

MC/22/1521

Date Received: 18 June 2022
Location: Land To the East of Oakhurst Close Walderslade
Chatham Medway
Proposal: Outline application with some matters reserved (appearance, landscaping, layout and scale) for the construction of a 3-bedroom bungalow
Applicant: Mr Andy Punter
Agent: DHA Planning
John Collins
Eclipse House
Eclipse Park
Sittingbourne Road
Maidstone
ME14 3EN
Ward: Walderslade Ward
Case Officer: Hannah Rusbridge
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 16th November 2022.

Recommendation - Approval with Conditions

- 1 Approval of the details of the layout, scale and appearance of the buildings, and the landscaping (hereinafter called "the reserved matters") shall be obtained from the Local Planning Authority in writing before any development is commenced.

Reason: To accord with the terms of the submitted application and to ensure that these details are satisfactory.
- 2 Plans and particulars of the reserved matters referred to in Condition 1 above shall be submitted in writing to the Local Planning Authority for approval. Such application for approval shall be made to the Authority before the expiration of three years from the date of this permission and the reserved matters shall be carried out in accordance with the approved details.

Reason: To comply with Section 92 of the Town and Country Planning Act 1990.
- 3 The development to which this permission relates must be begun no later than the expiration of 2 years from the final approval of the reserved matters or in the case of approval on different dates, the final approval of the last such matter to be approved.

Reason: To comply with Section 92 of the Town and Country Planning Act 1990.

- 4 The development hereby permitted shall be carried out in accordance with the following approved plans:

Received 19 June 2022:

DHA/16452/01 Site Location Plan

DHA/16452/06 (with regard to access) Existing and Proposed Sections

Received 21 October 2022:

DHA/16452/10 Rev A (with regard to access) Driveway Compilation Details

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

- 5 No development shall take place until details of measures to enhance biodiversity at the site have been submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the approved details and shall thereafter be retained.

Reason: Required prior to commencement of development to ensure satisfactory arrangements are made to safeguard habitats in the interests of ecology in accordance with Policies BNE37 and BNE39 of the Medway Local Plan 2003.

- 6 No development shall take place above 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 the NPPF.

- 7 The dwelling hereby permitted shall not be occupied until the area shown on the submitted layout as vehicle parking space 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.

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.

- 8 The landscape details to be submitted in pursuance of condition 1 shall show full details (position, design, materials and type) of boundary treatments as well as areas of both hard and soft landscaping. The approved boundary treatment shall be completed before the dwelling is first occupied and shall thereafter be retained.

Reason: To ensure that the appearance of the development is satisfactory and without prejudice to conditions of visual and residential amenity in the locality in accordance with Policies BNE1 and BNE2 of the Medway Local Plan 2003.

- 9 No works regarding the installation of services or removal of the dead tree stump as shown on drawing number DHA/16452/10 Rev A received 21 October 2022 shall take place until a method statement showing means of installing services (using a mole and an air spade) and the means of removing the tree stump, as well as associated tree protection measures, have been submitted to and approved in writing by the Local Planning Authority. The works shall be carried out in accordance with the approved detail.

Reason: To ensure no irreversible detrimental harm to the existing trees and to protect and enhance the appearance and character of the site and locality, in accordance with Policy BNE43 of the Medway Local Plan 2003.

- 10 Notwithstanding the submitted Arboriculture Impact Assessment (reference: 211002 v3, dated 14 August 2022), no development shall commence until a scheme for the protection of retained trees (the tree protection plan) and the appropriate working methods of construction (the arboriculture method statements) have been submitted to and approved in writing by the local planning authority. These measures shall accord with the recommendations contained in British Standard BS5837 Trees in relation to design, demolition and construction - Recommendations or any revision thereof. The approved scheme shall be implemented as approved before any equipment, machinery or materials are brought on to the site for the purposes of the development. No alterations or variations to the approved tree protection scheme or methods of working shall be made without prior written consent of the local planning authority and they shall be maintained until all equipment, machinery and surplus waste or materials have been removed from the site.

Reason: To ensure no irreversible detrimental harm to the existing trees and to protect and enhance the appearance and character of the site and locality, in accordance with Policy BNE43 of the Medway Local Plan 2003.

