

MC/22/1867

Date Received: 26 July 2022
Location: Land East Of Rainham Pumping Station And North Of Lower Rainham Road Rainham
Kent
Proposal: Construction of 2 detached residential properties with associated parking, access and landscaping works - Resubmission of MC/22/0534
Applicant Agent: Mr Graham Ralph
DHA Planning
Mr Alexander Payne
Eclipse House
Eclipse Park
Sittingbourne Road
Maidstone
ME14 3EN
England
Ward: Gillingham North Ward
Case Officer: Amanda Barnes
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 14th December 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 27 July 2022:

DHA/15984/06 - Proposed Plans: Plot 2
DHA/15984/07 - Proposed Elevations: Plot 2
DHA/15984/08 - Proposed Plans and Elevations: Plot 2 Car Barn
DHA/15894/10 - Comparative Block Plans
DHA/16976/H-01 Rev P1 - Visibility Splays
DHA/16976/T-01 Rev P1 - Vehicle Swept Path Analysis Estate Car

Received 20 September 2022:

DHA/15984/04 Rev A - Proposed Plans: Plot 1
DHA/15984/05 Rev A - Proposed Elevations: Plot 1

Received 20 October 2022:

DHA/15894/12 - Proposed Ecology Plan

Received 25 October 2022:

DHA/15894/03 Rev D - Proposed Site Layout Plan
DHA/15894/09 Rev C - Existing and Proposed Street Scene and Site Sections
DHA/15894/11 Rev B - Overshadowing Plan

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

- 3 No development above slab level shall take place until details and samples of all materials to be used externally have been submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the approved details.

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 development hereby permitted shall not be occupied until a plan indicating the positions, design, materials and type of boundary treatment to be erected has been submitted to and approved in writing by the Local Planning Authority. The boundary treatment shall be completed in accordance with the approved details before the extensions are occupied and shall thereafter be retained.

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.

- 5 Prior to the first occupation of the development herein approved, full details of a soft landscape scheme should be provided:
 - i. Soft landscape works, including details of planting plans, tree positions, planting build ups, written specifications (including cultivation and other operations associated with grass, tree and planting establishment, aftercare, and maintenance); schedules of plants, noting species, plant sizes, root treatments and proposed numbers/densities where appropriate.
 - ii. Details for the design and specification of tree planting to enable healthy establishment at maturity. Information should provide details for the planting environment, calculated soil volume, tree support and tie specification, guards and grilles, aeration and irrigation systems, soil build-up information (avoiding the use of tree sand).

A timetable for implementation shall be submitted to and approved in writing by the Local Planning Authority.

The development shall be implemented in accordance with the approved details and timetable 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.

- 6 The recommendations made in the Arboricultural Tree Survey and Impact Assessment Report (received 27 July 2022), as submitted with the application shall be implemented in accordance with the approved details to the satisfaction of the Local Planning Authority.

In this Condition "retained tree" means an existing tree which is to be retained in accordance with the approved plans and particulars; and paragraphs a) and b) below shall have effect until the expiration of 5 years from the date of occupation of the building for its permitted use.

a) No retained tree shall be cut down, uprooted or destroyed, nor shall any retained tree be pruned other than in accordance with the approved plans and particulars. Any pruning approved shall be carried out in accordance with British Standard 3998 (Tree Work).

b) If any retained tree is removed, uprooted or destroyed or dies, another tree shall be planted at the same place and that tree shall be of such size and species, and shall be planted at such time as may be specified in writing by the Local Planning Authority.

c) The erection of fencing for the protection of any retained tree shall be undertaken in accordance with the approved plans and particulars before any equipment, machinery or materials are brought on to the site for the purposes of the development, and shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed in any area fenced in accordance with this Condition and the ground levels within those areas shall not be altered, nor shall any excavation be made without the written approval of the Local Planning Authority.

Reason: To protect and enhance the appearance and character of the site and locality, in accordance with Policies BNE1 and BNE6 of the Medway Local Plan 2003.

- 7 The development herein approved shall incorporate the measures to address energy efficiency and climate change as set out within the Climate Change Statement received 27 July 2022. 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 of the National Planning Policy Framework 2021.

