

MC/21/2065

Date Received: 12 July 2021
Location: Land Adjoining 35 Cooling Road High Halstow
Rochester Medway
Proposal: Outline application with some matters reserved (appearance, layout, scale) for the construction of five detached self-build dwellings with associated garages, parking, landscaping and improvements to existing vehicular access
Applicant: Mr & Mrs Michael Waller
Agent: Taylor Roberts Ltd
Miss Nicola Harvey
Suite 3, Franklin House
10 Best Lane
Canterbury
CT1 2JB
Ward: Peninsula Ward
Case Officer: Madeline Mead
Contact Number: 01634 331700

Recommendation of Officers to the Planning Committee, to be considered and determined by the Planning Committee at a meeting to be held on 12th January 2022.

Recommendation - Refusal

1. The proposed development does not provide for safe access for vehicles entering the carriageway and is not considered to provide suitable access for all and would therefore result in an unacceptable impact on highway safety. The proposed development is therefore contrary to Policies T1 and T3 of the Medway Local Plan 2003 and the provisions of paragraphs 105, 110, 111 and 112 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

This is an outline application for five self-build detached houses with all matters reserved except access.

An indicative site layout drawing has been submitted that shows how five detached dwellings could be accommodated within the site. The dwellings are proposed as self-

build plots, all of similar size to be located within a new cul-de-sac accessed off of Cooling Road.

The submitted indicative site layout drawing shows that a footpath is proposed to be created to run along the front boundary of the site adjacent to Cooling Road.

A vehicular access road is to be created, which would run to the rear of the garden of 1 Thames View, to the existing outbuilding at the rear of number 2 Thames View.

Site Area/Density

Site Area: 0.42 hectares (1.04 acres)

Site Density: 5.66 dph (5.76 dpa)

Relevant Planning History

MC/18/0096 Outline planning application with some matters reserved (appearance, layout, scale and landscaping) for the demolition of existing outbuildings and erection of five detached self-build dwellings with associated garages, parking, landscaping and improvements to existing vehicular access

Decision: Approval with Conditions

Decided: 31 July 2018

MC/04/1068 Mixed use of land as paddock and grazing land for agricultural livestock and construction of a building comprising two stables and hay/bedding store

Decision: Approval with Conditions

Decided: 11 August 2004

Representations

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

No letters of representation have been received.

High Halstow Parish Council, KCC Biodiversity, Royal Society for the Protection of Birds, Natural England, Kent Wildlife Trust, Environment Agency and Southern Water Services have also been consulted.

Dickens Country Protection Society has commented that there are insufficient community facilities to support the development.

KCC Ecology (KCCE) is satisfied that sufficient information has been provided with the application. The ecological enhancement strategy submitted with the application details

the ecological enhancements within the site. A condition is recommended to ensure the enhancements within the strategy are implemented.

Natural England has no objection to the development subject to appropriate mitigation being secured by way of financial contributions to the Thames, Medway and Swale Estuaries Strategic Access Management and Monitoring Strategy (SAMMS).

Environment Agency have advised that they have no comments to make.

Southern Water Services have written and attached a map which shows the approximate position of there existing public foul sewer and water main within the development site. They have also advised that a sewer now deemed to be public could be crossing the development site.

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 and are considered to conform.

Planning Appraisal

Principle

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires applications for planning permission to be determined in accordance with the development plan unless material considerations indicate otherwise.

The site lies within open countryside, outside the rural settlement boundary and has no other particular designations within the Local Plan. As a site located within the countryside, the principle of the proposed development would fall outside of the development strategy as set out in the Local Plan, which directs development to brownfield sites. Policies S1 and S2 of the Local Plan seek to prioritise development within the existing urban fabric. Policy BNE25 of the Local Plan states development will be strictly controlled and will not be permitted except where it complies with a limited range of specified categories set out in the Policy, which do not apply in this case. Consequently, the proposal would conflict with Policy BNE25 of the Local Plan that seeks to restrict inappropriate housing development outside the built confines of settlements.

However, it is acknowledged that the Local Plan is of some age, being adopted in 2003, and the Council does not currently have a five year land supply. As such there is non-conformity between the restrictive countryside Policy BNE25 within the Local Plan and the more recent NPPF.

