

**Planning application**

**MC/20/1319**

Date Received:

9 June 2020

Location:

Land Off 143 Berengrave Lane Rainham  
Gillingham Medway

Proposal:

Construction of four detached chalet dwellings with associated access, vehicle parking/garaging, refuse and cycle storage areas as amended by revised drawings received on 17/09/2020.

Applicant

Berengrave Lane LLP

Agent

Andrew Wells Planning & Design  
Mr Andrew Wells Hollywood House  
76 Hollywood Lane  
Wainscott  
Rochester  
ME3 8AR

Ward:

Rainham North 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. A Section 106 Agreement under the terms of the Town and Country Planning Act 1990 being entered into to secure the following developer's contributions:
  - i) A contribution of £14,801.49 towards nursery school provision in the Riverside Primary and Thames View Primary or a new free school in the area
  - ii) A contribution of £28,545.72 towards primary school facilities one or more of; Riverside Primary – expansion to 3FE, Thames View Primary – expansion to 3FE, or a new free school in the area.

iii) A contribution of £21,109.90 towards secondary school facilities in the Howard School, Rainham Girls, Rainham Mark, or a new free school in the area – to provide additional classrooms and communal facilities.

iv) A contribution of £30,614.28 to enhance open space facilities at Berengrave Nature Reserve and or Riverside Country Park and indoor sport provision (Splash)

v) A contribution of £2,695 towards public realm improvements in Rainham Town Centre.

vi) A contribution of £807.62 towards Youth Service to have fitness sessions at Rainham Recreational Park for young people.

vii) Public Right of Way £1,837.41 towards maintaining and promoting the riverside section of the Saxon Shore Way and/or improvement to footpaths GB5, GB6, GB44 and GB1

viii) A contribution of £6,787.55 toward the improvement of local NHS GP practice.

ix) Waste and recycling £1857.46 to provide household containers for the collection of Recycling – use once bags and 240ltr wheeled brown bins to each property for the collection of food and garden waste

x) A contribution of £5,318.44 to improve sustainable transport.

xi) A contribution of £1991,56 towards bird mitigation measures.

B. None of the dwellings approved as part of this development shall be occupied until the associated infrastructure including on-site and off-site highway works, estate access road relating to MC/18/3168 have been fully provided and made operational

C. And the following conditions:

1 The development hereby permitted shall be begun before the expiration of 18 months from the date of this permission.

Reason: To comply with Section 91 of the Town and Country Planning Act 1990 (as amended).

2 The development hereby permitted shall be carried out in accordance with the following approved plan:  
Drawing numbers PL/585/02, PL/585/50 Rev A , PL/585/51, PL/585/52, PL/585/53, PL/585/54 received on 09/06/20, 17/09/ 2020 and 21/09/2020.

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

- 3 No dwelling and/or building 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 and/or building 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.

- 4 No development above slab level shall take place until details and samples of all materials to be used externally have been submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the approved details.

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

- 5 Prior to the first occupation of any dwelling herein approved, full details of both hard and soft landscape works and a timetable for implementation shall be submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the approved details and any trees or plants which within 5 years of planting are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species.

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

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

- 7 No infiltration of surface water drainage into the ground is permitted other than with the written consent of the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reason: To ensure that the development does not contribute to, or is not put at unacceptable risk from, or adversely affected by, unacceptable levels of water pollution caused by mobilised contaminants in line with paragraph 170 of the National Planning Policy Framework.

- 8 Piling or any other foundation designs using penetrative methods shall not be permitted other than with the express written consent of the Local Planning Authority, which may be given for those parts of the site where it has been demonstrated by a piling risk assessment that there is no resultant unacceptable risk to groundwater. The development shall be carried out in accordance with the approved details.

Reason: To ensure that the development does not contribute to, or is not put at unacceptable risk from, or adversely affected by, unacceptable levels of water pollution caused by mobilised contaminants in line with paragraph 109 of the National Planning Policy Framework.

- 9 Prior to the first occupation of any dwelling herein approved, details of electric vehicle rapid charging points shall be submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the approved details and the electric charging points shall be retained thereafter.

Reason: In the interests of amenity and air quality in accordance with Policy BNE24 of the Medway Local Plan 2003.

- 10 No development including any demolition, shall take place until a Construction Environmental Management Plan (CEMP) that describes measures to control, amongst other matters, hours of working, noise, dust and lighting arising from the construction phase of the development and site contact details in case of complaints has been submitted to and approved in writing by the Local Planning Authority. The construction works shall be undertaken in accordance with this approved plan.