- 8 If, during development, contamination not previously identified is found to be present at the site, no further development shall take place until a method statement has been submitted to and approved in writing by the Local Planning Authority. The Method Statement must detail how this unsuspected contamination shall be dealt with. The development shall thereafter be implemented in accordance with the approved Method Statement.

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.

- 9 No development shall take place until a Construction Environmental Management Plan (CEMP) has been submitted to and approved in writing by the Local Planning Authority. The Construction Environmental Management Plan shall include amongst other matters details of: hours of construction working; measures to control noise affecting nearby residents; wheel cleaning/chassis cleaning facilities; dust control measures; pollution incident control and site contact details in case of complaints. The construction works shall thereafter be carried out at all times in accordance with the approved Construction Environmental Management Plan.

Reason: Required prior to commencement in the interests of amenity in accordance with Policy BNE2 of the Medway Local Plan 2003.

- 10 Prior to the commencement of the development hereby permitted, a scheme for protecting the proposed development from noise that implements the measures described in the noise assessment reference A3410/N/002 dated 18 June 2022 shall be submitted to and approved in writing by the Local Planning Authority. All works which form part of the approved scheme shall be completed before any part of the development is occupied and shall thereafter be maintained in accordance with the approved details.

Reason: Required prior to commencement in the interests of amenity in accordance with Policy BNE2 of the Medway Local Plan 2003.

- 11 No dwelling herein approved shall be occupied until the area shown on the submitted layout as vehicle parking space and 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 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.

- 12 No development shall take place above ground floor slab level until details of the provision of 3 electric vehicle charging points 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 National Planning Policy Framework.

- 13 Prior to commencement of works (including site clearance), a precautionary mitigation strategy for reptiles will be submitted to, and approved by, the Local Planning Authority. The approved strategy will be implemented thereafter.

Reason: Required prior to commencement to ensure that any reptiles on the site are protected in accordance with paragraphs 174 and 180 of the National Planning Policy Framework 2021.

- 14 No development shall take place above ground floor slab level until details of how the development will offset biodiversity loss/enhance biodiversity has been submitted to, and approved in writing by, the Local Planning Authority. The approved measures will be implemented prior to the first occupation of either dwelling and thereafter maintained.

Reason: In the interests of minimising impacts on and providing net gains for biodiversity in accordance with paragraph 174 of the National Planning Policy Framework 2021.

- 15 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, B, C 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 amenity, in accordance with Policies BNE1 and BNE2 of the Medway Local Plan 2003.

- 16 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

The application seeks full planning permission for the construction of 2 detached residential properties with associated parking, access and landscaping works - Resubmission of MC/22/0534

Both dwellings will be 2 storeys in height. Despite differing layouts, both units will offer 4no. bedrooms and comprise a gross internal area of 182sqm.

Unit 1 would front onto Lower Rainham Road with the private garden located to the rear (north) of the dwelling. Unit 2 would face west with the private garden located to rear (east) of the dwelling. A vehicular turning head and native boundary planting/hedgerow would separate the dwellings.

The proposed dwellings have a contemporary design using a mix of grey brickwork and larch timber weatherboarding with a white render as the external materials. Zinc cladding will be incorporated to house the protruding elements of the properties such as the ground floor rear-view windows and the main entrances. The dwellings would incorporate anthracite grey double-glazed floor-length windows across the rear ground floors and upstairs bedrooms with those on the ground floor offering bi-fold features. The front of both properties will incorporate a mix of single and double panel windows of the same material across both floors.

Unit 2 proposes a cross hipped roof with slate tiling and a grey bricked chimney integrated to the southern side of the property while Unit 1 proposes two separate slate tiled gable roofs connected via a two-storey zinc and glazed walkway.

The dwellings would share a single access road with on-site parking provision of 3 car parking spaces per unit, which for Unit 2 would be included within a 'car barn'. The proposal seeks to reinstate an access adjacent to that for the pumping station, to the west of the site. (The access to be reinstated is not readily apparent on site as having existed previously as there is mature hedgerow and grass verge where the access is proposed, and no gates are readily apparent on site.) The proposed access would be at an angle to the Lower Rainham Road and seeks to share an existing crossover that is mostly to the front of the pumping station gates.