- 11 Details, in the form of a photographic and written record, of all Tree Protection Monitoring and Site Supervision (where arboricultural expertise is required), including all preparatory work, shall be submitted to and approved in writing by the Local Planning Authority within four months of completion of the development and thereafter maintained (where appropriate).

Reason: To ensure no irreversible detrimental harm to the existing trees and to protect and enhance the appearance and character of the site and locality, in accordance with Policy BNE43 of the Medway Local Plan 2003.

- 12 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (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, AA, B, E and F 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 design and amenity, and in the interests of the trees nearby, in accordance with Policies BNE1, BNE2, and BNE43 of the Medway Local Plan 2003.

- 13 The development shall be implemented in accordance with the measures to address energy efficiency and climate change contained in Climate Change Statement (ref: JAC/DRB/13659, dated June 2022) and prior to first occupation of the development a verification report prepared by a suitably qualified professional shall be submitted to the Local Planning Authority confirming that all the agreed measures have been undertaken and will thereafter be maintained.

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.

- 14 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) all dwellinghouses herein approved shall remain in use as a dwellinghouse falling within Class C3 of the Town and Country Planning (Use Classes) Order 1987 (as amended) (or any order amending, revoking and re-enacting that Order with or without modification) and no change of use shall be carried out unless planning permission has been granted on an application relating thereto.

Reason: To enable the Local Planning Authority to control such development in the interests of amenity, in accordance with Policy BNE2 of the Medway Local Plan 2003.

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

Proposal

This is an outline application for the construction of a 3-bedroom bungalow on the site that has been formed from the bottom section of the rear gardens on three properties on Chestnut Avenue and Oakhurst Close to the west. The proposed access to the site

would be from Oakhurst Close and the proposed house would front onto Oakhurst Close.

The site itself is vacant and is not located in a designated area, however, a grass verge measuring approx. 10m in width lies adjacent to the site which comprises the footpath and 7no. mature trees.

Between the carriageway of Oakhurst Close and the frontage of the application site is a green verge area with mature woodland trees and although in a private ownership forms part of the highway land. Historically the lack of an acceptable access to the site across this green space, without damaging the trees, has been the reason for refusal and dismissal of historic applications. This proposal seeks to provide a no-dig construction access across the space and between the trees.

The indicative site plan shows the provision of two separate parking spaces.

Site Area/Density

Site Area: 0.07hectares (0.17 acres)

Site Density: 14.29 dph (5.88 dpa)

Relevant Planning History

MC/20/0953	Construction of a 5 bedrooomed detached chalet bungalow with associated parking, landscaping and new access off of Oakhurst Close – resubmission of MC/19/1746 (Refused 09 July 2021)
MC/19/1746	Construction of a 5 bedrooomed detached chalet bungalow with associated parking, landscaping and new access off of Oakhurst Close (Refused 17 January 2020)
MC/10/2152	Land Rear Of 41-45 Chestnut Avenue Fronting Oakhurst Close Construction of a detached chalet bungalow (Refused 27 July 2010)
MC2003/2432	Land Rear Of 43-45 Chestnut Avenue Construction of two detached 3-bedrooomed houses each with integral garage (Refused 9 January 2004)
93/0761	Land Rear Of 41-45 Chestnut Avenue

Outline application for the erection of 2no. detached 4-bedroomed houses. (Refused, Appeal dismissed)

Representations

The application has been advertised on site and by individual neighbour notification to the owners and occupiers of neighbouring properties. EDF Energy, Southern Water, Southern Gas Networks have also been consulted.

Three letters of support have been received outlining:

- The sustainability of the proposed location
- Root Protection measures
- Providing a more suitable use for the empty land
- Need for housing

Three letters of objection have been received outlining:

- Loss of privacy
- Loss of light
- Loss of nature and birds
- Nuisance and vehicles during construction period
- Concerns regarding drainage
- Concerns regarding health of trees
- Strain on local infrastructure
- Ownership of land
- Location of services and utilities

The applicant provided a response to the letters of objection outlining:

- Dispute regarding ownership of land
- Addressing that the trees are not within the application site
- Arboricultural specialists have assisted with the application.

Southern Gas have provided a standard response with records of their utility's presence in the area. An informative will be added.

UK Power Networks have provided a standard response with records of their utility's presence in the area. An informative will be added.