The NPPF seeks to pursue sustainable development, (including countryside sites where appropriate), in a positive way through a presumption in favour of sustainable development, unless the policies within the NPPF provide clear reasons for refusing development, or any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits (paragraph 11). Paragraph 60 of the NPPF also seeks to boost the supply of housing by bringing forward a variety of land to meet specific housing requirements. Paragraph 79 of the NPPF also supports the provision of housing in rural areas where it will enhance or maintain the vitality of rural communities. Although only a small development, it will nevertheless contribute to this small rural community.

It is necessary to consider whether this proposal is a sustainable development, and to also consider the impact of the development on the character of the area and the importance of the site in landscape terms. The NPPF definition in paragraph 8 refers to sustainable development having an economic, social and an environmental role, and these three overarching objectives need to be pursued in mutually supportive ways.

In respect of the proposal, socially, there are benefits from the scheme through the provision of housing to help meet the 5 year supply, and the close proximity of the site to local services and facilities within a suitable walking distance. However, although local services and facilities are within suitable walking distance, the road that would lead to these facilities would be via Cooling Road, which does not benefit from a footpath or street lighting. This element has been considered below within the highways section. Economically, the site would boost the local economy during construction process providing jobs in the short-term. The site is near to transport links that allow for good access for commuting and therefore, as it is sustainably located, it will help provide the increased workforce that enables continued economic growth in the longer term.

Environmentally, the applicant has submitted surveys and reports to cover ecological matters and these are considered in detail below but they are generally acceptable. The ecological enhancements suggested, including the retention, enhancement and creation of boundary hedgerows, and a 5m wide ecological buffer that would run along the eastern boundary of the site from north to south, would be beneficial in terms of environmental gains from the development. The site is not located within any protected sites, however, Dalham Farm SSSI is located on the northern side of Cooling Road (opposite the application site). The site is bordered on two sides by residential houses; No. 35 Cooling Road to the east and Notre Songe, 1 and 2 Thames View Cottages to the west. The landscape value of the site is therefore limited by these immediate surroundings and in some respects, as a result of its surroundings, the site could be considered an infill site. Overall, due to the limited landscape value, it is considered that there would be no negative impact on the environment.

Whilst the proposed development would result in further suburbanisation of the road, it is considered that in principle, residential development here would not cause sufficient harm to the wider character and functioning of the countryside to outweigh the presumption in favour of this sustainable development.

The nature of the proposed scheme as a self-build project must also be considered. Self-build is defined as when someone gets involved in or manages the construction of their new home (definition from NaCSBA). The Department for Communities and Local Government (DCLG) published the Housing White Paper, Fixing Our Broken Housing Market in February 2017, which asserts it 'will make it easier for people who want to build their own homes' (p.14). The White Paper makes it clear that custom and self-build is an important part of the Government's strategy to solve the housing crisis. As a result, Local Planning Authorities will be expected to have policies that support the development of small 'windfall' sites that are not allocated in policy plans, and they will be expected to identify opportunities for villages to thrive, especially where this would support local services and meet the need for local homes for local people. The White Paper also commits to promoting the Right to Build portal from the National Custom and Self Build Association (NaCSBA), so that anyone wanting to build their own home can easily find the Local Authority register in their area.

In terms of Medway's Self Build Register, the level of demand is monitored via annual base years. To date, there have been 6 base years and the following demand has been established:

- Base Period 1 - 14 individuals
- Base Period 2 - 38 individuals
- Base Period 3 - 13 individuals and 1 association
- Base Period 4 - 12 individuals and 1 association
- Base Period 5 - 17 individuals
- Base Period 6 – 11 individuals (to date)

These figures indicate there is a clear demand for self-build plots in Medway and together with the impetus from the Government for the type of self-build development that is proposed under this application, this is a development that should be encouraged. The applicant is committed to ensuring the self-build nature of the scheme, however, a deed of variation would be needed to the Unilateral Undertaking agreed for planning permission MC/18/0096 to secure this.

In terms of the planning balance, it is not in dispute that the Council cannot demonstrate a 5 year housing land supply and therefore paragraph 11(d) of the NPPF is engaged.