Site Area/Density

Site Area: 0.128 hectare (0.316 acre)
Site Density: 15.63 d.p.h. (6.32 d.p.a.)

Relevant Planning History

- MC/22/0534 Construction of two 4-bedroom, two-storey detached dwellings with associated parking, access and landscape works.
Decision: Refused
Decided: 3 May 2022
- MC/19/1566 Land Off Pump Lane, Rainham, Kent ME8 7TJ
Outline planning application with some matters reserved (appearance, landscaping, layout and scale) for redevelopment of land off Pump Lane to include residential development comprising of approximately 1,250 residential units, a local centre, a village green, a two form entry primary school, a 60 bed extra care facility, an 80 bed care home and associated access (vehicular, pedestrian, cycle).
Decision: Refused
Decided: 12 June 2020
Appeal dismissed following Public Inquiry 3 November 2021
- MC/15/0411 Land at West Motney Way, Rainham Gillingham ME8 7TZ
Construction of 3 five-bedroomed detached dwellings with associated parking and access road
Decision: Approved
Decided: 8 February 2016
- MC/12/1464 Demolition of existing dwelling and construction of a detached house and garage with associated parking
Decision: Approval
Decided: 3 September 2012

Representations

The application has been advertised on site and by individual neighbour notification to the owners and occupiers of neighbouring properties. Natural England, Southern Water Services, Royal Society For Protection Of Birds and Kent Wildlife Trust have also been consulted.

Five (5) letters have been received raising the following objections:

- The lower road has a pinch point at this location and traffic is bad enough in peak times. It will cause problems with additional vehicles entering and exiting the site.
- The local area already has enough new homes being built, and it is ridiculous to contemplate squeezing more in.

- We have issues with the water supply and more buildings will increase the pressure.
- This is adjacent to the Riverside country park and will cause more loss of green space for the local wildlife and flora.
- It's difficult to get a GP appointment and locals just can't get a space at the dentist. Medway hospital also struggles to cope. This and more new builds are just pulling the area down
- The area of greenspace land is too small to facilitate the construction of 2 large, detached properties and is clearly an overdevelopment of the site.
- Whilst they have stated they have scaled back the development to make it less intrusive, it still would be and would create a heavy dominance on the corner of West Motney Way and Lower Rainham Road, affecting the rural street scene.
- The access point for the proposed development has poor sight lines and sits within a traffic-controlled chicane and as such believe this would create a road safety issue as it would cause conflict with traffic in both directions.
- The proposed development would greatly affect our privacy with overshadowing, overlooking and further noise and pollution, affecting the enjoyment of our property and causing a detrimental impact.
- The development would result in a further loss of greenspace and with the Council having a Climate Change Action Plan, the focus should be on retaining land such as this for biodiversity, instead of letting a further unnecessary development take place.
- There is already limited public transport provision on the Lower Rainham Road and therefore these new developments would have several vehicles for each property, which would further pollute an Area of Local Landscape Importance (ALLI).
- Countryside areas should be protected in line with the recommendations set out in the National Planning Policy Framework to retain the character and beauty of the Lower Rainham rural area.
- Retaining and protecting small greenspace landscape such as the development site should outweigh the benefit a development of only 2 further houses would bring to the area. They are not needed and make no significant impact to the Council's Housing Supply shortfall.
- Residents opposite struggle to get on and off their drive, this will make it worse especially during construction
- Where will pedestrians walk, there is no real footpath
- Lower Rainham Road is a busy road

Natural England advised that since this application will result in a net increase in residential accommodation, impacts to the coastal Special Protection Area(s) and Ramsar Site(s) may result from increased recreational disturbance. Your authority has measures in place to manage these potential impacts through the agreed strategic solution which we consider to be ecologically sound. Subject to the appropriate financial contribution being secured, Natural England is satisfied that the proposal will mitigate against the potential recreational impacts of the development on the site.