Reason: Required before commencement of development in order to minimise the impact of the construction period on the amenities of local residents and with regard to Policy BNE2 of the Medway Local Plan 2003.

- 11 No development shall take place until a scheme showing details of the disposal of surface water, based on sustainable drainage principles, including details of the design, implementation, maintenance and management of the surface water

drainage scheme have been submitted to and approved in writing by the Local Planning Authority. Those details shall include:

- i. a timetable for its implementation, and
- ii. a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public body or statutory undertaker, or any other arrangements to secure the operation of the sustainable drainage scheme throughout its lifetime.

The development shall be implemented in accordance with the approved details and shall thereafter be retained.

Reason: Required before commencement of the development in order to manage surface water during and post construction and for the lifetime of the development in accordance with Paragraph 163 of the NPPF.

- 12 Prior to occupation, a signed verification report carried out by a qualified drainage engineer (or equivalent) regarding the surface water drainage scheme must be submitted to and approved by the Local Planning Authority to confirm that the Sustainable Drainage System has been constructed as per the approved scheme and plans as set out in condition 16.

Reason: To ensure that suitable surface water drainage scheme is designed and fully implemented so as to not increase flood risk onsite or elsewhere in accordance with paragraph 163 of the NPPF.

- 13 No development shall commence until details of a Construction Surface Water Management Plan (CSWMP) detailing how surface water and storm water will be managed on the site during construction (including demolition and site clearance operations) is submitted to and agreed in writing by the local planning authority in consultation with the LLFA. The CSWMP shall be implemented and thereafter managed and maintained in accordance with the approved plan for the duration of construction. The approved CSWMP and shall include:

- i. Method statements, scaled and dimensioned plans and drawings detailing surface water management proposals to include: -
- ii. Temporary drainage systems.
- iii. Measures for managing pollution / water quality and protecting controlled waters and watercourses.
- iv. Measures for managing any on or offsite flood risk associated with construction.

Reason: To manage surface water during and post construction and for the lifetime of the development as outlined at Paragraph 165 of NPPF.

- 14 No development above slab level shall take place until details of traffic calming measures on the internal access roads have been submitted to and approved in writing by the Local Planning Authority. The traffic calming measures shall be

implemented in accordance with the approved details prior to the first occupation of any dwelling herein approved and shall thereafter be retained.

Reason: In the interests of pedestrian safety and to accord with Policy T12 of the Medway Local Plan 2003.

- 15 The chalet dwelling shall not be occupied, until the areas shown on the submitted layout drawing PL/585/50 Rev A as vehicle parking spaces and garaging and turning area have been provided, surfaced and drained. Thereafter the parking spaces shall be kept available for such use and no permanent development, whether or not permitted by the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order amending, revoking or re-enacting that Order) shall be carried out on the land so shown or in such a position as to preclude vehicular access to this reserved parking space and garaging.

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

- 16 The access shall not be used until the area of land within the vision splays shown on the approved plan PL/585/50 Rev A has been cleared of any obstruction exceeding a height of 0.6 metres above the level of the nearest part of the carriageway. The vision splay so created shall be retained at all times thereafter.

Reason: To ensure that the development permitted does not prejudice conditions of highway safety or efficiency in accordance with Policy T2 of Medway Local Plan 2003.

- 17 Prior to the first occupation of each individual dwelling hereby approved the bicycle storage arrangements for that dwelling, as shown on drawing PL/585/50/Rev A shall be provided. The cycle storage shall thereafter be retained.

Reason: In the interests of visual amenity and to ensure a satisfactory provision for refuse and recycling in accordance with Policy T4 of the Medway Local Plan 2003.

- 18 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development)(England) Order 2015 (or any order amending, revoking and re-enacting that Order with or without modification) no development shall be carried out within Classes A, B, C and E of Part 1 of Schedule 2 of that Order 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 Policies BNE1 and BNE2 of the Medway Local Plan 2003.

- 19 None of the dwellings approved as part of this development shall be occupied until the associated infrastructure including on-site and off-site highway works, estate access road approved as part of MC/18/3168 have been fully provided and made operational.

Reason: In the interests of amenity and highway safety and in compliance with policies BNE2, T1, T2, T3 and T4 of Medway Local Plan.