Southern Water have commented advising the applicant to contact Southern Water to locate the position of the existing water main. An informative will be added.

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

There have been a number of applications on this site.

The most recent submissions MC/20/0953 and MC/19/1746 sought full planning permission for the construction of a five-bed dwelling. They were both refused for the following reason:

Without evidence to the contrary, the submission has not demonstrated that a no-dig access construction can be achieved to the site, without which there would result harm to the health and vitality of mature trees on the highway verge to the front of the site. These trees have significant amenity values that contribute positively to the character and appearance of this residential area and, any harm or loss to these trees would be to the detriment of this character. The proposal is contrary to Policies BNE1 and BNE43 of the Medway Local Plan 2003.

Prior to that decision, in 2010, an application was refused for the following reason:

The proposed development would be out of context with its surroundings and would result in significant erosion of the feel and sense of spaciousness in this locality, unacceptably harm the character and appearance of this part of Walderslade and would severely impact on the trees adjacent to the site contrary to the aims of the Policies BNE1, H4 and BNE43 of the adopted Local Plan.”

No appeal against this decision was undertaken.

However, in an appeal decision in 1996 against the refusal of planning permission ref: 93/0761, the Planning Inspector comment that as a direct result of the construction they had doubts about the long-term survival of the woodland trees on the council highway land to the front of the site. The Inspector felt that there would be significant pressure from future residents to remove the trees. The Inspector also comment that the proposal would erode the feeling of spaciousness, created by the deep gardens of Oakhurst Close, which is an important characteristic which provides identity to this part of Walderslade. The Inspector concluded that the appeal scheme would cause an unacceptable harm to the character and appearance of this part of Walderslade.

Following the refusal of the previous submissions, this application seeks to address the refusal reasons by reducing the size of the proposed dwelling to ensure that a

larger area of the parking area is outside of the root protection area (RPA) and ensures that an air source heat pump will be installed to dismiss the requirement for gas piping.

Principle

The site is within the urban area. Policy H4 of the Local Plan supports infill development in urban areas where there would be a clear improvement to the local environment. The principal theme of the NPPF is to support sustainable development, supported by paragraph 11. In this case, the site is considered to be sustainable with regard to its siting within an established residential area, and close proximity to services and bus routes.

Therefore, no objection is raised to the principle of the proposed development under Policy H4 of the Local Plan. However, this is subject to the assessment of the matters of detail set out below.

It is acknowledged that the Local Plan is of some age, being adopted in 2003; the Council does not currently have a five-year land supply, and as of the latest Housing Delivery Test (January 2021), the Council had delivered 67% of its target housing need. Therefore, paragraph 11d of the NPPF is engaged. Whilst tilted balance applies in this instance, the suitability of the site is still subject to the assessment of other matters as addressed below, and the previous history on the site.

The presumption in favour set out in paragraphs 10 and 11 of the NPPF applies to 'sustainable development'. In determining whether the principle of this proposal is acceptable it is necessary to consider whether this proposal does comprise sustainable development and to consider the impact of the development on the character of the area and the importance of the site. The NPPF definition at paragraph 8 refers to sustainable development having an economic, a social and an environmental role, which are interdependent and need to be pursued in mutually supportive ways. This means that weight has to be given to the benefits of the supply of housing; both social benefits in meeting housing needs and economic benefits in terms of providing jobs and boosting the local economy during construction phase and providing the increased workforce that enables continued economic growth in the longer term; and environmental benefits to protecting and enhancing our natural, built and historic environment; including making effective use of land, helping to improve biodiversity, using natural resources prudently, minimising waste and pollution, and mitigating and adapting to climate change, including moving to a low carbon economy.

The construction and occupation of the dwelling would provide social and economic benefits. Whilst these factors do weigh in the scheme's favour, the addition of a home would make a small contribution to the overall Medway housing supply, when considering the speed at which small scale schemes could be provided. However, it is also important to consider the refusal reasons for previous applications on the site, and the environmental impact in terms of the impact on the trees to the west of the

application site; in terms of protecting and enhancing our natural environment; and adapting to climate change.

Design

This is an outline application with some matters reserved including appearance, landscaping, layout and scale. However, consideration has been given in terms of the impact that the proposal would have on the character of the area.

