

MC/20/2884

Date Received: 12 November 2020
Location: Port Werburgh Vicarage Road
Hoo Rochester
Proposal: Retrospective change of use of land from Marina to form part of adjacent mobile home park to provide 6 mobile homes
Applicant: Mr D Swann
Agent: Graham Simpkin Planning Ltd
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Ward: Peninsula Ward
Case Officer: Amanda Barnes
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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 13th October 2021.

Recommendation - Refusal

- 1 The application site falls within the boundary of the Vicarage Lane Employment Area as set out on the 2003 Local Plan Proposals Map. Policy ED1 seeks to protect existing employment areas applies and the proposal does not provide evidence or justification for the loss of employment land. As such, the development results in the loss of employment land contrary to the provisions of Policy ED1 of the Medway Local Plan 2003.
- 2 The submitted acoustic assessment has not been undertaken in accordance with current and most appropriate standards and is considered to be out of date. Consequently, without a valid satisfactory acoustic assessment the development is considered to result in unacceptable living conditions for prospective occupiers due to noise disturbance. The development as such, is contrary to Policy BNE2 of the Medway Local Plan 2003 and paragraphs 130(f) and 174(e) of the NPPF.
- 3 The proposed development falls into a flood risk vulnerability category that is inappropriate to the Flood Zone in which the application site is located. In the absence of an up-to-date Flood Risk Assessment the application is not in accordance with Policy CF13 of the Medway Local Plan 2003 and paragraph 159 of the NPPF.

- 4 The application site lies immediately adjacent to the Medway Estuary and Marshes SSSI, SPA and Ramsar Site. In the absence of a natural buffer between the development boundary (including private gardens) and the estuary, the application is considered to have a negative impact on the SSSI and is unacceptable with regard to the provisions set out under Policies BNE35, BNE36, BNE37 and BNE39 of the Medway Local Plan 2003 and paragraphs 174, 180 and 181 of the NPPF.

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

Proposal

The application seeks full planning permission for the retrospective change of use of land from Marina to form part of adjacent mobile home park to provide 6 mobile homes. The site for the extension of the Mobile Home Park consists of 0.5 hectares of land that comprised the hard-surfaced parking area.

The layout shows 6 mobile homes set along an east/west access with one parking space for each property and a small area of amenity.

Relevant Planning History

MC/21/1922	Application for a Lawful Development Certificate (Existing) for 6 mobile homes Refused 15 September 2021
MC/15/2334	Variation of conditions 2, 3, 4, 8, 9, 10 and 11 of planning permission MC/13/3340 - Demolition of existing buildings and change of use of land to provide an extension to existing mobile home park. Approved 27 August 2015
MC/13/3340	Demolition of existing buildings and change of use of land to provide an extension to existing mobile home park Approved 26 May 2015
MC/13/2967	Construction of a detached office building Approved 30 January 2014
MC/06/1583	Construction of maintenance workshop, new office building and staff facilities above 2 storage containers, and placement of 3 further storage containers on site (removal of existing mobile office) Withdrawn 23 October 2006
MC/05/1455	Retrospective application for siting of two single storey mobile buildings for office use Approved 06 January 2006

- MC/05/1048 Construction of two storey building to facilitate additional storage
Approved 14 July 2005
- MC/04/1388 Retrospective application for siting of a two-storey portable building
for office use
Refused 09 August 2004
- MC/00/1191 Construction of a covered storage area.
Approved 19 October 2000
- On access road but outside marina entrance
- MC/15/3492 Installation of 2 portacabins to facilitate the relocation of brokerage
office and cafe together with the creation of 15 car parking spaces
Approved 15 January 2016

Representations

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

The Environment Agency have written to object on ground that the proposed development falls into a flood risk vulnerability category that is inappropriate to the Flood Zone in which the application site is located.

The applicant should provide an updated FRA which includes further details addressing the points above.

We would recommend that there is a natural buffer between the development boundary (including private gardens) and the estuary. The current layout appears to show the proposed buildings immediately abutting the SSSI/MCZ. Therefore, the buffer is likely to fall entirely within the SSSI.