Southern Water have written to advise:

- The exact position of the public asset must be determined on site by the applicant in consultation with Southern Water before the layout of the proposed development is finalised.
- The public foul rising main requires a clearance of 3 metres on either side of the public foul rising main to protect it from construction works and to allow for future maintenance access.
- No development or tree planting should be carried out within 3 metres of the external edge of the public foul sewer without consent from Southern Water.
- No soakaway, swales, ponds, watercourses or any other surface water retaining or conveying features should be located within 5 metres of a public foul rising main.
- All existing infrastructure should be protected during the course of construction works.
- It is possible that a sewer now deemed to be public could be crossing the development site. Therefore, should any sewer be found during construction works, an investigation of the sewer will be required to ascertain its ownership before any further works commence on site
- Southern Water requires a formal application for a connection to the public foul sewer to be made by the applicant or developer.
- No habitable rooms shall be located within a minimum 15 metres of the boundary of an existing water/wastewater pumping station, due to the vibration and noise generated by all types of pumping stations and the potential odour. Southern Water requires existing access arrangements to the water/wastewater pumping station to be maintained with regards to unhindered 24 hour / 7 days a week access

Two (2) letters have been received following the receipt of amended plans stating that their objections previously set out still stand and that the amendments have not altered their views.

Following receipt of amended plans **Southern water** advised that the comments in their response dated 23/08/2022 remain unchanged and valid for the amended details.

Natural England have advised that the comments in their previous letter still remain.

Development Plan

The Development Plan for the area comprises the Medway Local Plan 2003 (the Local Plan). The policies referred to within this document and used in the processing of this application have been assessed against the National Planning Policy Framework 2021 (the NPPF) and are considered to conform.

Planning Appraisal

Background

An application for the Construction of two 4-bedroom, two-storey detached dwellings with associated parking, access and landscape works (MC/22/0534) was refused 3 May 2022, for the following reasons: -

- 1. By virtue of the scale of the proposed houses and layout of the site the proposal will result in an overly prominent built form on the western rural edge of the housing cluster of modest scale dwellings fronting the northern side of Lower Rainham Road and within a valued landscape, Gillingham Riverside Area of Local Landscape Importance. The inward facing scheme will result in hardening of the street scene due to a need to enclose the rear garden of Unit 1 with fencing on the back edge of the highway. The proposal is unsympathetic to the character, appearance and function the countryside and fails to protect the valued landscape and the proposal is contrary to Policies BNE1, BNE25 and BNE34 of the Medway Local Plan 2003 and paragraphs 130 and 174 of the National Planning Policy Framework 2021.*
- 2. The layout of the development and retained and proposed hedgerow/tree planting, as part of the biodiversity mitigation strategy, will result in adverse impact to the living conditions of future occupiers and neighbours by virtue of reducing usable available garden space, dropping of leaves and tree debris, potentially significant overshadowing, particularly tree planting at the northern boundary of Unit 2 in combination with the built form over the shallow garden of 2 Avery Court. In addition no noise assessment has been undertaken in relation to the adjacent substation and as such this aspect of the proposal cannot be fully understood in relation to future occupiers living conditions. The proposal is consider to be contrary to Policy BNE2 of the Medway Local Plan 2003 and paragraphs 130 and 185 of the National Planning Policy Framework 2021.*
- 3. No sightlines have been submitted for the proposed access, having regard to the access being shared with the adjacent pumping station, being on an angle to Lower Rainham Road, retained and proposed hedgerow/tree planting, fencing to secure the rear garden of Unit 1 and existing highway furniture. As such this aspect cannot be fully assessed with regard to safety the impact of the proposed access and development on the local highway network and the proposal is contrary to Policies T1 and T2 of the Medway Local Plan 2003 and paragraph 111 of the National Planning Policy Framework 2021.*

This application is a re-submission of a previously refused application. The revised layout has re-orientated Unit 1 and significantly altered its design. The house now faces onto Lower Rainham Road allowing for the retention of existing trees along the southern boundary adjacent to Lower Rainham Road. The dwelling for Unit 2 has been reduced in size and scale and moved further away from the dwellings to the north.

Principle

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 NPPF, 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.