The proposed development would provide social, economic and environmental benefits associated with the provision of new homes. These include the provision of jobs for local people during the construction period, as well as spend in the local economy and the positive impact of the countryside location on the wellbeing of the future occupants. However, the lack of footpaths and street lighting that would link the development to the local facilities and services (as set out in the Highways section below) would significantly and demonstrably outweigh the benefits of the proposed development. Consequently, the presumption in favour of sustainable development does not apply in this case.

Design

Paragraphs 126 and 130 of the NPPF emphasises the importance of good design and Policy BNE1 of the Local Plan states that development should be satisfactory in terms of scale and mass and should respect the visual amenity of the surrounding area. Paragraph 129 of the NPPF relates to design codes, and their use in providing a framework for creating distinctive places with a consistent and high-quality standard of design. Special attention needs to be paid to the impact on the character and appearance of the countryside Policy BNE25 of the Local Plan seeks to ensure development is sensitive to these areas.

The surrounding area contains a mix of house types and designs. As appearance is a reserved matter, and as this is a self-build application, the development provides a real opportunity for exceptional, innovative and high-quality design.

A design code is considered important for this scheme to ensure there are adequate controls to prevent the proposed architectural style from being 'dumbed down' and to ensure that the scheme adheres to the rural vernacular that it seeks to reflect. Additionally, as a self-build scheme, the self-builder must be able to have control over the design of the house. A design code has been submitted with the application which articulates the design principles and materials, without being too prescriptive about the actual houses to be built, and this is considered acceptable. If the application were to be successful a condition is recommended for the reserved matters submission to be in line with the submitted design code.

The above can be secured by conditions if planning permission is being granted and as such no objection is raised to the application with regards Policies BNE1 and BNE25 of the Local Plan and paragraphs 126, 129 and 130 of the NPPF.

Amenity

There are two main amenity considerations, firstly the impact of the proposed dwellings on neighbours and secondly the living conditions which would be created for potential occupants of the development itself. Policy BNE2 of the Local Plan and paragraph 130 (f) of the NPPF relates to the protection of these amenities.

The proposal will clearly change the present situation at the site with regard to increased noise, disturbance, traffic and activity levels. However, the number of units proposed is not considered excessive or an overdevelopment of the site, and the proposed dwellings would be well-separated from neighbours, which would negate any impact. The proposed residential use of the site would be in keeping with surrounding residential uses. It is recognised there are likely to be issues during construction; these are discussed below.

With regard to the impact on neighbours, the proposed dwelling, plot 5, as shown on the indicative layout drawing would be the closest to a neighbouring property, Notre Songe. The flank wall of plot 5 is indicated to be approx. 20m from the rear elevation of Notre

Songe. It is therefore considered that the privacy and light benefitting Notre Songe are not likely to be significantly affected. Privacy for neighbouring properties can be further protected through the detailed design of the proposed dwellings and positioning of habitable and non-habitable rooms and windows and conditioned as necessary at reserved matters stage should the application be successful. Boundary treatment and screening is shown as indicative on the drawing and this would also help.

With regard to the amenities of future occupants of the development site itself, the detailed design of the proposed dwellings would need to pay regard to the Technical Housing Standards - nationally described space standard (2015). Consideration should be given to the need to create sufficient privacy within the proposed gardens. It is considered that careful design and boundary treatment could provide a satisfactory scheme in this respect.

On the whole, it is considered that the design of five dwellings on this site could be developed to protect the amenities of existing and future occupiers. However, this is an issue that would be properly considered at reserved matters stage. In principle, it is considered that the impact on amenities is acceptable and in accordance with Policy BNE2 of the Local Plan and 130(f) of the NPPF.

Due to the proximity of neighbouring properties the construction of the development itself could lead to noise and nuisance dust emissions to nearby residential properties and therefore, if the application were to be considered acceptable, it is recommended that a condition is imposed requiring the submission of a Construction Environmental Management Plan. On this basis, the proposal is considered to be in accordance with the provisions of Policy BNE2 of the Local Plan and paragraph 130(f) of the NPPF.