It would be useful to have further information on the exact layout in relation to the designations, and more specific information on how any designated land within the development site will be managed as buffer to the estuary habitat.

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 2021 (the NPPF) and are considered to conform.

Planning Appraisal

Background

An application for the demolition of existing buildings and the change of use of land to provide an extension to the existing mobile home park was submitted and approved in 2015 reference MC/13/3340 and later amended under application MC/15/2334. This application site consisted of 2.22 hectares of land that comprised the hard-surfaced yard and buildings to the north of the marina and an area of reclaimed land to the east of the Marina. The plans showed up to 60 mobile homes in that area.

The current application seeks retrospective consent for six mobile homes, the applicant has advised that these 6 have been relocated from the previously permitted mobile homes on the adjacent site to ensure that overall, there is no increase in the total number of mobile homes permitted at Port Werburgh.

The application is retrospective. At the time of the officer site visit 4 of the mobile homes have already been located on the application site and some are occupied.

Principle

The application site extends to 0.15 hectares and is located to the east side of the main access serving the Marina and Mobile Home Park. The land is rectangular in shape and abuts the site boundary to the north and east of the site. The western boundary is formed by the existing roadway serving the Marina and Mobile Home Park. To the south, the western part of the boundary abuts the crane wharf, and the remainder abuts the River Medway. To the north and east the site abuts industrial/storage uses as part of the adjoining Business Estate. There is an existing vehicle and pedestrian barrier with a site office located adjacent to the site boundary. There is a public footpath running along the northern boundary of the site.

While the application site is behind the gated entrance to the Marina and within the marina area itself, based on the proposals map supporting the 2003 Local Plan the application site falls within the boundary of the Vicarage Lane employment area and is covered by ED1 'Existing Employment Areas'. At the time of the 2013 application to extend the mobile home park onto the reclaimed land to the south, the application site was not shown as part of the proposed mobile home extension and was outlined in blue as other land in the applicant's ownership. It was laid to hardstanding at that time. Immediately to the north of the site, outside the marina and across the public footpath are employment uses and buildings.

At the time of the 2003 Local Plan, the application site was therefore seen as part of the adjacent employment area, whether or not within the Marina area, Policy ED1 only allows uses within uses classes B1, B2 and B8, as detailed in para. 4.51. (x.viii).

Other than referring to details of fencing agreed pursuant to the 2013 application, which allowed the palisade fencing and entrance barrier which separates the site from the adjacent employment area, the applicants have not put forward any cogent argument as to why the employment allocation in the 2003 plan is not still appropriate or that other material planning considerations should be given greater weight and the principle can be accepted. The proposal is therefore contrary to the provisions of Policy ED1 of the Local Plan.

Visual Impact

Local Plan Policy BNE1, which deals with the general principles of built development, advises that the design of development should be appropriate in relation to the character, appearance and functioning of the built and natural environment in terms of its use, scale, layout and siting. Development must also respect the scale, appearance and location of buildings, spaces and visual amenity of the surrounding area. Paragraphs 126 and 130 of the NPPF seek to promote good design and high-quality buildings. Furthermore, Local Plan Policy BNE46(i) advises that the appearance and environment of the coast should be improved for development along the developed coastline to be considered acceptable.

At the time of the site visit four of the mobile homes had already been located on the land with the concrete bases for the remaining 2 already there. The units are arranged in two rows of three homes in each row, with spacing to conform with the guidelines for caravan site licensing. Between each home there is space for a single car parking space and between the rows of homes there is space for an internal roadway. This arrangement is acceptable to meet the requirements of a Caravan Site Licence. The homes are of a style that has already been permitted on the adjoining land under the previous planning permission.

Due to the size of the site, there is little scope for structural landscaping within the confines of this restricted site, however the applicant has advised that each homeowner will be able to plant up their own plot subject to basic principles as previously approved on the adjoining site as follows:

- All landscaping to be kept below 2 m in height so as not to intrude into the low-lying landscape.
- The site rules require private gardens to be kept neat and tidy. The planting of trees and shrubs is subject to the landowner's approval of type and position. Trees or shrubs that grow too tall may be required to be cut down. Gardens are to be left intact when the occupier vacates the pitch.
- No hedges will be permitted between mobile homes unless below 1 m in height. Any fencing will also be no greater than 1m in height.

