

MC/22/2302

Date Received: 26 September 2022
Location: 254 Maidstone Road Rainham
Gillingham ME8 0HH
Proposal: Construction of a detached dwelling to rear with access via
Camellia Close
Applicant Mr Tom Scott
Agent TBT Design Service
Mr Richard Caine
97 Primrose Drive
Ditton
Aylesford
ME20 6EH
Ward: Rainham Central Ward
Case Officer: Chantelle Farrant-Smith
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 8th February 2023.

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 26 September 2022:

1180A PROPOSED ELEVATIONS Rev C
1180A PROPOSED PLANS Rev B
1180A PROPOSED SECTION AND STREETVIEW Rev C
1180A PROPOSED FRONT SECTION Rev C
1180A SIDE SECTION Rev C

Received 6 January 2023:

1180A PROPOSED BLOCK PLAN Rev E

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

- 3 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; 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 before commencement in order to protect residential amenities in relation to Policy BNE2 of the Medway Local Plan 2003.

- 4 No development above slab level shall take place until details 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.

- 5 The dwelling shall not be occupied, until the area shown on the submitted block plan as a vehicle parking space has been provided, surfaced and drained in accordance with details submitted to and approved in writing by the Local Planning Authority. 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 of vehicles is likely to lead to hazardous on-street parking and in accordance with Policy T13 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 National Planning Policy Framework 2021.

- 7 The window on the first-floor rear elevation (serving bathroom) 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 dwelling 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.

- 8 The development herein approved shall incorporate the measures to address energy efficiency and climate change as set out within the Design and Access Statement (under Climate Change) received 26 September 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.

- 9 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.

- 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) 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.

- 11 The dwelling 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 any dwelling and/or building is 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.

- 12 The areas shown on drawing number 1180A PROPOSED BLOCK PLAN REV E for soft landscaping shall be kept available as such 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.

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.

- 13 A replacement tree shall be planted by a competent person in accordance with best arboricultural practice and the recommendations contained in British Standard 8545:2014 Trees from nursery to independence in the landscape. The replacement tree shall be planted in the first planting season (between the months of November and March) following first occupation of the dwelling herein approved.

Reason: To minimise the impact of the proposal on the amenity of the area in accordance with Policy BNE1 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

Construction of a detached dwelling to rear with access via Camellia Close.

Relevant Planning History

MC/22/1430	Construction of a detached dwelling to rear with access via Camellia Close. Decision: Refused Decided: 25 August 2022
MC/22/1146	Raising of the roof height and formation of a gable end to facilitate the construction of a first floor incorporating two storey extension with provision of garage on lower level facilitated by engineering works to the front; roof lights to the sides; creation of hardstanding to the front - demolition of existing conservatory and existing roof/chimney stack Decision: Approval with Conditions Decided: 15 July 2022

Representations

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

9 (nine) letters received from 5 residents have been received raising concerns of:

- Removal of Trees
- Trees in neighbouring gardens
- Parking provisions
- Refuse Collections
- Appearance of street scene
- Inconsistencies in plans
- Loss of views
- Newts

One further representation has been received commenting on the Tree Surveyors Report and how the content of the report was assessed during the site inspection, stating that they do not agree with the statement in the report on conifer hedge and fruit trees which provide positive amenity benefits, and that any remaining trees in the area of the proposed build are of high amenity to residents of Camellia Close, as they create a buffer from the noise and pollution from the busy Maidstone Road. They are also visually important as they enable privacy between residents.

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 area. Policy H9 of the Local Plan states that backland development may be acceptable subject the assessment of certain elements including providing suitable access, adequate amenity and maintaining the character of the area. Paragraph 71 of the NPPF states that development in residential gardens should be resisted where it would cause harm to the local area.

The land subject of this application formed part of the rear garden of No. 254 Maidstone Road but has been sectioned off to create a new residential plot which is similar to the plot at 16 Camellia Close to the south-west. To the north-east is the rear garden of 252 Maidstone Road.

Given the location of the site in a residential area, that the development would have its own access from Camellia Close and that the proposal would be similar in spatial

character to the adjacent plot at 16 Camellia Close, the proposed development of the land for residential purposes would be acceptable in line with the objectives of Policy H9 of the Local Plan and paragraph 71 of the NPPF, subject to the assessment of other material considerations which is set out below.

