

MC/21/2493

Date Received: 23 August 2021

Location: Phase 2 Bakersfield Rainham  
Gillingham Medway

Proposal: Construction of nine 3-bedroom dwellings with associated parking, landscaping, refuse stores and community amenity space

Applicant McCulloch Homes & McCullochs (CI) Ltd

Agent Tetlow King Planning  
Mr Iain Warner 32 High Street  
West Malling  
ME19 6QR

Ward: Rainham North Ward

Case Officer: Kemi Erifevieme

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 6th April 2022.**

### **Recommendation - Approval with Conditions**

- 1 The development hereby permitted shall be begun before the expiration of three years 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 plans:

Received 23 August 2021

743-201-A Units 19-20 Plans & Elevations

743-202-A Units 21-22 & 23-24 Plans & Elevations

743-203-A Units 25-27 Plans & Elevations

743-205-A Proposed Street Scene

4711-LLB-XX-XX-DR-L-0003-S3-P01 Planting Plan Attenuation Basi

Received 14 September 2021:

19-153\_C03 Rev G Pond Construction Detail

19-153\_C15 Rev a Proposed Surface Water Outfall Location

Received 23 September 2021:

19-153\_C01 Rev H Levels layout

19-153\_C02 Rev J Drainage Layout

19-153\_C04 Private Drainage Construction Detail

19-153\_C05 PC Ring Catchpit Construction Detail

19-153\_C06 Private Hardstanding Construction Detail

19-153\_C07 Vehicle Tracking (Fire Appliance)

19-153\_C14 SDS Geolight Attenuation Tank

Received 04 February 2022:

19-153\_C02 Rev M Drainage Layout

19-153\_C03 Rev L Catchpit Construction Detail

743-001-E Proposed Site Plan

4711-LLB-SH-L- 0001-S4-P02 Landscape Maintenance Schedule

4711-LLB-SP-L- 0001-S4-P02 Landscape Softworks Specification

4711-LLB-XX-XX-DR-L-0003-S4-P02 Catchpit Planting Plan

4711-LLB-XX-XX-DT-L-0001-S4-P01 Tree pit details

Received 22 March 2022:

WD-513 B Schedule of Materials

PD-800 P1 External Works Materials Schedule

19-153\_C06 Rev C Hard Landscape Construction Detail

743-001-F Proposed Site Plan

4711-LLB-XX-XX-DR-L-0002-S4-P06 Planting Plan

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

- 3 All materials shall match those as set out on the Schedule of Materials (WD-513 B), received 22 March 2022.

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 Prior to occupation (or within an agreed implementation schedule) a signed verification report carried out by a qualified drainage engineer (or equivalent) must be submitted to and approved by the Local Planning Authority to confirm that the agreed surface water system has been constructed as per the agreed scheme and plans. The report shall include details and locations of critical drainage infrastructure (such as inlets, outlets and control structures) including as built drawings, and an operation and maintenance manual for the unadopted parts of the scheme as constructed.

Reason: This condition is sought in accordance with paragraph 167 of the NPPF to ensure that suitable surface water drainage scheme is designed and fully implemented so as to not increase flood risk onsite or elsewhere.

- 5 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 method statements, scaled and dimensioned plans and drawings detailing surface water management proposals to include:

- i. Temporary drainage systems.
- ii. Measures for managing pollution / water quality and protecting controlled waters and watercourses.
- iii. Measures for managing any on or offsite flood risk

Reason: To manage surface water during and post construction and for the lifetime of the development as outlined at Paragraph 167 of NPPF.

- 6 The residential units herein approved shall not be occupied until the area shown on the submitted layout as vehicle parking space/garaging has been provided, surfaced and drained. Thereafter it shall be kept available for such use and no permanent development, whether or not permitted by the Town and Country Planning (General Permitted Development) Order 2015 (or any order amending, revoking or re-enacting that Order) shall be carried out on the land so shown or in such a position as to preclude vehicular access to this reserved parking space/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 in accordance with Policies T1 and T13 of the Medway Local Plan 2003.

7 No development shall take place until full details of the following air quality mitigation measures have been submitted and approved in writing by the Local Planning Authority:

- All gas-fired boilers to meet a minimum standard of <math>40\text{mgNOx/kWh}</math>

All works, which form part of the approved details, shall be completed before any individual building is occupied and shall thereafter be maintained in accordance with the approved details.