- 20 Prior to occupation, a lighting design plan for biodiversity will be submitted to, and approved in writing by, the local planning authority. The plan will show the type and locations of external lighting, demonstrating that areas to be lit will not disturb bat activity. All external lighting will be installed in accordance with the specifications and locations set out in the plan and will be maintained thereafter.

Reason: To ensure a satisfactory biodiversity and in compliance with paragraph 180 of the NPPF and Policies BNE1 and BNE2 of the Medway Local Plan 2003.

- 21 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order amending, revoking and reenacting 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.

- 22 Prior to the commencement of development works (including site clearance), an invasive nonnative species plan will be submitted to and approved in writing by the local planning authority, detailing the containment, control and removal of cotoneaster on site. The measures shall be carried out in accordance with the approved plan.

Reason: In the interest of protection of native species and biodiversity of the area and in compliance with policy BNE 37 of the local plan.

- 23 Within six months of works commencing, details of how the development will enhance biodiversity will be submitted to, and approved in writing by, the local planning authority. This will include recommendations in section 6 of the Preliminary Ecological Appraisal (Greenspace Ecological Solution July 2020). The approved details will be implemented and thereafter retained.

Reason: In the interest of local biodiversity and in compliance with policy BNE37 of the local plan.

**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 for the erection of 4no detached chalet dwellings comprising detached, 4 bedrooms and 2 detached 3 bedrooms units together with associated double garages and parking including a visitor parking space and cul-de-sac turning area and refuse collection point.

The individual units include a bedroom with an en-suite facility at the ground floor level, bicycle shed and refuse storage provision are also proposed.

The chalet on the eastern part of the site will only have front dormer window instead roof light windows are proposed which will be more than 1.7m above the respective room floor level.

The chalet units on the western side of the site will have dormer windows on the front and back as well as Juliet balcony facing the open field to the west.

The proposed access to the site will from the estate access road previously approved under MC/18/3168 permission for the erection of 9 houses and connect to Berengrave Lane.

## **Site Area/Density**

Site Area: 0.43 hectare (1.06 acres)

Site Density: 9.3 dph (4 dpa)

## **Relevant planning History**

MC/19/2765 Details pursuant to conditions 3 (boundary treatment), 4 (materials), 6 (hard and soft landscaping), 8 (contamination), 14 (EV charging points), 15 (CEMP), 16 (surface water drainage), 18 (bird boxes), 19 (traffic-calming measures), 24 (highways improvements) and 25 (external lighting) of planning permission MC/18/3168  
Discharged 24/12/2019

MC/18/3168 Construction of nine residential dwellings comprising 6 no. 3 bedroom houses, 2 no. 4 bedroom houses and one 5 bedroom house, with associated access, amenity areas and associated garaging and parking for



proposed and existing dwelling. Demolition of the existing garage and outbuildings.

Approved 29/04/2019 (Committee Decision)

## **Representations**

The application has been advertised on-site and in the press as a major development and by individual neighbour notification to the owners and occupiers of neighbouring properties.

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

- The development of an additional 8 houses will lead to a significant increase in traffic generation which, especially in the peak hours, will lead to localised traffic congestion, harm to the free flow of traffic and possible danger to pedestrians and cyclists using Berengrave Lane, contrary to policy T1 of the Medway Local Plan.
- The increase of activity on the site will also lead to a general increase in noise and disturbance in what is currently a relatively tranquil semi-rural area.
- The site is in the countryside and outside of the built confines of the settlement,
- The proposal is backland development of property fronting Berengrave Lane, resulting in an erosion of undeveloped countryside, and is in conflicts with policy H11 of the Medway local plan.
- Additional pressure on hospitals, doctors, schools, drainage etc.
- Potential noise and disturbance impact on the amenities of the occupier of 145 Berengrave Lane/ the property along the northern side of the access drive due to increase in coming and going of the future residents and their vehicles.
- Inadequate Boundary height of fence/wall between 143 and 145 Berengrave Lane to protect privacy from a passer-by and significant traffic along the proposed access road.
- Adverse cumulative impact of the previous 9 dwellings already approved and the proposed 8 houses.
- Having houses directly behind us will enable any occupants to look down from their upstairs windows into our back garden – removing our privacy is unacceptable.
- The proposal would encroach on to and harm Area of Local Landscape Importance.

## **Southern Water**

There is a public foul rising main within the site and that no development or tree planting shall take place within 3 metres of either side of the external edge of the public foul rising main. All existing infrastructures should be protected during the course of construction works. No new soakaway should be located within 5 metres of a public foul rising mains. Southern Water recommends informative.

