

**MC/21/2965**

**Date Received:** 12 October 2021  
**Location:** Rear Of 122 Maidstone Road Chatham  
Medway ME4 6DQ  
**Proposal:** Construction of a 4-bedroom detached dwelling with associated parking  
**Applicant Agent:** Mr Tawanda Mudavanhu  
Mark Carter Associates  
Mr Mark Carter  
Design Studio  
Priestfield Stadium  
Redfern Avenue  
Gillingham  
ME7 4DD  
**Ward:** Chatham Central Ward  
**Case Officer:** Dylan Campbell  
**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 4th May 2022.**

**Recommendation - Approved Subject to S106**

- A. The applicant entering into a Section 106 agreement to secure the following:
- i) A contribution of £35,000 towards replacement tree planting.
- B. And the following 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 12 October 2021:  
  
3200 - 004 - Proposed Block Plan  
3300 - 001 Rev B - Proposed Site Plan  
3300 - 002 Rev C - Proposed Floor Plans and Elevations  
  
Reason: For the avoidance of doubt and in the interests of proper planning.
  - 3 All materials used externally shall match those of the adjacent property No. 24 King Edward Road (allowed on appeal under Planning Ref MC/19/2535).

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 The lounge and hall windows on the ground floor north and south facing side elevations and the bathroom and hall window on the first floor north and south facing side elevations shall be fitted with obscure glass and apart from any top-hung light, that has a cill height of not less than 1.7 metres above the internal finished floor level of the room it serves, shall be non-opening. This work shall be completed before the room it serves is occupied and shall be retained thereafter.

Reason: To ensure the development does not prejudice conditions of amenity by reason of unneighbourly overlooking of adjoining property, in accordance with Policy BNE2 of the Medway Local Plan 2003.

- 5 Notwithstanding the submitted plans, no development shall take place (except demolition and excavation) until details of landscaping including new tree planting, together with a maintenance schedule and timetable for implementation and details of tree pits have been submitted to and approved in writing by the Local Planning Authority. All works shall then be carried out in accordance with the approved details.

Reason: To protect and enhance the appearance and character of the site and locality, in accordance with Policies BNE1 and BNE43 of the Medway Local Plan 2003.

- 6 No development shall take place until a Construction Environmental Management Plan (CEMP) that describes measures to control, amongst other matters, hours of working, deliveries to the site, noise, dust and lighting arising from the construction phase of the development 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 with regard to Policy BNE2 of the Medway Local Plan 2003.

- 7 No development shall take place above ground floor slab level until details of the provision of 1 electric vehicle charging point has 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 in working order.

Reason: In the interests of sustainability in accordance with paragraph 112e of National Planning Policy Framework 2021.

- 8 The development herein approved shall incorporate the measures to address energy efficiency and climate change as set out within the Energy Efficiency Statement (dated October 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.

- 9 The dwelling herein approved shall not be occupied until the area shown on the submitted layout (drawing number 3300-001 REV B) received on 12 October 2021, as vehicle parking spaces have been provided, surfaced and drained. Thereafter it shall be kept available for such use and no permanent development, whether or not permitted by the Town and Country Planning (General Permitted Development) Order 2015 (or any order amending, revoking or re-enacting that Order) shall be carried out on the land so shown or in such a position as to preclude vehicular access to this reserved parking space 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 in accordance with Policies T1 and T13 of the Medway Local Plan 2003.

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

- 11 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order amending, revoking and re-enacting that Order with or without modification) the dwellinghouse 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.

## **Proposal**

This application seeks planning permission for the construction of a detached three-storey (two-storey from rear), 4-bedroom dwelling.

The application site is to the rear of 122 Maidstone Road. The proposed dwelling would be approx. 6.5m in width, approx. 9.7m in depth, approx. 9.5m in height to the ridge and approx. 8m to the eaves (measured from the front). The dwelling would front onto King Edward Road and would be set off from the north and south side boundaries by approx. 1m (each).

The dwelling would have small rendered two-storey projection to the front forming a 2-storey bay to serve a kitchen and bedroom. The dwelling would be contemporary in design, similar to the approved scheme at the adjacent plot (MC/16/2653) and the scheme allowed on appeal (MC/19/2535) which has been constructed, comprising a mono pitched roof, and use of similar materials. The basement floor level which is at street level when viewed from King Edward Road would consist of a kitchen, utility room, W/C, hall, and storage; the ground floor level (rear garden level of properties fronting Maidstone Road) would consist of 1 bedroom, hall and lounge with access to the rear garden; and the first floor would consist of 3 bedrooms (1 with en-suite) and bathroom. The dwelling would also benefit from two off-road parking spaces to front and a private garden to rear. The works would require the lowering of the site levels and removal of an existing boundary wall fronting King Edward Road and two street trees.

