of a heritage asset, special regard should be had to the desirability of preserving its setting.

Paragraph 193 of the NPPF says when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be



given to the asset's conservation, irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance. Significance can be harmed or lost through alteration or destruction of a heritage asset, or by development within its setting. The Framework defines setting as the surroundings in which the asset is experienced. Elements of setting may make a positive or negative contribution to the significance of an asset, may affect the ability to appreciate that significance or maybe neutral.

Paragraph 194 of the NPPF says, any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification.

The Grain Fort as a scheduled monument falls into six separate areas of protection. There is five 19th century coastal artillery fortifications, including a gun tower, a fort and three batteries, and later 20th-century additions, including two searchlight emplacements. It was constructed on low-lying ground on the eastern reaches of the Isle of Grain, commanding the entrance to the River Medway.

Grain Tower was constructed in response to fears of a French invasion during the mid-19th century and projects into the Medway channel. The three-storeyed, roughly oval artillery tower is brick-built with walls faced in granite ashlar. The Grain fort was first listed as a Grade II listed building in 1976.

The scheduled monument is situated to the north of the application site beyond the Army Cadet building and is enclosed and screened by overgrown vegetation and trees.

Historic England in their representation about this application have welcome the siting of the proposed houses along the road frontage and away from the scheduled monument, together with total removal of the Army Cadets building from the setting of scheduled monument and line of fire. They also considered the proposed interpretation boards suggested by the applicant to be a positive contribution to informing visitors and members of the public about history of the scheduled monument.

Historic England has concluded that the proposal will cause only a low level of harm to heritage significance, and that compared with the last application the level of harm has been reduced, through careful consideration and improved of the design.

The heritage statement conclusion is that the proposed development will have **"less than substantial." impact on the setting of the scheduled monument. Historic England in their conclusion have stated:-**

"We think that the proposal would cause a low level of harm to heritage significance, through impact upon the setting of the scheduled Grain Fort (and particularly, Grain Battery). We agree that this harm would be less than substantial but this makes it no less important, from a planning perspective that this harm is clearly and convincingly justified and outweighed by the public benefits of the scheme, if it is to be deemed acceptable."

Paragraph 196 of the NPPF states:

Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.

Having regard to paragraph 196 of the NPPF, it is considered that the proposed development would deliver the following overall benefits which would positively contribute toward the setting of the schedule monument and provide public benefit:

- Demolition and removal of the cadets building that was constructed before the designation of Grain Fort as a heritage asset from the setting of the schedule monument and return of the land in visual form to improve the setting of the Grain Fort in perpetuity.
- To turn the northeast corner of the application site together with the Cadets' building land into a biodiversity area and habitat for translocation of reptiles from the rest of the application site and complement the adjoining public open space. In so doing also ensure that the fort line of fire would be permanently kept open and free from any structures.
- Construction of 5no new market housing in a very sustainable location at a time when the Council is in short of five years housing land supply and there is a need to provide more housing in the borough in response to the growing housing need. Moreover, in the context of a village the size of Grain, the proposed 5 houses would be a reasonably significant development.
- Keep the number of dwelling houses to no more than 5no and design the layout of the development so that the northeast corner of the site, adjacent to the army cadet's land remains permanently open in order to contribute positive contribution to the setting of the schedule monument.
- Tidy up the land, improve visual and residential amenities of the nearby residents and put the land into a long term viable use that will have long environmental benefits.
- The scheme would generate economic benefit through both the construction and the activities of future residents of the proposed houses such residents would also contribute socially to the village.
- To extend eastward the existing pavement that currently terminates in front of 67 Chapel Road and just before the PROW to include the application site frontage.
- To installing a interpretation board to provide background information about the scheduled Monument.

Paragraph 196 of the NPPF indicates that harm to the heritage asset should be weighed against the public benefits of the proposal, including securing its optimum viable use.

It is considered the above steps cumulatively will make a significant contribution to improve the setting of the scheduled monument and provide public benefits in line with paragraph 196 of the NPPF.