It is accepted that the siting of mobile homes in this location, closer to the coastline, will have an impact visually on this part of the river front, particularly when viewed from the river. Nevertheless, Port Werburgh is a working marina, and its impact is already extensive, with large numbers of house boats and leisure craft moored and boats stored on site. The existing mobile home park north of the application site is already visually dominant from the river side and in this instance, the additional residential mobile homes will be no more intrusive than the existing use of the site and the existing structures in the area. The siting of mobiles will not be seen from the open countryside further north and will not be seen until approach to the site has been made and are screened by existing structures and the industrial uses established to the north east.

As a consequence of this setting, it is not considered that the new development would detract from the appearance or environment of this part of the coast. There are no objections to the proposal under the provisions set out under Local Plan Policies BNE1 and BNE46

Residential Amenity

There are two main amenity considerations. The impact on neighbouring occupiers in terms of sunlight, daylight, outlook and privacy, and the standard of amenity that would be experienced by future residents of the proposed mobiles themselves. Policy BNE2 of the Local Plan and paragraph 130f of the NPPF relates to the protection of these amenities.

Existing Residents

The nearest existing residential properties are mobile units within the adjacent and older Park Homes site to the west. Due to the siting of those units compared to the application site they will not be impacted unacceptably by the proposed Mobile Homes with regard to loss of sunlight, daylight, overlooking or privacy.

Separation of mobile homes is covered under the caravan site act 1968 which applies to the proposed development and the existing mobile home park as well as the relationship between them.

Proposed Occupiers

The site is set immediately adjacent to an existing employment area which comprises uses which potentially can generate significant noise disturbance. The submitted noise report references BS4142:1997. This version of the standard is no longer applicable and has been superseded by BS4142:2014. The assessment therefore needs to be undertaken in accordance with the latest version of the standard.

The assessment also refers to measurements undertaken in 2013, which is eight years ago, and the results may not be representative of current activities at the nearby commercial premises. As such the submitted acoustic assessment is not acceptable, and the impact of noise on the new residential units has not been properly assessed. The applicant was advised of this, but no new report has been submitted. Without such a full and proper assessment, it is not possible to conclude that the occupiers of the new mobile homes will not be adversely impacted by the uses in the adjacent employment area to an extent which would make their living conditions in terms of amenity unacceptable. As such the development is contrary to the provisions of Policy BNE2 of the Local Plan or paragraph 130(f) and 174(e) of the NPPF.

Ecology

The application site lies immediately adjacent to the Medway Estuary and Marshes SSSI, SPA and Ramsar Site.

Due to the siting of the mobiles so close to the designated sites concern is raised as to the impact they would have on them. A natural buffer needs to be established between the development boundary (including private gardens) and the estuary. The current layout appears to show the mobiles immediately abutting the SSSI/MCZ. Therefore, the buffer is likely to fall entirely within the SSSI. Further information has been sought from the applicant but has not been received to address this issue and as such the application

is considered to be unacceptable with regard to the provisions set out under Local Plan Policies BNE35, BNE36, BNE37 and BNE39 and paragraphs 174, 180 and 181 of the NPPF.

Flood Risk and Drainage

Under the provisions of Local Plan Policy CF13, development will not be permitted within a tidal flood risk area if it harms the integrity of the flood defences; or it fails to provide for a means of escape for people in the event of a flood; or it introduces residential living and sleeping accommodation below the estimated flood level; or it introduces mobile homes or caravans; or it introduces new holiday accommodation between October and May.

The proposed development falls into a flood risk vulnerability category that is inappropriate to the Flood Zone in which the application site is located. An updated Flood Risk Assessment has been sought from the applicant but has not been received. As such the application is not in accordance with Policy CF13 of the Local Plan and paragraph 159 of the NPPF.