Medway Council is currently unable to demonstrate a five-year supply of deliverable housing sites. In view of this deficit, the Council's housing supply policies are out-of-date in the context of housing allocations. Paragraph 11 of the NPPF is therefore engaged and under paragraph 11(d) it is necessary to make an assessment as to whether this development is sustainable, having regard to the definition of sustainability contained in the NPPF.

The proposed scheme falls outside the urban boundary in the countryside (Policy BNE25 of the Local Plan), and within an area of local landscape importance (Policy BNE34 of the Local Plan). Locationally, the NPPF recognises that opportunities to maximise sustainable transport solutions will vary between urban and rural areas. Nevertheless, opportunities to promote walking, cycling and public transport should be pursued, and patterns of growth managed accordingly.

Two new dwellings would not be a major development and the reality is that future occupiers are likely to be car dependent for most journeys as the services within easy reach are sparse, however it should be recognised that Berengrave Service Station provides a small local shop and filling station within a very short walk from the site and a pair of bus stops located on Station Road approximately 600m to the west of the site regular services to Sittingbourne and Gillingham and Rainham. There is also bus stop close to the site access, but the service is infrequent.

The applicant has not provided any land use classification for the site nor sought to establish a lawful use. In the planning statement it is described as *'privately owned gated land that consists of overgrown scrubland/grassland with a number of trees...'* The site is considered to be undeveloped and greenfield land. It is within the countryside as the site is outside the urban area as identified on the Proposals Map to the Local Plan and the site is not allocated for redevelopment.

The Local Plan also identifies the site as falling within the Gillingham Riverside Area of Local Landscape Importance (ALLI).

The application therefore falls to be assessed under Policies BNE25 (Countryside) and BNE34 (ALLI) of the Local Plan.

The NPPF recognises the intrinsic character and beauty of the countryside and seeks the protection and enhancement of valued landscape areas (paragraph 174 of the NPPF).

Since the granting of the planning permission for the three houses to the north of the application site (MC/15/0411) there has been a planning appeal within the vicinity of the application site which considered the value of the Gillingham Riverside ALLI in detail. That application was for:

MC/19/1566 Land Off Pump Lane, Rainham, Kent ME8 7TJ - Outline planning application with some matters reserved (appearance, landscaping, layout and scale) for redevelopment of land off Pump Lane to include residential development comprising of approximately 1,250 residential units, a local centre, a village green, a two-form entry primary school, a 60 bed extra care facility, an 80 bed care home and associated access (vehicular, pedestrian, cycle). Refused (12.06.2020) Appeal dismissed following Public Inquiry (3 November 2021).

In their decision the Inspector considered the values of the Gillingham Riverside ALLI and concludes:

12.230 BNE34 relates to the ALLIs.^[6.34, 6.36, 6.331, 7.222(3-5), 7.223] As noted by the Orchard Kennels Inspector, it is not a general restraint policy, but one that protects specific areas for their local landscape value. I agree with him that as such, it is consistent with the aims of Framework paragraph 170 in seeking to contribute to and enhance the natural and local environment, including valued landscapes. There was no dispute that it is a valued landscape for these purposes. Although as a local designation, it is at the lower end of the hierarchy, it still merits protection. In restricting development in some areas, the policy may have some effect on housing delivery, but that is an inevitable side effect of protecting valued landscapes. As with my colleague, I see nothing in this aspect of the policy that is inconsistent with the approach of the Framework in seeking to balance the need for housing with the interests of the environment. I recognise, as noted above, that the Council has granted permission for some development in this ALLI, but matters of landscape and visual impact will often vary between different sites. Whilst recognising the pressing need for housing in Medway, like my colleague, I see no reason in this case why the conflict with policy BNE34 should be given anything less than full weight, even.

It is noted that in coming to this conclusion the Inspector, in considering the importance of this rural character area, quotes from the Medway Local Plan 2003 in respect to this character area as *'forming a green backdrop to the views from the Estuary, being particularly important as a consequence of providing a rural setting to both the Estuary and the northern edges of Twydall and Rainham'* and concludes that *'I agree with those descriptions'* (Appeal Decision 12.17).