Whilst the elevations submitted are indicative, it is noted that the dwellings in Oakhurst Close and Chestnut Avenue are of a mixed housing type and design. The indicative proposed dwelling is of a similar scale to the dwellings within the immediate vicinity. The indicative plans show a design that is different from the character of the area and to the existing dwellings within Oakhurst Close, it is not considered to be harmful and therefore warrant the refusal of the planning application. A condition can be used to control the external materials at reserved matters stage.

Additionally, given the sensitivity of the site in relation to the trees, although indicative, it is considered that the size and siting of the proposed dwelling and parking spaces is ideal in terms of minimising any harm to the trees to the west.

No objection is raised in respect to the design of the proposed house or its impact on the character of the area under Policy BNE1 of the Local Plan.

Amenity

All matters except for means of access have been reserved for future consideration. The indicative plans show a dwelling of a similar footprint to the surrounding properties on both Oakhurst Close and Chestnut Avenue and the description states that the dwelling would be a bungalow.

With regard to neighbouring amenity, due to the two-storey nature of the existing dwellings in the surrounding area, there is already a degree of mutual overlooking. Although indicative, the siting of the proposed dwelling would not likely result in any additional overlooking, however, any subsequent reserved matters submission would need to be assessed to ensure that the window arrangement of the proposed dwelling would not result in an unacceptable loss of privacy to neighbours. Given the single storey nature of the proposal, there is unlikely to be a loss of privacy to neighbouring properties with boundary treatment. The relevant sunlight assessments would also need to be completed to ensure there would be no detrimental impact with regards to overshadowing, however, given the likely size and siting of the dwelling, it is considered that the proposal would not result in detrimental harm.

With respect to the living conditions of potential residents of the site itself the proposed dwelling would need to be assessed with regard to the minimum space standards set out in the technical housing standards – nationally described space standard (the national standard) and to the guidance given in the Medway Housing Design

Standards (MHDS) (interim) 2011 with respect to gardens sizes which requires a depth of 10m or 7m where constraints exist.

Given the size of the property, there is potential for the property to be converted to a small HMO in the future, which in turn may result in a harmful impact to the amenity of neighbouring residents through increased comings and goings and parking demand. It is therefore recommended that permitted development rights be removed with regard to the change of use between use class C3 and C4.

To ensure that there is no additional harm to the protected trees that has not been assessed, and to ensure the protection of neighbouring amenities, it is recommended that a condition removing permitted development rights for enlargement be removed for alterations/extensions, additional storeys, roof extensions, outbuildings and hardstanding's, in accordance with Policies BNE2 and BNE43 of the Local Plan and paragraphs 130f and 174 of the NPPF.

Further consideration of the impact on residential amenity will be assessed at the time of the reserved matters submission. However, at this stage it is considered that a 3-bedroom dwelling could be achieved on the site in accordance with Policy BNE2 of the Local Plan and paragraph 130f of the NPPF.

Impact on Trees

Policy BNE43 relates to trees on development sites and states that development should seek to retain trees that provide a valuable contribution to local character, as the mature trees on the highway land are considered to be. Paragraph 174 of the NPPF states that decisions should contribute to and enhance the natural and local environment.

The trees that are within the highway verge to the front of the site are not the subject of a Tree Preservation Order due to being located on land that is under the control of the council, and therefore a Tree Preservation Order not necessary.

It is noted that no trees are to be removed as part of the proposal and therefore the assessment is with regard to the impact of encroachment of the proposed access and services into the root protection area of the trees. The previous submissions for this site have shown inconsistencies in the plans and location of the services provided and have not been able to demonstrate that a no-dig construction can reasonably be achieved.

The proposed access is sited between T1 and T2 which are approx. 6.5m apart. The proposed access into the site is proposed to be in part of a metal grid system (Geo-grid) and a Cellular Confinement System (e.g., CellWeb). The part of the access crossing the footpath will be Green Grid RB light and the part nearest the proposed dwelling consisting of the parking spaces will be 'CellWeb' system to be infilled with loose pea shingle to the surface of the web. The Green Grid system consists of metal

mesh panels supported by ground screws and rails so that the panels do not bear on the ground.