The applicant has also proposed a financial contribution towards replacement tree planting which is set out in more detail below.

## **Site Area/Density**

Site Area: 0.027 hectares (0.066 acres)

Site Density: 37 dph (15 dpa)

## **Representations**

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

7 letters have been received raising the following objections:

- Development out of keeping
- Not proposed as single-family use
- Impact on conservation area
- Loss of privacy
- Loss of light
- Adequate vehicle access
- On street parking competition
- Highway safety
- Impact on ecology

- Surface water flooding
- Loss of trees
- Impact on retained trees

## **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*

The application site lies within an urban, residential area, located to the rear of 120 Maidstone Road, Chatham, fronting Kind Edward Road. Policy H4 of the Local Plan supports infill development in urban areas where there would be a clear improvement to the local environment. Policy H9 of the Local Plan states that backland development will be permitted when there is no loss of privacy from overlooking adjoining houses/back gardens, there is acceptable vehicular access, no significant increase in noise or disturbance, existing natural features retained, adequate private amenity space for existing and proposed dwellings and the character and amenity of the area is maintained. Additionally, paragraph 71 of the NPPF states that development in residential gardens should be resisted where it would cause harm to the local area.

The proposal would result in the provision of a dwelling house in an urban area and within a sustainable location. The proposal would not result in an unacceptable backland development and would be in keeping with similar developments adjacent to the site. Although the development would require the loss of two street trees, it is considered that subject to compliance with detailed matters which are assessed below, the principle of the site for residential development is considered acceptable given the residential character of the area.

### *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. Policy BNE14 of the Local Plan states that development within a Conservation Area or affecting their setting should achieve a high-quality design which will preserve or enhance the historic or architectural character and appearance of the area.

The application site is situated within the Maidstone Road Chatham Conservation Area (CA) and would be formed from part of the large rear garden of 122 Maidstone Road. The subject site would front King Edward Road to the west, which does not fall within

the CA. Due to the land level changes, size and scale of dwellings along Maidstone Road, the proposal would not be visible from the CA.

The proposal is contemporary in design and appearance, influenced by recent developments to the north of the site, which comprise a detached three storey dwelling (MC/19/2535), two pairs of semi-detached three storey dwellings (MC/16/2653), one pair of semi-detached three storey dwellings (MC/14/0270) and a terrace of 5 three storey dwellings (MC/04/2839). In terms of siting, height and design, the proposal is considered appropriate and in keeping with these neighbouring developments and would not cause harm to the character or appearance of the CA when viewed from Maidstone Road.

The proposal would make use of the existing access onto King Edward Road and would only require the removal of part of the wall on the northwest corner to allow for adequate width for off road parking and vision splays. The majority of the wall, which is considered to contribute to the character of the area, would be retained. The existing tree to the south of the site which is also considered to contribute to the amenity of the area, would be retained and protected throughout the construction period.

It is considered that the proposal would respect the character and appearance of the existing and emerging streetscene, and in accordance with Policies BNE1 and BNE14 of the Local Plan and paragraphs 126 and 130 of the NPPF.

### *Trees*

Policy BNE43 of the Local Plan states that development should seek to retain trees, woodlands, hedgerows, and other landscape features that provide a valuable contribution to local character. paragraphs 174 and 180 of the NPPF outline that planning decisions should contribute to and enhance the natural and local environment and if significant harm cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, the planning permission should be refused.

The proposal includes a Tree Survey Arboricultural Impact Assessment Arboricultural Method Statement Reference AR4750 (dated 31 August 2021). The survey details the tree to be removed (T1) and tree to be retained (T2) and a scheme for the protection of the tree to be retained.

Concerns were raised regarding the loss of T1 and the protection scheme of T2. The submitted tree report survey states tree T1 and T2 as B grade trees. These trees are considered to contribute positively to the visual amenity of the area and ecosystem services.

It is considered that root protection area (RPA) of T2 is not reflective of site constraints and should be considered as a modified RPA to take account of below ground constraints (road and retaining wall) which would squeeze the RPA into the site, likely across the full width of the proposed access. Section 4.6.2 of the British Standard

outlines that the RPA for each tree should initially be plotted as a circle centred on the base of the stem. Where pre-existing site conditions or other factors indicate that rooting has occurred asymmetrically, a polygon of equivalent area should be produced.