## **Natural England**

Since this application will result in a net increase in residential accommodation, impacts to the coastal Special Protection Area(s) and Ramsar Site(s) may result from increased recreational disturbance. Your authority has measures in place to manage these potential impacts through the agreed strategic solution which we consider to be ecologically sound. Subject to the appropriate financial contribution being secured, Natural England is satisfied that the proposal will mitigate against the potential recreational impacts of the development on the site(s). However, our advice is that this proposed development, and the application of these measures to avoid or reduce the likely harmful effects from it, may need to be formally checked and confirmed by your

Authority, as the competent authority, via an appropriate assessment in view of the European Site's conservation objectives and in accordance with the Conservation of Habitats & Species Regulations 2017.

This is because Natural England notes that the recent People Over Wind Ruling by the Court of Justice of the European Union concluded that, when interpreting article 6(3) of the Habitats Directive, it is not appropriate when determining whether or not a plan or project is likely to have a significant effect on a site and requires an appropriate assessment, to take account of measures intended to avoid or reduce the harmful effects of the plan or project on that site. The ruling also concluded that such measures can however be considered during an appropriate assessment to determine whether a plan or project will have an adverse effect on the integrity of the European site.

Your Authority should have regard to this and may wish to seek its own legal advice to fully understand the implications of this ruling in this context.

Natural England advises that it is a matter for your Authority to decide whether an appropriate assessment of this proposal is necessary in light of this ruling. In accordance with the Conservation of Habitats & Species Regulations 2017, Natural England must be consulted on any appropriate assessment your Authority may decide to make. Natural England has not assessed this application for impacts on protected species. Natural England has published Standing Advice which you can use to assess impacts on protected species or you may wish to consult your own ecology services for advice.

We recommend referring to our SSSI Impact Risk Zones (available on Magic and as a downloadable dataset) prior to consultation with Natural England. Further guidance on when to consult Natural England on planning and development proposals is available on gov.uk at <https://www.gov.uk/guidance/local-planning-authorities-getenvironmental-advice>.

## **KCC ecology**

We have reviewed the additional ecological information submitted in support of this planning application and advise that sufficient information has been provided by the applicant. We are satisfied with the conclusion of the bat emergence surveys which found no evidence of roosting bats.

## **Bats and Lighting**

It is likely that bats forage and commute over and around the site. Lighting can be detrimental to commuting and foraging bats so we advise that the external lighting of the development should be designed in a way that negates the impact on bat activity.

To mitigate against potential adverse effects on bats, and in accordance with paragraph 180 of the National Planning Policy Framework 2019, we suggest that the Bat Conservation Trust's 'Guidance Note 8 Bats and Artificial Lighting' is consulted in the lighting design of the development. We advise that the incorporation of sensitive lighting design for bats is submitted to the local planning authority, as recommended in the ecology report, and secured via an attached condition with any planning permission. Suggested wording:

*Prior to occupation, a lighting design plan for biodiversity will be submitted to, and approved in writing by, the local planning authority. The plan will show the type and locations of external lighting, demonstrating that areas to be lit will not disturb bat activity. All external lighting will be installed in accordance with the specifications and locations set out in the plan and will be maintained thereafter.*

## **Breeding Bird Informative**

Habitats are present on and around the site that provide opportunities for breeding birds. Any work to vegetation that may provide suitable nesting habitats should be carried out outside of the bird breeding season (March to August) to avoid destroying or damaging bird nests in use or being built. If vegetation needs to be removed during the breeding season, mitigation measures need to be implemented during construction in order to protect breeding birds. This includes examination by an experienced ecologist prior to starting work and if any nesting birds are found, development must cease until after the juveniles have fledged. We suggest the following informative is included with any planning consent:

*The applicant is reminded that, under the Wildlife and Countryside Act 1981, as amended (section 1), it is an offence to remove, damage or destroy the nest of any wild bird while that nest is in use or being built. Planning consent for a development does not provide a defence against prosecution under this Act. Trees and scrub are present on the application site and are assumed to contain nesting birds between 1st March and 31st August, unless a recent survey has been undertaken by a competent ecologist and has shown that nesting birds are not present.*

## **Invasive Species**

The ecology report notes a Schedule 9 species on-site; cotoneaster. As such, we advise that details of its safe and compliant removal from site/measures to stop its spread during construction are provided. This can be secured via an attached condition if planning permission is granted. Suggest wording:

*Prior to the commencement of development works (including site clearance), an invasive non-native species plan will be submitted to and approved in writing by the local planning*

*authority, detailing the containment, control and removal of cotoneaster on site. The measures shall be carried out in accordance with the approved plan.*

### **Ecological Enhancements**

In alignment with paragraph 175 of the National Planning Policy Framework 2019, the implementation of enhancements for biodiversity should be encouraged. The ecology report recommends suitable enhancements such as native planting and provision of bird/bat boxes.