Highways

Access to the site will be via Cooling Road, the applicant in the original submission provided drawing T-2020-193-05 Rev A which outlines visibility splays for the access. It was noted that the visibility splay to the west would be obstructed by the neighbouring boundary treatment and vegetation and therefore are not achievable. This also seems to be confirmed within the Transport Technical Note at Section 1.2.4, that has been submitted with the application, which outlines that the vegetation needs to be maintained by the landowner. It is therefore considered that the vegetation/boundary treatment adjacent to the access (to the west) would need to be removed and given that this is outside the ownership of the applicant, is not achievable.

The applicant seeks to provide further detail with drawing H-01 P1 (Transport Technical Note). Within the Transport Note it raises the potential of a visibility splay of 95m to the west bound, however, this length would be contested given the vegetation along the northern side of Cooling Road.

No speed surveys have been submitted with the application, to demonstrate current vehicular speeds along Cooling Road and it is considered speeds could be potentially

higher than the posted speed limit, given the proximity of the national speed limit along this road.

It is recognised that within the vicinity there are a number of crossovers, however, these are historic and this new development should be considered against the current and relevant policy guidance. It is therefore considered that permitting a substandard access on the principal vehicular route through the village would be detrimental to highway safety and therefore conflict with paragraph 111 of the NPPF.

A short footpath is proposed to the front of the site, however, whilst this is a small development, there are concerns regarding pedestrian movement and safety down this narrow rural lane with no street lighting (particularly as this is the principal route to Cooling and Cliffe). The proposal is considered to be contrary to Policy T3 of the Local Plan, concerning pedestrian provisions, which asserts that development proposals should provide safe pedestrian access, and in all cases, should maintain or improve pedestrian routes related to the site, and paragraphs 110 and 112 of the NPPF, which seek to ensure that safe and suitable access can be achieved, minimising conflicts.

It is acknowledged by the applicant that no formal infrastructure is in place and whilst they have contended that the crash data is limited, reference should be made into the inspector's decision at land east of Merryboy's Farm, Cooling Common, Cliffe Woods (Appeal Ref: W4001002), that just because there are limited accident records does not by default suggest that the carriageway is therefore safe for further development.

It is noted that the applicants reference paragraph 105 of the NPPF, which states;

“Significant development should be focused on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes. This can help to reduce congestion and emissions, and improve air quality and public health. However, opportunities to maximise sustainable transport solutions will vary between urban and rural areas, and this should be taken into account in both plan-making and decision-making.”

Along this section of Cooling Road, this development would add up to a fifth of new housing stock and therefore it would not be considered insignificant. As is agreed, the surrounding network does not feature street lighting, this means that the road is unlikely to be an attractive environment for pedestrians and cyclists particularly during periods of darkness or inclement weather, which would likely increase reliance upon private cars as a means of undertaking journeys and as highlighted in the NPPF paragraph above, it is a requirement that developments are accessible by means other than private cars.

Regarding the layout, there will be sufficient turning space in the site for vehicles to enter, manoeuvre and exit the site in a forward-facing direction.

The adopted Interim Residential Parking Standards 2010 require a minimum of two spaces for a dwelling with three bedrooms or more. The indicative drawing shows each

property to have at least two car parking spaces. It is considered that sufficient off-road parking can be accommodated within each plot. With regards to garage sizes, whilst the plans are at a high level, it should be noted that minimum requirements for a garage are 7m x 3m.

Paragraph 112E of the NPPF outlines that developments should be designed to enable electric charging points and therefore if the application were to be considered acceptable a condition would be recommended to secure this.

Overall, it is considered that the proposed development would not provide safe access for vehicles entering the carriageway and would also not provide safe pedestrian movements along this narrow rural land and would therefore be detrimental to highway safety and contrary to the provisions of paragraphs 110, 111 and 112 of the NPPF and Policies T1 and T3 of the Local Plan.

Contamination

The application has been submitted with a desk top study and site investigation by Ground and Environmental Services Limited. The desk top study includes a site history, site walkover, information on the geology and hydrogeology at the site. The Desk Top Study has not identified any risk of contamination and has not recommended any further actions. No further concerns regarding contamination are raised and the proposal is considered to be in accordance with Policy BNE23 of the Local Plan and paragraph 183 of the NPPF.