Reason: To ensure that the development does not prejudice the amenities of future occupants in accordance with Policy BNE2 of the Medway Local Plan 2003.

8 Unless otherwise agreed by the Local Planning Authority, development other than that required to be carried out as part of an approved scheme of remediation must not take place until conditions 9 to 11, have been complied with. If unexpected contamination is found after development has begun, development must be halted on that part of the site affected by the unexpected contamination to the extent specified in writing by the Local Planning Authority until conditions 12 has been complied with in relation to that contamination.

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

9 No development shall take place until an investigation and risk assessment, in addition to any assessment provided with the planning application, has been completed in accordance with a scheme to assess the nature and extent of any contamination on the site, including risks to groundwater, whether or not it originates on the site. The scheme shall be submitted to and approved in writing by the Local Planning Authority prior to commencement of the development. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report shall be submitted to and approved by the Local Planning Authority prior to the commencement of development. The report of the findings must include:

- (i) a survey of the extent, scale and nature of contamination.
- (ii) an assessment of the potential risks to:

- o human health
  - o property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes.
  - o adjoining land,
  - o groundwaters and surface waters,
  - o ecological systems,
  - o archaeological sites and ancient monuments.
- (iii) an appraisal of remedial options, and proposal of the preferred option(s).

This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'.

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

- 10 A detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment must be prepared and submitted to and approved in writing by the Local Planning Authority prior to commencement of the development. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

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

- 11 The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of any development (other than development required to enable the remediation process to be implemented) unless otherwise agreed in writing by the Local Planning Authority. The Local Planning Authority must be given not less than two weeks written notification prior to the commencement of the remediation scheme works.

Following completion of the measures identified in the approved remediation scheme, a verification report that demonstrates the effectiveness of the remediation carried out must be produced and submitted to and approved in writing by the Local Planning Authority prior to the bringing into use of the development.

Reason: Required before use of development to avoid any irreversible detrimental impact on human health and/or water courses as a result of the potential mobilising of contamination and in accordance with Policy BNE23 of the Medway Local Plan 2003.

- 12 In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of condition 8, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 9, which is subject to the approval in writing of the Local Planning Authority.

Following completion of the measures identified in the approved remediation scheme a verification report providing details of the data that will be collected in order to demonstrate that the works set out in condition 10 are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with condition 11.

Reason: To ensure that the development is undertaken in a manner which acknowledges interests of amenity and safety in accordance with Policy BNE23 of the Medway Local Plan 2003.

- 13 No development shall take place above ground floor slab level until details of the provision of 9 electric vehicle charging points (1 per dwelling) have been submitted to and approved in writing by the Local Planning Authority. Details shall include the location, charging type (power output and charging speed), associated infrastructure and timetable for installation. The development shall be implemented in accordance with the approved details and shall thereafter be maintained.

Reason: In the interests of sustainability in accordance with paragraph 112E of the NPPF.

- 14 The development herein approved shall incorporate the measures to address energy efficiency and climate change as set out within the Climate Change and Energy Efficiency Statement received 27 August 2021. The development shall not be occupied until a verification report prepared by a suitably qualified professional has been submitted to and approved in writing by the Local Planning Authority confirming that all the approved measures have been implemented.

Reason: In the interests of sustainability and to positively address concerns regarding climate change in accordance with paragraph 154 the National Planning Policy Framework 2021.

- 15 The development shall be implemented in accordance with the approved landscaping and planting plan, 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.

**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 construction of 9 no 3-bedroom houses comprising 2 pairs of 2 storey semi-detached houses, a pair of two and a half semi-detached houses and 1x3 terraces of two and a half storey dwelling houses involving room in the roof space and front dormers, 18 allocated car parking spaces, bicycle storage sheds, refuse storage in the rear garden of the individual dwellings and amenity area. Vehicle and pedestrian access to the development is through the approved Bakersfield residential development currently under construction and its access to Station Road.