To secure the implementation of enhancements, we advise that a condition is attached to planning permission, if granted. Suggested wording:

*Within six months of works commencing, details of how the development will enhance biodiversity will be submitted to, and approved in writing by, the local planning authority. This will include recommendations in section 6 of the Preliminary Ecological Appraisal (Greenspace Ecological Solution July 2020). The approved details will be implemented and thereafter retained.*

### **Development Plan**

The Development Plan for the area comprises the Medway Local Plan 2003. The policies referred to within this document and used in the processing of this application have been assessed against the National Planning Policy Framework 2018 and are considered to conform.

### **Planning Appraisal**

#### *Background*

As planning history shows Members approved proposals for the construction of 9no houses within ground of Knowley Nursery site compound under ref MC/18/3168. This development has not commenced as yet. However, all the pre-recommencement conditions have been discharged.

The site application site forms part of the open air growing area grounds of the ex-Knowley Nursery.

As part of the call for site, DD Knowley Nursery (comprising about 2.2 hectares of covered and open-air growing areas) was put forward by the owners for residential development. In initial sustainability work undertaken for the SLAA, the site was deemed to be inaccessible due to its scale and the fact that it encroached significantly into the Area of Local Landscape Importance outside of the main nursery area which was considered to be harmful in environmental impact terms. There was a lesser concern regarding proximity to some local facilities (local centres) and schools and that the bus service here is infrequent.

It is however, considered that the previous scheme for 9 houses together with the current proposal for 4no additional dwellings would result in the development of only 0.8 hectares, equal to 36% of the total area of old nursery site, the rest of 1.4 hectares will remain undeveloped, open and part of the wider countryside.

The proposal as originally submitted has been the subject of extensive negotiation with the officers and as a consequence, the number of dwellings has been reduced from 8 houses to 4 chalet bungalows.

To ensure that the dwellings do not appear bulky and intrusive when viewed from the gardens of the adjoining properties and wider countryside the original house design with the ridge height of over 9m has been revised to chalet bungalow with a ridge height of no more than 7.5m.

Furthermore, the layout submitted with this application has also been amended to reflect the above and to enhance the spatial relationship of the dwellings with their wider surrounding.

The properties in Berengrave Lane consist of a mixed of bungalow/ chalet bungalows and two-storey dwellings mostly in plots with large and deep back gardens.

No 145 Berengrave Lane is a two-storey house with car parking to the front and fenestration to a habitable room along its southwestern flank elevation. The existing boundary enclosure along the southern boundary is a low-level brick wall that steps up towards the rear of the site before changing to a wooden fence along the back garden. To respond to any potential overlooking Condition 3 of MC/18/3168 dealt with boundary treatment including the boundary of property 145 Berengrave Land. The detailed boundary treatment submitted pursuant to the Condition 3 of MC/18/3168 has addressed this concern.

The site is situated on the west side of Berengrave Lane where countryside meets urban edge; the application site would be outside the settlement boundary and within the Countryside and Area of Local Landscape Importance as identified on the Proposal Map of the Medway Local Plan 2003.

The cumulative number of dwellings approved under MC/18/3168 for 9 dwellings together with proposed 4no dwellings as part of this application will exceed 10 dwellings and as such would qualify to make developer contributions towards the impact of the development on the local services and infrastructure. This is reflected in the section 106 of this report. However, bird contributions for the previous 9 dwellings and the proposed dwellings have already been paid.

## *Principle*

The application site has not been identified in the Local Plan for development. In addition, as mentioned above, the wider site was not considered suitable for development due to the harm to the wider countryside. However, the current application, which is for a smaller site area than the call for sites, must be considered on its own merits having regard to the national and saved local plan policies currently in force.

Paragraph 47 of the NPPF and Section 38(6) of the Planning and Compulsory Purchase Act 2004 provides that all planning applications must be determined in accordance with the Development Plan unless other material considerations indicate otherwise. Bearing this in mind, the relevant starting point would be the consideration of the general principles of the development when assessed against the Government's National Planning Policy Framework (The Framework), The Government's National Planning Practice Guidance Notes (NPPG) and the relevant saved policies of the Medway Local Plan 2003.