The tree report states there is no requirement for ground protection as the RPAs of the retained trees can be afforded an adequate degree of protection using tree protective fencing and the existing hard surfacing. It also states that no changes in ground levels will occur within the RPAs of the retained trees. This is unlikely to be the case considering the modified RPA of the retained tree would extend across the width of the front of the site. Additionally, there are level changes from King Edward Road and the verge which would need to be excavated out to create vehicle access to serve the proposed development. Given the shallow soil depths and chalk underneath, and the likely construction depth of the crossover, the development could result in the severing of a significant amount of the tree roots, detrimental to the health and stability of tree T2. In these circumstances, it is considered that the proposed development would result in a detrimental impact to tree T2 during the construction period which would lead to its loss, along with the loss of T1.

To compensate for the loss of trees T1 and T2 the applicants have proposed new tree planting to the front and rear of the site; and a S106 contribution of £35,000 towards replacement tree planting in the ward/borough. As an estimate, if the trees were purchased this year this would equate to approx. 35 14-16cm trees, with a 15-year maintenance regime, which is considered substantial.

It should be noted that the proposed planting of a small ornamental tree to the front of the proposed dwelling would not be sufficient to compensate for its loss in terms of visual amenity and ecosystem services. Therefore, details of tree planting would be conditioned to be submitted and approved in writing by the LPA.

Paragraph 180a of the NPPF states that if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused.

It is appreciated that the existing trees have amenity value and contribute in terms of the delivery of ecosystem service benefits. It is unfortunate that due to the existing site constraints, whereby the trees are growing in the trough like conditions, that there is no capacity to retain the trees as part of the development. Additionally, due to the existing conditions reducing the area for rooting, it is understood that the safe useful life expectancy (SULE) is severely diminished. Trees with short SULE may at present be contributing to the local amenity and ecosystem services but their value will decrease rapidly towards the end of this period, prior to their being removed for safety or aesthetic reasons. Lastly, it is acknowledged and material that the Council does not currently have a five-year land supply; and as of the 2020-21 Housing Delivery Test, the Council had only delivered 55% of its target number of dwellings in the preceding 3 years. Although the proposal is for only 1 dwelling, it could be delivered quickly and without delay.

In consideration of a development that would deliver new housing, replacement tree planting to the streetscape within the proposed front garden and also within the ward/borough, the proposed biodiversity gains from the development are considered to outweigh the loss of existing trees. No objections are raised regarding Policy BNE43 of the Local Plan and paragraphs 174 and 180 of the NPPF.

### *Amenity*

There are two main amenity considerations, firstly the impact of the proposed dwelling 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 130f of the NPPF relates to the protection of these amenities.

### Neighbouring Residential Amenity

Due to the relationship of the proposed dwelling with surrounding neighbours, the orientation of the site and the path of the sun, there would be no detrimental impact on neighbour's amenities in terms of loss of privacy, outlook, daylight or sunlight. The property would result in a degree of mutual overlooking for the occupiers of the dwelling constructed under MC/19/2535 but would not result in any detrimental impact in terms of privacy as there is already mutual overlooking within the streetscene. There would be some overlooking to the private amenity space and rear elevations of the existing dwellings, 120 Maidstone Road and 122 Maidstone Road, however it is considered that due to the distance between the dwellings being more than 20m, the land level changes and existing mutual overlooking from dwellings along Maidstone Road, it would not result in any detrimental impact in terms of loss of privacy. Concerns were also raised in letters of representation with regard to a loss of privacy to dwellings on King Edward Road, however as the proposed dwelling would be sited approx. 20m from the front elevation of the nearest existing dwelling on the opposite side of King Edward Road, no concerns would be raised with regard to loss of privacy.

In considering the potential for future development under permitted development rights, it is recommended that enlargement to the dwelling under Classes A and E be removed in the interest of the amenity and preserving the character of the area.

It is also necessary to restrict the use of the dwelling to single-family occupancy in the interest of amenity given the potential impact with regard to increased activity levels from individual occupiers and potential parking problems. As such, a condition removing the permitted development right for change of use from Class C3 to C4 (Small HMO) is recommended.

Due to the proximity of the proposal to neighbouring dwellings it is recommended that a Construction Environmental Management Plan, is secured by condition to mitigate noise and disturbance to nearby residents during the construction process.