The inspector affording full weight to the ALLI as a valued landscape in the planning balance resulted in the dismissal of that application.

While this appeal is relevant to consideration of the ALLI it must be noted that the context, setting, openness and character of the application site is different to the appeal site, with the Land off Pump Lane being of such a scale where it would directly affect the purpose of the ALLI. It is therefore considered that the small-scale development of two dwellings on what could be seen to be a 'contained' site adjacent to the existing residential development and settlement boundary should therefore be viewed on its own merits.

Design and Impact on the character of the area and ALLI

In a residential use, the application site would form the western most edge of the cluster of residential dwellings on the northern part of Lower Rainham Road at this location. The site is located between a water treatment plant to the western side and an electricity substation to the eastern side. Unlike on the southern side of Lower Rainham Road there is no extended ribbon development along the northern side of Lower Rainham. The historic dwellings on the northern side of the street are also generally of a modest scale – either bungalows or two storey dwellings of a modest footprint.

The proposed dwellings have been revised in both layout and scale, the previously refused dwellings had a GIA of approx. 194sqm and approx. 203sqm, with an eaves height of approx. 4.8m and about 8.45m to the highest roof ridges.

The proposed units have been reduced in size to 182sqm with a reduced ridge height of approx. 7.7m at the highest. Unit 1 has been re-designed with two separate slate tiled gable roofs connected via a two-storey zinc and glazed walkway. It now better reflects the scale and appearance of development along Lower Rainham Road.

Previously the development was inward facing turning its back on Lower Rainham Road, this has now been altered with Unit 1 re-orientated so that it now faces onto Lower Rainham Road ensuring an active frontage.

The re-orientation of Unit 1 has allowed for the retention of some of the existing trees along the southern boundary adjacent to Lower Rainham Road thereby softening the view of the development from Lower Rainham Road.

A Comparative Block Plan has been submitted and compares the building footprints with nearby dwellings. This shows that the footprints of the two dwellings are well below those of Aveley Court and approximately within the middle of the range of the other dwellings along Lower Rainham Road to the south of the site and those to the east of the site.

The description of the Gillingham Riverside ALLI sets out that it forms a buffer between settlements between areas of nature conservation and the estuary. The site is surrounded by development and as such is somewhat contained such that it is physically and to some extent visually separated from the countryside and views to the north/north west and the Riverside Country Park. The site as viewed from the road currently offers a visual break within the street scene and while it is acknowledged this will alter through the introduction of 2 houses it is not considered that it would be so detrimental within the street scene to be refused. The revised layout has allowed for a vegetation screen along the Lower Rainham Road frontage to be kept which will soften the appearance of the site when viewed from the road and it is not considered the development would significantly negatively impact the character of the Gillingham Riverside ALLI as part of the rural setting to both the Estuary and the northern edges of Twydall and Rainham. In addition to this it should be noted that currently, the trees along the southern boundary of the site are not protected and given they are category C trees they do not warrant protection through listing. Therefore, this application provides an opportunity to secure their long-term future by requiring the retention and

maintenance of these trees through a suitably worded condition. As set out, the proposed development is not considered to significantly harm the character of the local area and is considered to be in accordance with Policies BNE1, BNE25 and BNE34 of the Local Plan, and paragraphs 130 and 174 of the NPPF.

Amenity

Policy BNE2 of the Local Plan requires to protect the amenities of neighbours in terms of privacy, daylight, sunlight, noise, vibration, heat, smell, airborne emissions. Paragraph 130f of the NPPF requires that development functions well over its lifetime and provides a high standard of amenity for existing users (neighbours).

Neighbours

Unit 2 has been reduced in scale and has been moved slightly to allow for a separation distance from the rear of 2 Aveley Court of some 12.5m and is set some 21m from the rear of 3 Motney Hill Road to the east. Unit 2 is offset from both neighbouring dwellings to the north with no direct face-to-face elevations. Unit 2 has been moved southwards slightly and the ground floor projection on the northern elevation has been removed to increase the separation to Aveley Court. The northern elevation contains no windows on the first floor, thereby negating any overlooking ensuring adequate privacy and amenity for these neighbouring residents.