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.

The application site is outside of the built confines of Rainham and within an Area of Local Landscape Importance. Policies BNE25 and BNE34 of the Local Plan therefore apply.

Those elements of the policies which seek to control the supply of land for housing are considered to be out of date as the LPA cannot demonstrate a 5 years supply of deliverable housing land. However, those parts of the policies which seek to set out particular landscape characteristics that should be protected are relevant.

The presumption of sustainable development, as set out in the NPPF 2019 therefore applies. Paragraph 8 of the NPPF sets out the 3 overarching objectives of sustainability – economic, social and environmental.

Taking the 3 objectives of sustainable development in turn:

Economic – the proposal will provide employment during construction and will bring new people into the area with additional spending power to help support existing services and facilities. In relation to the impact on existing infrastructure, including roads and services such as schools and health facilities, these will be considered in detail in later paragraphs but in principle can be addressed through S106 contributions as the cumulative resulting number

Social – the proposal will provide much-needed housing. In principle, a well-designed and healthy scheme can be provided but the details will be considered in later paragraphs. In addition, a financial contribution will also be made toward green space provision outside

the application site including Berengrave Nature Reserve and enhancement of existing Public Right of Ways to facilitate and enhance social interaction for all.

Environmental – While the site is outside of the built-up area of Rainham and within the countryside and an Area of Local Landscape Importance (ALLI), the submitted layout plan shows pockets of landscaping/tree planting area within the application site which contribute to the ecology of the area and integrate with its surrounding.

It is considered that while the proposal would result in the loss of small area of open countryside and limited impact on the character of the local landscape; the impact will be limited and will be diminished over time as new landscaping will gradually establish and mature across the site.

The area has good vehicular access to local services and facilities (bus stops in Berengrave Lane and B2004/Lower Rainham Road, railway station and Rainham town centre. The proposed development is in accordance with the objectives of the NPPF in that the site would provide some environmental, economic and social benefits. Therefore, having regard to the advice in the NPPF, it is considered the proposal is in principle capable of being sustainable development.

Having regard to the Council's position with respect to lack of 5 years deliverable housing land supply, the construction of 4 chalet dwellings would make a small contribution towards meeting the shortfall. This would represent a material social consideration in favour of the development. In economic terms the construction of these houses would generate jobs as well as the additional spend locally that would result from the future occupiers.

The weight that can be given to policies BNE24 and BNE34 is now limited in terms of their intention to control housing supply, but their landscape intentions are still broadly in line with the NPPF, but in respect to this site for the reasons given above it is not considered that the development of the more limited site is in conflict with those policies.

The overall conclusion in terms of the principle of development is that although the application site is not wholly within the settlement boundary, it would make effective use of land no longer required in association with the nursery, it is located immediately adjacent to residential development and is in an accessible and sustainable location where there would be no significant harm caused by the development.

Having regard to the above, it is considered that the proposal in this location is capable of forming a sustainable development that would be in accordance with NPPF guidance and acceptable in principle.

### *Layout, Design and Appearance*

Part of the site where the dwellings would be located is on the Lower Rainham Farmland character area as set out in the Medway Landscape Character Assessment 2011. This wider character area is described as flat with small to medium scale mixed farmland comprising orchards, arable, and rough grazing. Guidance for development in this area states to resist further built development and introduce more positive landscape management systems. However, the Landscape Character Assessment document predates the NPPF and it is felt that in this instance resisting development on this site (for the reasons given above) is not justifiable. Indeed with good quality landscaping to the boundaries of the proposed development could have a positive impact on the appearance of the site and the surrounding countryside.

The NPPF sets out generic policies that require good design and specifically it is stated as a core planning principle that planning should always seek to secure high-quality design and a good standard of amenity for all existing and future users of land and buildings.

Paragraph 124 of the NPPF refers to the creation of high-quality buildings and places and says good design is a key aspect of sustainable development. Paragraph 127 elaborates and states planning policies and decisions should ensure that developments should function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development.

Policy BNE1 also requires that the design of development be appropriate in relation to the character, appearance and functioning of the built and natural environment in terms of scale, mass, layout, siting, the visual amenity of the surrounding area.

The character of the area is varied with predominantly detached bungalows, chalet bungalows and two-storey houses. It is considered that the scale, design and appearance of the proposed chalet bungalow design dwellings would be in keeping with the character of the surrounding dwellings and would complement the 9 houses previously approved on the adjoining site.