The parking/turning area is proposed to consist of approx. 8.5cm thickness of geocell, while the green grid surface could be thinner. The total thickness of the no-dig surface can be made similar to that of the green grid and therefore there is no conflict in drastic land level and surface changes.

No gas is proposed and therefore the only services required are water, electricity and foul connection. It is proposed that the trenches for services can be excavated by air space in one combined trench to the south of the site.

In correspondence with the agent, there is the potential to remove the dead tree stump as shown on the submitted drawings. This is acceptable in principle, and should this application be granted approval, it is recommended that a condition is imposed requiring a method statement showing the means of removing the tree stump and installing services.

The details submitted show that a no-dig construction with regard to access can reasonably be achieved, however, to ensure there is no irreversible harm to the existing trees, it is recommended that a condition is added for a tree protection plan and an arboricultural method statement to be submitted prior to the commencement of any development. In addition to this, a condition requiring a photographic and written record of tree protection monitoring and site supervision is recommended which should be submitted within four months of completion.

Highways

Policy T13 of the Local Plan relates to vehicle parking standards, cars and cycles. Policy T1 relates to the impact of development on the highway network

Vehicular access is proposed from Oakhurst Close consisting of a dropped kerb from the highway and a no-dig driveway running between the mature trees. This would comprise a Geotextile membrane filled with a permeable material, which can be secured via a condition.

The majority of the existing close board fence will remain, however a post and rail fence is proposed to the front of the site boundary along the western elevation with a native species hedge proposed to the rear to act as screening.

In this case the proposal includes the provision of two separate on-site parking spaces which meets the council's parking standards. An electric charging point can be required and secured by planning condition.

Subject to the provision of a suitable access onto the site and conditions, no objection is raised in relation to vehicle parking or highway safety under Policies T1 and T13 of the Local Plan.

Ecology

Consistent with the statutory duties Policy BNE39 of the Local Plan states that "Development will not be permitted if statutorily protected species and/or their habitats will be harmed" and requires conditions or obligations to be attached to permissions to "ensure that protected species and/or their habitats are safely guarded and maintained".

Paragraph 180 of the NPPF states that 'the planning system should contribute to and enhance the natural and local environment by... minimising impacts on biodiversity and delivering net gains in biodiversity where possible.'

In this case the site had been cleared at the time of the site visit and no ecological assessment was submitted with the application.

Measures to enhance biodiversity on the site can be required by planning condition and given the passage of time since the submission and the vacant nature of the site regrowth is likely and as such a condition requiring ecological assessment prior to any development commencing could be used on any grant of planning permission. A condition can be required in respect to biodiversity enhancement measures.

Subject to the use of a suitably worded planning condition the proposal is considered to comply with Policy BNE39 of the Local Plan and paragraph 180 of the NPPF.

Climate Change

A Climate Change Statement (ref: JAC/DRB/13659, dated June 2022) has been submitted alongside the application which sets out the following measures:

- Materials will exceed the requirements of Part L of Building Regulations
- Low voltage lighting
- Water consumption will be kept to a minimum
- Mechanical ventilation with a suitable Heat Recovery performance
- PIRs or daylight sensor controls in corridors and communal areas
- Monitoring of water consumption
- Recycling
- Proximity of sustainable transport including Chatham train station and bus stops within approx. 300m.

If the application is granted approval a condition is recommended ensuring verification with the measures outlined in the Energy Efficient and Sustainable Building Principles have been complied with in accordance with paragraph 154 of the NPPF.

Additional Comments

Whilst it is acknowledged that appearance and landscaping is a reserved matter it is expected that a plan be submitted as part of the reserved matters indicating areas of both hard and soft landscaping. Applications for the approval of reserved matters in

relation to appearance should also include elevations, ground and first floor plans and details of all external materials including roofing materials, facing bricks and/or other cladding materials, windows and doors.

Bird Mitigation

The application site is not within 6km of the North Kent Marshes SPA/Ramsar sites.

Conclusions and Reasons for Approval

The principle of a new dwelling on this site is considered acceptable and is therefore recommended for approval subject to the imposition of the appropriate conditions. The proposal is in accordance with Policies H4, S6, BNE1, BNE2, BN43, T1, T2, and T13 of the Medway Local Plan 2003 and paragraphs 8, 10, 11, 111, 112e, 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 and due to the history of the site.

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/>