### Planning Balance

Heritage England has set out the harm that it considers that 5 houses will have on the setting of the scheduled monument. They consider that this is less than substantial. This harm is recognised and in discussions with the applicant the scheme has been amended to reduce the number of dwellings from down to 5 and to relocate the houses along the road frontage and away from the setting of the scheduled monument in order to reduce the impact on the setting, while also negotiating for the removal of an existing building (cadets building) which is immediately adjacent to the heritage asset and for that area then to be retained as open space linked to open space provided from the reduction in the number of units. These alterations will help to protect and enhance the setting of the asset. In addition removal of existing fencing and provision of the open space, along with the cessation of the potential for fly tipping, will further enhance the public appreciation and recognition of the asset. Finally, the addition of 5 houses will help in a small way to meet the housing needs of the village and area, while providing much needed employment for an SME and also helping to sustain village services.

On balance therefore while there will be some harm to the heritage asset, this is considered to be small and the benefits of removal of existing cadets building and installing of an interpretation information board would make significant contribution to the public perception of the scheduled monument and this heritage asset.

### Ecology

The ecology report submitted has been considered by the KCC Ecology officer and has raised no objection subject to imposing an appropriate condition relating to a reptiles translocation strategy and management plan being submitted for approval by the LPA.

### Archaeology

The submitted supporting document has been assessed by KCC archaeology and they have raised no objection subject to appropriately worded conditions.

### Contamination

Having regard to the previous use of the land it is recommended that a condition be imposed to ensure that if contamination not previously identified is found to be present then no further development shall be carried out until the developer has submitted a

method statement, and obtained written approval from the Local Planning Authority. The Method Statement must detail how this unsuspected contamination will be dealt with.

### Climate Change and energy efficiency

This is an outline application and with the exception of access, estate layout and the landscaping to be decided at this stage; details of appearance and scale are reserved for future consideration. As such, no details with regard to the design or construction are available at this stage. However, at reserved matters stage, officers will ensure that all dwellings are designed in accordance with the latest standards within Part L1a of the Building Regulations (2016) to ensure use of energy-efficient design and measures. Where appropriate renewable energy systems would be encouraged to be introduced to reduce carbon emissions to the level that satisfies the regulations.

At reserved matters stage officers will ensure that the appearance and design of the houses would enhance sunlight and natural daylight to the respective dwelling to reduce energy use and create more pleasant environment at micro and macro levels. Capturing sufficient daylight is linked to good design and maximising light gain and minimising heat loss.

To manage surface water on site the reserved matter application will ensure use of permeable surfacing are incorporated into the layout and landscaping design of the development.

It is the intention to ensure that all fixed electric lighting will be energy efficient. All appliances including gas boilers where installed to be at least A-rated further minimising the use of both electricity and hot water. A planning condition (condition 18) is recommended to ensure that efficient gas boilers and electric charging points are installed to reduce co2 generation on this site and minimise the impact of the development on the local air quality.

Also as part of the site wide soft landscaping and enhancement of ecology of the area, the Army cadets land will be landscaped and returned to open space.

Furthermore, to assist with wildlife and minimise urban light intrusion into the open space area condition 13 is imposed to ensure that bat friendly light is used which would create opportunities for enhancing local biodiversity and ecology

### 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 £250.39 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 applicant has already paid this tariff. 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

None

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

For the reasons stated above it is considered the principle of the development to be acceptable and that the development would have less than the substantial impact on the setting of the scheduled monument and the identified public benefits resulting from the development would outweigh the limited impact on the setting of the heritage asset.

It is further considered that the proposal would relate well with the character and appearance of the adjoining settlement. With regards to neighbour amenity, the development would not create any significant harm in terms of proximity, light or overlooking and would provide acceptable vehicular access arrangement, on-site car parking and turning area.

For this reason, the proposal is considered to comply with the NPPF paragraphs 11, 175, 176, 193, 194, 196 and Policies S6, BNE1, BNE2, BNE20, BNE35, L3, T1 and T13 of the Local Plan 2003 and is recommended for approval subject to conditions as set out.

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/>