### **Relevant Planning History**

- MC/18/1307 Bakersfield, Land at Station Road, Rainham, Kent ME8 7QZ  
Construction of 18no 3-bedroom dwellings with access works, associated parking and landscaping.  
Approved 24/07/20
- MC/17/1820 Bakersfield, Land at Station Road, Rainham, Kent ME8 7QZ  
Proposal: Approval of reserved matters (access, appearance, landscaping, layout and scale) pursuant to condition 1 of MC/14/0285 (APP/A2280/W/15/3002877) for outline planning permission with all matters reserved for future consideration, ref Outline application with all matters reserved for residential development comprising 90 dwellings.  
Approved 07/12/2017
- MC/14/0285 Bakersfield, Land at Station Road,  
Outline Application with all matters reserved for future consideration, ref Outline application with all matters reserved for residential development comprising 90 dwellings  
Decision Refusal  
Decided 18/07/2014  
Appeal Allowed with Conditions  
Decided 07/12/2015

### **Representations**

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

**Four** letters have been received objecting to the development and raising the following matters:

- Objection to the principle of housing
- Dwellings should be no more than 2 storeys
- Design of the dwellings
- Loss of vegetation
- Flood risk from the development
- Inadequate services in the area
- Highway impacts

**Southern Water** – Have no objections to the reserve matters application

**Environment Agency** – No objections subject to a condition on contamination

**KCC Ecology** – No objection subject to provision of bird boxes.

The applicant has shown how bird boxes would be implemented within the development, which is comparable to completed houses with the wider development.

## **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**

### *Background*

The application follows the previously approved application for 18 units. Within the course of that application the Planning Committee discussed the report and noted that the land along the north and north-eastern parts of the site is at risk of surface water flooding.

Members expressed concern that condition recommended requiring the houses on Plots 19 – 27 not to be developed until a scheme to resolve the surface water flooding issue which has been submitted and approved by the Local Planning Authority, was not satisfactory and that the application should be amended to cover the area of the land that can safely be developed.

The applicant acknowledged Member's concern and amended the application accordingly by reducing the number of dwellings from 27 to 18 and deleting 9no houses within the at-risk flooding area along the northern boundary of the site.

This application seeks permission for the 9 units removed from the last scheme along with updated drainage designs to cover the previous concerns.



## *Principle*

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.

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

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-year 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.

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 spend to help support existing services and facilities. In relation to impact on existing infrastructure, including roads and services such as schools and health, these will be considered in detail in later paragraphs but in principle can be addressed through S106 contributions.

**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.

**Environmental** – While the site is outside of the built-up area of Rainham and within an ALLI, it is bounded to the North and West by residential development in Lower Rainham Road and Station Road respectively and by the earlier phases of the Bakersfield development currently under construction to the South. To the East is land known as Wooley's Orchard, which is itself bounded by residential development to the East and South, by Lower Rainham Road to the North and in part to the West by the Bakersfield development. The impact of the proposed development in landscape terms is therefore relatively limited and acceptable.

In traditional sustainability terms the site is well linked through the Bakersfield development to Station Road, which has a bus service, and from there is relatively close to Rainham Town Centre and the facilities there. Furthermore, the principle of housing on this site has been established through the granting of the 18-unit scheme.

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

### *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.

The proposed layout when considered with the 18 units is of a "T" shape cul-de-sac design with a mix of semi-detached and terraced houses with pitched roof and dormer windows to the front. The houses would be facing inward into the estate and have north facing back gardens.

An amenity space of around 500m<sup>2</sup> was included within the 18-unit scheme. The overall design, scale and external appearance of the proposed houses follow the style of the houses approved for the wider Bakersfield development as well as the 18-unit scheme.

As such, therefore, the proposed development would not be out of character and would ensure the development integrates well with the Bakersfield development. The proposed houses would have maximum height of height of 10m to the ridge as such matching the scale and height of existing development without detriment to the overall appearance of the site.

The proposal is considered to be in compliance with Policy BNE1 of the local plan and paragraphs 126 and 130 of the NPPF.

### *Amenity*

There are two main amenity considerations, firstly the impact of the proposed buildings 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.

### Neighbouring Residential Amenity

The nearest residential properties to the site are to the north of the site. With regards to privacy, outlook, sunlight and daylight the scheme, by virtue of the siting, size and scale of the development and the distance and relationship to neighbouring properties the development would not result in an unacceptable loss of privacy, overlooking, loss of light or overbearing to neighbouring occupiers.

### Future Occupier Amenities

The proposal would clearly meet the gross internal area for each property and on this basis, it is considered that there would be adequate internal amenity space for the future residents of the proposed dwellings.

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 proposed would have a rear private garden depth of 10m or more.