With regard to Policy H9 of the Local Plan, it clearly states that backland development would be permitted when it does not constitute piecemeal development. It is important to note that the application site does not form part of a large identified development area. As such therefore the proposal would not represent piecemeal development and therefore would not be contrary to the Policy H9 of the local plan.

No objection is raised in terms of scale, design, siting and appearance of the development under Policies BNE1 and H9 of the Medway Local Plan 2003, paragraphs 124 and 127 of the NPPF and the Medway Landscape Character Assessment.



## *Residential Amenity*

Policy BNE2 of the Local Plan and paragraph 127 of the NPPF seeks to ensure an adequate level of amenity is afforded to the future occupiers of new development as well as protected the amenities of existing surrounding residents. The main issue to consider for the future occupiers of the development is whether adequate space has been allowed for within the new dwelling houses. The Technical Housing Standards – nationally described space standard 2015 sets out the Government’s internal standards for new residential development. This is used as a guide for assessment. The table below shows the proposal against these standards.

<b>Plot no</b>	<b>House type</b>	<b>Proposed gross internal floor area m2</b>	<b>National Standard m2</b>
1&2	2 storey 4 bed 6 person	177.62	124
3&4	2 storey 3 bed 5 person	162.72	102

The proposal would clearly meet the gross internal area for each property and on this base, it is considered that there would be adequate internal amenity space for the future residents of the proposed dwellings. Furthermore the proposed chalet dwellings will have ground floor bedroom with en-suite facility which turn these units to potentially life time homes.

With respect to outdoor garden space, the nationally described standard does not provide any guidance. However, the Medway Housing Design Standards 2011 document does provide guidance in this regard and recommends a garden depth of 10m. Each of the dwelling houses proposed would have a rear private garden depth of 10m or more.

The proposal therefore accords with both Policies H9 and BNE2 which require that there be no loss of privacy from overlooking of adjoining houses and/or their gardens.

An assessment has been made of the impact of the proposed development on neighbouring properties. Only 2 of the proposed chalet bungalow would directly back onto existing properties to the east, however, these dwellings would have back to back distance of well over 50m and these two chalet will only have rear roof lights that would be 1.7m above the floor level of the respective rooms. As such it is considered that these chalet bungalows units would not cause overlooking or loss of privacy.

This separation distance is considered sufficient to ensure there is no harmful impact in terms of overlooking, loss of light or loss of outlook and loss of privacy of the surrounding properties.

Also 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 condition with regard to submission of Construction Environmental Management Plan is recommended.

With adequate internal and external space being provided, no objection is, raised in this regard and the proposal is considered to be in accordance with Policies BNE2 and H9 of the Medway Local Plan and paragraph 127 of the NPPF.

### *Highways*

It is noted the development would be accessed via an existing planning permission (MC/18/3168) and therefore no objection is raised in terms of access arrangements. In terms of internal layout, the application proposes at least two parking spaces to each property, with two visitor spaces and therefore meeting Medway's Interim Parking Standards.

Paragraph 110E outlines that development should provide electric charging facilities, therefore a suitably worded condition would have been attached if other material concerns had not been raised. Given the size of the development, one electric charging point per dwelling would be required.

Also condition is recommended that no dwelling shall be occupied until the car parking provision, sightlines and pedestrian crossing are made available prior to the occupation of the dwellings.

Whilst concerns remain regarding the impact on the highway network, the applicant has halved the number of dwellings and therefore it is not considered that the proposal would result in a severe impact on the highway network.

The proposal would be in compliance with Policies T1, T2, T3 and T13 of the local plan and paragraphs 105 and 108 of the NPPF.

### *Ecology*

KCC Ecology officer has considered the proposal and the submitted Ecological Appraisal and has raised no objection subject to imposing appropriately worded conditions and informative as stated above with respect to bat sensitive lighting, control of construction of the development during the birds nesting season, safe removal of an invasive species, cotoneaster, from the site and installation of birds and bat boxes to enhance biodiversity in the area.

Subject to the above conditions, no objection is raised under Policy BNE39 of the Medway Local Plan 2003 and Paragraph 175 of the NPPF.

### *Contamination*

The applicant submitted a Geotechnical Report Desk Top Study in support of the application., whilst, there is no objections and the R Carr Geotechnical Report Desk Top Study (3791/20 dated June 2020) is in line with current guidance and considered that the

risk of contamination being present is low, it is considered due to the sensitivity of the proposed use as residential and the previous known use of the site as part of a nursery, it is recommended a contamination watching brief condition be attached to any permission.