### Amenity of Future Occupiers

The proposed dwelling has been considered against the technical housing standards - nationally described space standard dated March 2015 (the national standard). The proposed approx. 152m<sup>2</sup> gross internal floor areas (GIA) would exceed the minimum



standard for a 4-bedroom, 7-person over three storey minimum GIA of 121m<sup>2</sup>. All double and single bedrooms meet the national standards area and width requirements, and all habitable rooms would be provided with suitable outlook. As guidance, the Medway Housing Standards (interim) November 2011 (MHDS) states that gardens should be 10m in depth and 7m when constraints exist. The depth of the proposed garden exceeds these depths being between approx. 11m deep from the rear of the dwelling.

It is considered that the proposal is in accordance with Policy BNE2 of the Local Plan and Paragraph 130f of the NPPF.

### *Highways*

The plans include the provision of two off-road parking spaces to serve the proposed dwelling in accordance with the adopted Interim Residential Parking Standards. It is proposed that the dwelling would have a single access onto King Edward Road. There would also be a degree of soft landscaping retained to front in the form of tree planting. It is not considered that this would result in any adverse impact to the highway. It is noted however that no electric vehicle charging points are proposed. The NPPF has put sustainable development as a central core and paragraph 112e outlines that development should provide for electric vehicle charging. Therefore, a suitably worded condition would be required to fulfil this objective. A condition would also be required to ensure the parking areas are provided prior to occupation and retained thereafter. It is considered that the proposal is in accordance with Policies T1, T2 and T13 of the Local Plan and paragraphs 111 and 112e of the NPPF.

### *Climate Change and Energy Efficiency*

The proposal is supported by an Energy Efficiency Statement (dated October 2021) to highlight the sustainable design principles and technologies which are proposed to be implemented as part of this development.

- A 98% efficient gas combination boiler the heating system using underfloor heating system will be used
- 100% LED lighting throughout the scheme will be used
- Rainwater will be collected and reused for the Garden areas.
- The new hardstanding areas will be porous paving to allow the surface water to be returned into the ground.
- Glazing will be thermally insulated gas filled and also be tinted to reduce solar glare and overheating of the building.
- The new dwelling will meet the requirements of approved document L1A 2013, for target energy efficiency of the total building including the fabric, heating system, solar gain and natural shading elements.

Any forthcoming permission would include a condition requiring the implementation of the sustainable technologies and signed verification report. No objections would therefore be raised regarding paragraph 154 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 £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 paid this tariff and completed a SAMMs Bird Mitigation Contribution Agreement form. 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.

Paragraph 58 of the NPPF says that it is for the applicant to demonstrate whether circumstances justify the need for a viability assessment at the application stage. In this case a viability assessment report has been produced, which addresses the viability of development across the application site.

Based on the formal consultation period and assessment of the proposal, the following contributions are sought:

- i) A contribution of £35,000 towards replacement tree planting.

## **Conclusions and Reasons for Approval**

It is considered that the proposal would respect the character and appearance of the King Edward Road streetscene and would not cause harm to the Maidstone Road Conservation Area. The proposal would not have a detrimental impact on neighbouring residential amenities, parking or highway safety. The proposal is in accordance with Policies S6, BNE1, BNE2, BNE14, BNE35, BNE43, H4, H9, T1, T2 and T13 of the Medway Local Plan 2003 and paragraphs 71, 111, 112e, 126, 130, 174, 180 and 181 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 for approval.

This application was considered by the Planning Committee at its meeting of 9 March but was deferred in order that a visit to the site could take place.

Visit to the site – 12 April 2022. Members attending Cllrs Mrs Chambers (Chairman), Opara, Thorne, Hubbard, Howcroft-Scott, and Chrissy Stamp. Members met at the junction of Gladstone Road with King Edward Road. At the request of the Chairman, the Head of Planning outlined what the application was for, showing the plans and confirming the Planning History. The key issue for members was a matter of street scene and members walked down King Edward Road to and past the site. They recognised the character of the properties on the lower side of King Edward Road and considered the new properties on the upper side of King Edward Road recognising that the most recent one immediately adjacent to the application site had been allowed on appeal. Due consideration was made to existing tree in front of the site which would need to be removed and the planting so far undertaken within the adjacent new development. Shortly after viewing the site, a number of residents from the road approached members and articulated their concerns against the development as outlined in the representations section above.

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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/>