Ecology

Paragraph 180 of the NPPF expects local authorities to conserve and enhance biodiversity. Policy BNE37 of the Local Plan relates to the protection of wildlife habitats, and Policy BNE39 concerns protected species.

A Preliminary Ecological Appraisal has been submitted with the application, together with a Reptile and Great Crested Newt Survey Report. The report states that the site consists of a very shortly grazed horse paddock with a discontinued hedge along the road and a 3m wide strip of shrubs along the East boundary.

The conclusions of the reports are acceptable in relation to any impacts the development may have on protected species or sites and no additional ecological information is required. The preliminary ecological appraisal has made recommendations to enhance the site for biodiversity, details of the enhancements would be requested as a condition of planning permission if granted.

On the basis of the above, the application is considered acceptable in terms of its nature conservation impact, under the provisions of paragraph 180 of the NPPF and Policies BNE37 and BNE39 of the Local Plan.

Drainage and Surface Water Flood Risk

During the previous planning application (reference: MC/18/0096) concerns were raised in relation to the use of soakaways at the site. The underlying geology of the area is clay and this does not suitably allow for soakaways to be used, therefore an alternative scheme should also be investigated.

SuDs are designed to control surface water runoff close to where it falls and mimic natural drainage as closely as possible. They provide opportunities to:

- Reduce the causes and impacts of flooding.
- Remove pollutants from urban runoff at source.
- Combine water management with green space with benefits for amenity, recreation and wildlife.

Paragraph 80 of National Planning Policy Guidance Flood and Coastal Change presents a hierarchy of drainage options to follow with the aim being to discharge surface runoff as high up the hierarchy as possible. This is also reiterated within Part H of the Building Regulations.

The options are:

- 1 Into the ground.
- 2 To a surface body.
- 3 To a surface water sewer, highway drain, or another drainage system.
- 4 To a combined sewer.

It would also be recommend for the use of rainwater harvesting, grey water recycling and water butts where practicable in order to provide an additional means of surface water attenuation as well as reduced demand on portable water supplies.

It is noted that information submitted with the previous application, details the surface water strategy, however, to be sure that this is acceptable in relation to the proposed scheme, if the application were to be considered acceptable a condition would be recommended for these details to be submitted.

The application form states that soakaways are to be used to dispose of surface water, however, they are unlikely to be feasible in this location due to the underlying clay geology. An alternative solution would be to keep impermeable surfaces to a minimum by using permeable paving for driveways, and possibly the installation of a swale at the bottom of the development to intercept increases in surface water flow resulting from the development.

Overall, no objection is raised by the Council to the proposed site drainage subject to the recommended conditions. With the inclusion of the suggested condition, the development is considered to be in accordance with paragraph 168 of the NPPF.

Climate Change and Energy Efficiency

This is an application for outline permission for the construction of five self-build dwellings and therefore it is considered, that if the application were to be considered acceptable details of how each dwelling would address climate change and energy efficiency for each dwelling would be submitted as part of the reserved matters stage.

Bird Mitigation

As the application site is within 5km of the Medway Estuary & Marshes SPA, Ramsar and SSSI and 2km of the Thames Estuary & Marshes SPA, Ramsar and SSSI, though small, the proposed development is likely to have an 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 £253.83 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 submitted a SAMMs mitigation contribution agreement and paid this tariff under planning application reference MC/18/0096. No objection is therefore raised under Policies S6 and BNE35 of the Local Plan and paragraphs 180 and 181 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 into 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 for the reasons explained in the previous section.

The only other matter concerning s106 relates to an obligation for the development to be

self build. The applicant has agreed to the inclusion of such an obligation to ensure the development is delivered in this manner.

Conclusions and Reasons for Refusal

Overall, it is considered that the proposed development would not provide safe access for vehicles entering the carriageway and would also not provide safe pedestrian movements along this narrow rural lane that does not benefit from a footpath or streetlighting and would therefore be detrimental to highway safety and contrary to the provisions of Policies T1 and T3 of the Medway Local Plan 2003 and paragraphs 110, 111 and 112 of the NPPF.

The application would fall to be determined under delegated powers but is being referred to the Planning Committee for determination for the reason that the previous application was determined by Members and the recommendation defers from previous decision.

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/>