Design

The site is a backland site and also represents an infill on Camellia Close. Camellia Close comprises detached two storey dwellings and chalet style bungalows. The proposed development has taken its design approach from the adjoining development to its south-west (16 Camellia Close) as such proposes a chalet style bungalow with small dormers to the front, pitched roof with ridge matching 16 Camellia Close. Taking this into account, it is considered that the design would complement the established development on Camellia Close and would relate positively to its immediate surrounding. However, to ensure the quality of the development to be delivered does not deviate from the quality of the existing residential estate, the details of the materials would be requested by condition.

In terms of landscaping around the site, given this is a backland development it is important to ensure that the development relates positively to its environment. The proposal would retain some soft landscaping to front to ensure no unacceptable hardening of the street scene, which would be in keeping with the established development of Camellia Close. This will also need to be secured by condition.

Subject to the recommended conditions, the proposed dwelling would be acceptable in terms of its design and appearance corresponding positively with existing development within the immediate area. The proposal would be of a scale and height that would not detract from the character or appearance of the area and would not result in a development that appears cramped within the site, rather as an extension of the Camellia Close. As such, the proposal would be in accordance with Policies BNE1 and H9 of the Local Plan and paragraphs 71, 126 and 130 of the NPPF.

Amenity

Paragraph 130f of the NPPF states that achieving well-designed places should include creating a high standard of amenity for existing and future users. Policy BNE2 of the Local Plan expects all development to secure the amenities of its future occupants and protect those amenities enjoyed by neighbouring properties. The design of the development should have regard to privacy, daylight and sunlight, noise, vibration, light, heat, smell and airborne emissions and activity levels and traffic generation.

There are two main amenity considerations, firstly the impact of the proposed dwelling on neighbouring amenity and secondly the living conditions which would be created for the potential occupants of the development itself.

Neighbouring Amenity

There are neighbouring properties to the south-west (16 Camellia Close) and to the south-east (254 Maidstone Road) of the site. The side elevation of the proposed dwelling would be approx. 1m from the boundary of neighbouring property of 16

Camellia Close whilst the rear projection would be set approx. 2.3m from this same boundary. There are no proposed side windows however there are windows to the rear which serve a bedroom and bathroom. Whilst the bedroom window located within the dormer roof slope would cause some overlooking, the proposed dwelling would predominantly overlook its own proposed rear garden and the rearmost part of the rear garden of 254 Maidstone Road. It is not considered that overlooking from one bedroom which is served by two windows would result in an unacceptable level of harm to neighbouring amenity.

The separation distance between the proposed dwelling and the rear elevation of 254 Maidstone Road would be approx. 27m and therefore it is not expected to cause harm by significantly reducing the amount of daylight or sunlight currently enjoyed by the occupiers of that property. Similarly, the properties of 252 and 268 Maidstone Road, would not be adversely affected by this proposal. The land to the north-east of the site is currently the rear end garden for No. 252 Maidstone Road and as such there would no adverse impact on the continued use of this section of their garden. The land to the south-west (16 Camellia Close), would not be adversely affected in terms of daylight and sunlight for the reason that the footprint of the dwelling including the front and rear building line would mirror that of the existing property at No. 16. In addition, there is a gap along the south-western and north-eastern boundaries of the site which allows the break between plots and carries on the open character on Camellia Close.

In terms of overlooking, all windows above ground level face south-east or north-west. The window to the south-east serving the bathroom can be conditioned to be fitted with obscure glass however the window on the elevation serving the bedroom cannot be obscure glazed due to it serving a habitable room and being the only window to that room. Notwithstanding, given the distances to the back of the properties on Maidstone Road, this will not result in unreasonable levels of overlooking to those properties or their rear gardens.

Given the size of the plot, however, it is necessary to remove permitted development rights for conversion to small HMO to ensure the single-family occupation which is a character of this area is maintained in the interest of amenity.

Amenity of Future Occupiers

It is also necessary to consider whether satisfactory environment would be provided for the future occupier of the proposed dwelling in compliance with the Technical Housing Standards – Nationally described space standards March 2015.

The table below shows the minimum gross internal floor area expected against the proposed dwelling.

	Number of Bedrooms	Number of bed spaces	2 storey dwellings
Standard	3	6p	102m ²
Proposed	3	6p	124m ² (approx.)

The development would also provide sufficient garden space for the proposed dwelling and the existing dwelling of 254 Maidstone Road.

Notwithstanding the above, it is necessary to ensure that should the development be considered acceptable, it continues to maintain the character and appearance of the area as well as ensuring no detrimental impact on neighbouring residential amenity should further development occur within the site. It is therefore recommended that permitted development rights be removed for further alterations or enlargement of the dwelling in particular to development under Classes A and E of the GPDO.