Contamination

The site was formerly used as a coach park/depot and therefore there is the potential for contamination to exist at this site. As the site is intended for residential, which is a sensitive end use, the potential for contamination at the site needs to be considered. Groundworks have already been undertaken at the site and some of the units are already in place, while it is not ideal to try and assess contamination retrospectively, due to the provision of service ingress into the units plus the provision of soft landscaped area, a contaminated land condition is recommended on any permission. Subject to this the application is considered to be in accordance with Policy BNE23 of the Local Plan.

Public Right of Way

The proposal will not reduce the width or use of the Saxon Shore right of way. The plans show a palisade fence alongside the boundary with the footpath with a close boarded fence on the inside to ensure a 'softer' appearance for the mobile home occupants. Concern has been raised with regard to the use of the palisade fence due to the harsh industrial appearance of this boundary treatment and it is considered that a weldmesh fence would be more suitable, but it is considered that this could be dealt with by condition. Subject to this condition no objection is raised under the provisions of Policy T3 of the Local Plan.

Highways

It is not considered that the proposed change of use would introduce additional traffic and parking requirements which would have a detrimental impact on the existing road network. The proposed change of use would provide adequate parking provision for the intended number of mobile homes (6 spaces on a 1:1 ratio) and would provide for overspill parking on the adjacent car park.

As such there are no objections to the proposal under the provisions set out under Local Plan Policies T1 and T13 and paragraph 111 of the NPPF.

Bird Mitigation

As the application site is within 6km of the North Kent Marshes SPA/Ramsar Sites, the proposed development is likely to have a significant effect, either alone or in combination, on the coastal North Kent Special Protection Areas (SPAs)/Ramsar sites from recreational disturbance on the over-wintering bird interest. Natural England has advised that an appropriate tariff of £250.39 (2020 tariff) per dwelling (excluding legal and monitoring officer's costs, which separately total £550) should be collected to fund strategic measures across the Thames, Medway and Swale Estuaries. The strategic measures are in the process of being developed but are likely to be in accordance with the Category A measures identified in the Thames, Medway & Swale Estuaries Strategic Access Management and Monitoring Strategy (SAMM) produced by Footprint Ecology in July 2014. The interim tariff stated above should be collected for new dwellings, either as new builds or conversions (which includes HMOs and student accommodation), in anticipation of:

- An administrative body being identified to manage the strategic tariff collected by the local authorities.
- A memorandum of understanding or legal agreement between the local authorities and administrative body to underpin the strategic approach.
- Ensure that a delivery mechanism for the agreed SAMM measures is secured and the SAMM strategy is being implemented from the first occupation of the dwellings, proportionate to the level of the housing development.

The applicants have paid this tariff. No objection is therefore raised under Paragraphs 180 and 181 of the NPPF and Policies S6 and BNE35 of the Local Plan.

Local Finance Considerations

There are no Local Finance Considerations associated with this proposal.

Conclusions and Reasons for Refusal

Based on the proposals map to the 2003 Local Plan, the application site falls within the boundary of the Vicarage Lane employment area and the applicants have not put forward a cogent case as to why this policy protection should be outweighed by other material planning considerations. As such mobile home usage on this site is not an acceptable use.

The submitted acoustic assessment is not acceptable and the impact of noise on the new residential units has not been fully and properly assessed.

The proposed development falls into a flood risk vulnerability category that is inappropriate to the Flood Zone in which the application site is located.

The application site lies immediately adjacent to the Medway Estuary and Marshes SSSI, SPA and Ramsar Site. Due to the siting of the mobiles so close to the designated sites concern is raised as to the impact they would have on them.

The application is therefore not in accordance with Policy BNE2, BNE35, BNE36, BNE37, BNE39, ED1 and CF13 of the Local Plan or paragraphs 130(f), 159, 174, 180 and 181 of the NPPF and is therefore recommended for refusal.

This application would normally be determined under delegated powers however in this instance the proposal has to be determined at Planning Committee due to the fact that some of the mobile units are now occupied and a refusal will require enforcement action being taken.

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 on Medway Council's Website <https://publicaccess1.medway.gov.uk/online-applications/>