The proposed development is considered acceptable in terms of the impact on the amenity of the future occupiers of the proposed dwellings in terms of daylight, sunlight, outlook and privacy and as such the application accords with Policy BNE2 of the local plan and paragraph 130f of the NPPF.

#### *Highways - Access, parking and servicing*

The proposed development would link via Bakersfield inner ring road and pedestrian infrastructure to the Station Road.

The proposed link access via a parking courtyard along the northeast corner of the site would not result any loss of the car parking spaces already approved for the Bakersfield development.

The development makes provision for 2 car parking spaces per dwelling. It is considered that this level of car parking provision would be adequate for the size of the dwellings proposed in this development. A condition is recommended for EV charging points for one per dwelling.

The proposal would be in compliance with Policies T1, T2, T3 and T13 of the Local Plan and acceptable subject to a condition that no dwelling shall be occupied until the car parking provision are made available prior to the occupation of the dwellings.

#### *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 £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 agreed to pay the sum (£2, 030.64) and submitted the SAMMS Mitigation Contribution Agreement. No objection is therefore raised under Paragraphs 180 and 181 of the NPPF and Policies S6 and BNE35 of the Local Plan.

### *Landscaping*

The applicant has amended their landscape proposals including schedule of materials. The details submitted have been reviewed by the Council's Landscape Officer and have been considered acceptable, subject to compliance and maintenance.

As such, subject to compliance condition, the proposal is acceptable in regard to Policies BNE1 and BNE6 of the Local Plan.

### *Flood Risk*

The site lies within Flood Zone 1 (Low Risk) according to the Environment Agency Mapping. The north-eastern parts of the site are located within an area considered to be at high risk of surface water flooding in accordance with the latest Environment Agency flood risk mapping. It is noted that the existing residential gardens which border the site are currently experiencing flooding and therefore this needs to be suitably addressed.

Inspection of British Geological Mapping indicates the presence of Seaford Chalk however detailed site investigation highlights that the site has poor infiltration when the analysis was carried out in line with BRE365 and therefore an alternative method of surface water disposal is required.

The proposed drainage scheme for the site includes permeable paving for driveways, catchpits, gullies and an attenuation pond. The water from the development is to be collected within the attenuation pond located on the adjacent site prior to discharging into the surface water sewer located along Lower Rainham Road. Following discussions, it is considered that the discharge rate of 19.2l/s is acceptable, this is in combination with the connecting site. Due to its proximity to the tidal outfall this rate is considered acceptable.

A temporary swale which will drain to the attenuation pond will address the overland flood flooding experienced by the site next to Bakersfield Phase 2. This will mitigate the flow path and ensure that flooding is dealt with until this site is developed and is considered acceptable to deal with the flood risk within the area on a temporary basis.

A Construction Surface Water Management Plan has also been submitted which is considered to be acceptable.

The proposed details are considered to be acceptable and conditions requiring a verification report is suggested. With the inclusion of the suggested conditions, the proposal is considered to be in accordance with paragraph 165 of the NPPF.

### *Section 106 matters*

Given the background of this application, under the planning permission for 18 units (MC/18/1307) which originally sort to deliver the 27 units on this northern section of the development. Clause 6.1.3 of the agreement states:

*“6.1.3 It is hereby acknowledged and agreed by the Owner that in the event that development is undertaken on all or any of the Blue Land by the Owner that a pro-rata uplift of the financial contributions contained in the First Schedule shall be made in relation to those additional Housing Units as though they were originally part of the Development.”* This clause follows clause 6.1.2 that ties in the provision of affordable housing when delivering all 27 units.

Consequently, in consideration of these clauses there is no requirement for deed of variation as in delivering 27 units the affordable housing secured under the s106 for the 18 units (now total 27) will still be met.

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

The proposed dwellings would respect the character and appearance of the street scene and provide an adequate level of future occupier amenity. The proposal would not result in a detrimental impact to neighbouring residential amenities, parking or highway safety. Subject to conditions, the proposal is in accordance with Policies BNE1, BNE2, T1, T2 and T13 of the Medway Local Plan 2003 and paragraphs 111, 112E, 126, 130 and 130(f) of the NPPF.

The application would normally be determined under delegated powers but is being referred for Committee determination due to the number of representations received expressing a view contrary to officer’s recommendation.

---

### **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/>