A construction environmental management plan would also be requested by condition to ensure that the development does not cause harm to amenity during the construction process.

As such, subject to the recommended conditions, there are no objections with regard to amenity in compliance with Policy BNE2 of the Local Plan and paragraph 130f of the NPPF.

Highways

The proposed development would facilitate two parking spaces, one garage space and one space via hardstanding to front. Objections have been raised regarding the current use of the grass verge to the front of the proposed dwelling in which the vehicle crossover is proposed. It is noted that the grass verge currently is used for parking by neighbouring residents however as this is private land this parking could be removed without the need for planning permission. There has also been concerns raised regarding the collection of refuse and damage being cause to the grass verge adjacent to the proposal site. Information regarding the damage to the verge has been passed to the highways department as this is not a material consideration under planning legislation.

As the proposal meets with Medway's Interim Parking Standards and that the proposal would not impact parking provisions of the existing dwelling accessed from Maidstone Road, no objection is raised on highways or parking grounds the proposal would be acceptable.

It should be noted that the NPPF has put sustainable development as a central core and paragraph 112e outlines that development should provide electric charging facilities, therefore should the application be approved, a suitably worded condition would be attached to fulfil this objective.

Subject to 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 NPPF.

Trees

The previous application failed to take into consideration the impact on the trees on the verge to the front of the proposed property. The tree that would have been mainly affected was removed, the previous application noted that the trees within the grass verge provided visual amenity within the street scene as such, a replacement tree is proposed within the landscaping area of the proposed development to mitigate the removal of the previous tree.

The proposed development does take into consideration the trees within the neighbouring garden and an Arboricultural report has been submitted. It is not considered that the proposed development would result in a detrimental impact to trees within the neighbouring property.

Should the application be approved, a condition will be applied to ensure the replacement tree is provided in a suitable location and planted within the next planting season. Subject to condition the proposal would be in accordance with Policy BNE1 of the Local Plan.

Climate Change and Energy Efficiency

A Climate Change Statement has been submitted stating that the intention is to build the new dwelling in accordance with future homes standards. The applicant states that photovoltaic panels (solar panels on roof slope) and source heat pumps of which are not shown on the plans received and that rainwater will be managed by soakaway crates to reduce flow rate of water. Should the application be approved, a suitably worded condition would be attached to fulfil this objective.

Other Matters

Concerns relating to discrepancies in plans have been raised. The applicant submitted amended plans to address these, and further public notification was undertaken with regard to the amended plans.

Concerns have been raised over the potential disruption that may be caused to newts in a neighbouring garden pond 'within 250m' of the proposal site (no specific location identified). Neither an ecological survey nor protected species survey have been submitted with the application. Policy BNE39 of the Local Plan states that development would not normally be permitted if statutorily protected species and/or their habitat will be harmed.

The site is a residential garden which is maintained and used as such, taking into consideration that the garden is maintained and not overgrown, nor is there a pond within the subject site it is unlikely that there would be harm to protected species or ecology.

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 £275.88 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. This tariff

should be collected for new dwellings, either as new builds or conversions (which includes HMOs and student accommodation).

These strategic SAMMS mitigation measures are being delivered through Bird Wise North Kent, which is the brand name of the North Kent Strategic Access Management and Monitoring Scheme (SAMMS) Board, and the mitigation measures have been informed by 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. Further information regarding the work being undertaken is available at The Bird Wise website which can be found at <https://northkent.birdwise.org.uk/about/>.

The applicant has submitted a SAMMS Mitigation Contribution Agreement and payment and therefore no objection is therefore raised under Policies S6 and BNE35 of the Local Plan and paragraphs 180 and 181 of the NPPF.

A decision from the Court of Justice of the European Union detailed that mitigation measures cannot be taken into account when carrying out a screening assessment to decide whether a full 'appropriate assessment' is needed under the Habitats Directive. Given the need for the application to contribute to the North Kent SAMMS, there is a need for an appropriate assessment to be carried out as part of this application. This is included as a separate assessment form.

Conclusions and Reasons for Approval

The proposed development would not detract from the appearance of the surrounding area, appearing as an extension to Camellia Close. The proposal would not result in significant impact to parking provisions, highway's function or neighbouring amenity. As such the proposal would be in accordance with Policies S6, BNE1, BNE2, BNE35, H9, T1, T2 and T13 of the Medway Local Plan 2003 and paragraphs 71, 111, 112e, 126, 130, 180 and 181 of the National Planning Policy Framework 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/>