A condition removing permitted development rights for further extensions/outbuildings is considered reasonable due to the already large size of the proposed property, and it is also considered appropriate to remove permitted development rights for C3 to C4 use, given the plot size and residential character of the area and impact that a C4 use could have with regard to impact on the neighbours.

Due to the proximity of other residential premises and the scale of the proposals noise and dust could create a nuisance during construction. In order to reduce the potential for nuisance caused by works a condition is recommended for a Construction Environmental Management Plan to be attached to any permission.

Future Occupiers

Both Units are compliant with the National Housing standards with regard to the minimum floor area and overall size for 4b8p units.

Unit 2 will suffer overlooking from 2 Aveley Court; however, the garden is considered to be of a sufficient width to allow for other areas of the garden to be used for privacy, if required.

The garden for Unit 1 has been located such that the overshadowing from the existing vegetation along the southern boundary will not create a loss of sunlight for the proposed amenity space.

With regard to the issue raised in the consultation letter from Southern Water, the Sewers for Adoption guidance states that the minimum distances to any habitable

buildings should be taken from the wet wells of pumping stations and contains a table setting out the minimum distances required which is consistent with the 15m minimum distance which Southern Water refer to in their letter. The proposed layout plan shows the 15m zone created from the wet well of the pumping station, and the proposed dwellings sit outside that area.

The site is adjacent to a pumping station and electricity substation. The Noise reports that accompanied the application are considered to be acceptable to ensure that the future occupiers will not experience unacceptable levels of noise. A condition is recommended to protect the proposed development from noise in accordance with the measures described in the noise assessment.

According to the Environment Agency's Flood Risk Map the site is not within a flood risk zone nor at risk of surface water flooding.

The proposal is considered to be in accordance with Policy BNE2 of the Local Plan and paragraphs 130f and 185 of the NPPF.

Ecology

The application site is currently an undeveloped rural field that has been allowed to naturally regenerate to a greater extent and is covered with scrub, hedgerow species/shrubs and trees. The revised layout has allowed for the retention of some of the trees and vegetation along the southern boundary.

The ecology report recommends that reptile surveys are undertaken to establish the status of these protected species on-site. These surveys have been carried out but during the months of October and November, which is not ideal. It is also unclear if the site has been 'maintained', i.e., mown regularly, to prevent reptiles colonising, as recommended within the report.

As the site appears suitable for reptiles, and because the survey was carried out at a sub-optimal time of year, it is recommended that a precautionary mitigation approach is produced and secured via condition with any granted planning permission.

Under section 40 of the NERC Act (2006), paragraph 174 of the NPPF (2021) and the Environment Act (2021), biodiversity must be maintained and enhanced through the planning system. Additionally, in alignment with paragraph 180 of the NPPF 2021, the implementation of enhancements for biodiversity should be encouraged.

Whilst the Environment Act is not fully implementable yet, the NPPF is clear regarding 'measurable net-gains' for biodiversity. The removal of scrub, trees and ruderal vegetation and its replacement dwellings, hardstanding and curtilages could result in the loss of biodiversity and not a net-gain. The application proposes a native planting scheme alongside a new continuous native hedgerow, as well as a commitment to installing bat and bird boxes, hedgehog crossing and log piles which it is considered can be secure via a condition.

On balance the proposal is considered to be in accordance with Policy BNE39 of the Local Plan and paragraph 180 of the NPPF.

Trees

Policy BNE43 of the Local Plan states that development should seek to retain trees and woodlands that provide a valuable contribution to local character.

The Arboricultural Report shows that it is proposed to remove 3 of the four Cherry trees (G003) along the western boundary, one Common Ash Tree (T001) to the south east of the site and a group formed from Common Ash, Cherry, Common Hawthorn, Elder, Field Maple and Lawson Cypress (G001) along the southern boundary. All of these are classed as category C trees.

It is proposed to remove a category B non-native Eucalyptus tree (T002), while it is unfortunate that it will be removed it is proposed to be replaced elsewhere on site with a native tree species.