Subject to the recommended condition, no objection is raised under Policy BNE23 of the Local Plan and Paragraph 178 of the NPPF.

### *S106 matters*

The Community Infrastructure Levy Regulations 2010 provide that in relation to any decision on whether or not to grant planning permission to be made after 6 April 2010, a planning obligation (a s106 agreement) may only be taken in to account if the obligation is (a) necessary to make the development acceptable in planning terms; (b) directly related to the development; and (c) fairly and reasonably related in scale and kind to the development. The obligations proposed comply with these tests because they are necessary to make the development acceptable in planning terms, they are directly related to the development and are fair and reasonable in scale and kind. The following contributions are sought:

- i) A contribution of £14,801.49 towards nursery school provision in the Riverside Primary and Thames View Primary or a new free school in the area
- ii) A contribution of £28,545.72 towards primary school facilities one or more of; Riverside Primary – expansion to 3FE, Thames View Primary – expansion to 3FE, or a new free school in the area.
- iii) A contribution of £21,109.90 towards secondary school facilities in the Howard School, Rainham Girls, Rainham Mark, or a new free school in the area – to provide additional classrooms and communal facilities.
- iv) A contribution of £30,614.28 to enhance open space facilities at Berengrave Nature Reserve and or Riverside Country Park and indoor sport provision (Splash)
- v) A contribution of £2,695 towards public realm improvements in Rainham Town Centre.
- vi) A contribution of £807.62 towards Youth Service to have fitness sessions at Rainham Recreational Park for young people.
- vii) Public Right of Way £1,837.41 towards maintaining and promoting the riverside section of the Saxon Shore Way and/or improvement to footpaths GB5, GB6, GB44 and GB1
- viii) A contribution of £6,787.55 toward the improvement of local NHS GP practice.

ix) Waste and recycling £1857.46 to provide household containers for the collection of Recycling – use once bags and 240ltr wheeled brown bins to each property for the collection of food and garden waste

x) A contribution of £5,318.44 to improve sustainable transport.

xi) A contribution of £1001.56 towards bird mitigation measures.

The interim tariff stated above should be collected for new dwellings 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 agreed to pay this tariff and have and no objection is therefore raised under Paragraph 175 of the NPPF and Policies S6 and BNE35 of the Medway Local Plan 2003.

### *Climate Change and Energy Efficiency*

In response to matters of climate change and energy efficiency, all dwellings are designed in accordance with the latest standards within Part L1a of the Building Regulations (2016) will be achieved using energy-efficient design and measures alone. Where necessary, renewable energy systems may then be introduced to reduce carbon emissions to the level that satisfies the regulations.

The layout has been designed to give east-west facing orientation and aspect to the dwellings to enhance sunlight to the chalet units. Linked to the issue of orientation is that of daylight and the ability to capture natural daylight reduces energy use but creates a healthier, more pleasant environment. Capturing sufficient daylight is linked to good design. Also, larger areas of glazing including balconies will maximise light gain.

The development would include restricted water flow rates into the design of each dwelling to obtain the appropriate level of water efficiency.

Additional energy savings can be made by maximising the efficiency of appliances, lighting, low energy bulbs, fixtures and fittings. It is the intention that all fixed electric lighting will be energy efficient. Other fixtures and fittings will be specified that reduce hot water consumption with low and/or aerated flows.

The orientation of the dwelling would provide an opportunity for the use of sola panels on the rooves.

Condition is also recommended to be imposed concerning electric charging points for each dwelling.

#### *Local Finance Considerations*

None

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

The proposal is considered to be in a sustainable location and principle of the proposed development is acceptable and no objection is raised in terms of design, siting, appearance, impact on residential amenity, highways and parking, the impact on ecology, contamination and flooding are considered acceptable subject to the appropriate condition. Subject to the Section 106 contributions sought and the suggested conditions, no objection is raised under Paragraphs 47, 73, 78, 124, 127, 165, 175, 177, 178 and 213 of the NPPF and Policies S6, BNE1, BNE2, BNE3, BNE6, BNE8, BNE23, BNE25, BNE35, BNE39, BNE43, H9, T1, T2, T3, T13 and CF13 of the Medway Local Plan 2003 and the application is recommended for approval.

This application would normally be determined under delegated powers but is being referred for determination by Planning Committee due to the number of representations which have been received contrary to officer 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/>