Tree T5 is a category B which is located outside of the site boundary and is unaffected by the development.

14 Alder Trees (G002) are shown for protection and retention along the southern boundary fronting Lower Rainham Road.

While a number of trees are proposed to be removed the landscaping plan shows 11 new trees to replace those being removed, together with hedge planting. Subject to a suitably worded condition to secure this and protect the remaining trees it is considered the application would be in accordance with Policy BNE43 of the Local Plan and paragraph 131 of the NPPF.

Highways

Whilst the access arrangement is not considered ideal given its proximity to a shuttle working and adjacent junction, it is not considered to result in an unacceptable highway safety impact that would be sufficient to warrant refusal of the application.

In terms of impact to the highways, given that this application is for two dwellings, no objection would be raised. Regarding parking, the adopted Interim Residential Parking Standards require the provision of a minimum of 2 parking spaces for a 3+ bedroom property, the site plan indicates the proposal would conform in this regard.

It should be noted that the NPPF 2021 has put sustainable development as a central core and paragraph 112E outlines that development should provide electric charging facilities, The applicants outlined charging facilities but provided no details, however these can be secured via condition.

The application is considered to be acceptable in respect of the transport and parking Policies T1, T2 and T13 of the Local Plan and paragraphs 111 and 112E of the National Planning Policy Framework 2021.

Contamination

Policy BNE23 of the Local Plan requires that decisions should ensure that new development is appropriate for its location and takes account of the likely effects of pollution on health, living conditions and the natural environment, as do paragraphs 183 and 184 of the NPPF.

Due to a history of works nearby it is recommended that if planning permission were granted a watching brief condition be used and with such a condition the proposal would comply with Policy BNE23 of the Local Plan and paragraphs 183 and 184 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 applicant paid the bird mitigation obligation under the previous application and as such the Local Planning Authority is satisfied that the proposal would put in place adequate measures to mitigate potential significant adverse effects on the North Kent Marshes SPA and as such complies with those relevant sections of paragraphs 180 and 181 of the NPPF 2021 and Policies S6 and BNE35 of the Local Plan.

Climate Change and Energy Efficiency

A Climate change statement has been provided which details the following:

- ensuring the maximum availability of natural light in to the dwelling;
- inclusion of 100% LED lighting throughout the scheme;
- Photoelectric controls shall be part of the specification for external lighting possible;

- Ensuring the dwellings are airtight with a maximum air leakage of around 5m³/hm²;
- Achieve a maximum water efficiency of 110 litres/person/day;
- Provision of rainwater collection for reuse for the Garden area.
- Achieving biodiversity net gain onsite through the provision of a sedum garage roof, additional native tree and hedgerow planting and bat and bird boxes;
- Provision of one EV charging point per dwelling;
- Cycle storage within the curtilage of the dwellings;
- At least meet or exceed the current Building Regulation requirements in relation to energy use and insulation;
- All materials are to be sourced responsibly from suppliers who are environmentally accredited (ISO14001, BES6001 or similar);
- All timber used onsite and in construction shall be legally sourced from accredited suppliers and sources;
- Materials with an Environmental Product Declaration (EPD) shall be chosen over similar products without an EPD;
- Provision of new occupier information pack advising of the sustainable credentials of the dwellings

A condition is recommended to ensure the above measures are adhered to subject to this condition the development is considered to be in accordance with paragraph 154 of the NPPF.

Local Finance Considerations

No local finance considerations.

Conclusion and reason for recommendation

The revisions that have been made to the application are considered to have overcome previous refusal reasons and the harm to the wider countryside and ALLI is considered to be less than significant. The development is considered to be acceptable with regard to amenities and highway safety and function and is therefore recommended for approval in accordance with development plan Policies BNE1, BNE2, BNE6 BNE25, BNE34, BNE39, BNE43 of the Medway Local Plan, 2003 and paragraphs 11, 111, 112E, 130, 131, 154, 180,181, 184 and 185 of the NPPF 2021.

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 in the Planning Offices of Medway Council at Gun Wharf, Dock Road, Chatham ME4 4TR and here <http://publicaccess1.medway.gov.uk/online-applications/>