

MC/22/2966

Date Received: 16 December 2022
Location: Plot 10 Ordnance Yard
Lower Upnor Rochester
Proposal: Details pursuant to condition 7 (CEMP), 11 (Footpath management), 13 (Ecology mitigation) and 14 (Roosting Bats) on planning permission MC/21/3663 for Construction of a detached dwelling with associated landscaping works and new vehicle access to Upchat Road
Applicant Agent: Mr Paul Thomas
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Ward: Strood Rural Ward
Case Officer: Hannah Gunner
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 March 2023.

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

Proposal

This application is for the discharge of details pursuant to condition 7 (CEMP), 11 (Footpath management), 13 (Ecology mitigation) and 14 (Roosting Bats) on planning permission MC/21/3663 for Construction of a detached dwelling with associated landscaping works and new vehicle access to Upchat Road.

Relevant Planning History

MC/21/3663 Construction of a detached dwelling with associated landscaping works and new vehicle access to Upchat Road.

Decision Approved with conditions.
Date 11 October 2022

Representations

The application has not been advertised, given that it is for the discharge of conditions. KCC ecology and Natural England have been consulted.

17 letters have been received raising the following objections and points:

- What is happening with the right of way/footpath?
- Footpath use will cease.
- Impact to wildlife/destruction of trees
- Works have commenced without correct consents in place including the discharge of conditions.
- What measures are in place to protect the footpath?
- No planning notices were displayed.

Frindsbury Extra Parish Council has confirmed it does not have any objection to the application.

KCC Ecology have commented that they are satisfied that the details submitted pursuant to conditions 13 and 14 are acceptable and that the conditions can be discharged. Their detailed comments are included within the assessment pursuant to conditions as set out in the Appraisal section below.

Natural England have advised that they will not be commenting on the condition's submission. *This effectively leaves detailed consideration to the LPA in consultation with KCC Ecology*

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 (NPPF) and are generally considered to conform. Where non-conformity exists, this is addressed in the Planning Appraisal section below.

Planning Appraisal

The relevant submission and enclosures for each of the stated conditions is set out below within the relevant condition section of this report.

Condition 7 (CEMP)

The wording of condition 7 reads:

- 7 *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 prior to commencement of development to enable the Local Planning Authority to manage such development in the interests of neighbouring amenity and precautionary ecological mitigation in accordance with Policies BNE2 and BNE37 of the Medway Local Plan 2003.

The documents submitted in relation to this condition are:

- Application form
- Construction Phase Plan (amendment 1 – 5 January 2023)
- Construction Environmental Plan (version 2 – 5 January 2023)
Received 16 December 2022 and 5 January 2023

The reason for the imposition of this condition was to manage the construction part of the development in a way that mitigates impact on ecology and limits to an acceptable degree impact on nearby residential amenity.

The submitted details for this condition have been reviewed and are considered to be suitable and acceptable, after a small amendment which saw the working hours added. This ensures construction is only undertaken within the hours 08.00 – 19.00 Mondays to Fridays and 08.00 – 13.00 on Saturdays with no working on Sundays or national holidays.

Condition 7 of MC/21/3663 can therefore be discharged.

Condition 11 (Footpath Management Plan)

The wording of condition 11 reads:

- 11 *No development shall take place until a management plan setting out how the public footpath will be managed for the period of construction (of both the dwelling and the access road) has been submitted to and approved in writing by the Local Planning Authority. This plan shall include details demonstrating how the footpath will remain open and available for public use throughout. The development shall be undertaken in accordance with the approved details.*

Reason: To ensure that public footpath linking Lower and Upper Upnor remains available for use by the public at all times.

The documents submitted in relation to this condition are:

- Application form
- Construction Phase Plan (amendment 1 – 5 January 2023)
Received 16 December 2022 and 5 January 2023

The reason for the imposition of this condition was to ensure that the public footpath adjacent to the application site remains available for use by the public at all times.

It has been stated by the applicant that the path will remain accessible and largely unchanged throughout the duration of the construction. At times when plant is required to cross over the pathway, this will be managed by the applicant and any

Heras fencing will be momentarily adjusted to ensure pedestrians are kept safe. The overall detailing is set out within the submitted Construction Phase Plan (paragraph 1.4.5).

The submitted details for this condition have been reviewed and are considered to be suitable and acceptable.

Condition 11 of MC/21/3663 can therefore be discharged.

Condition 13 (Ecology Mitigation)

The wording of condition 13 reads:

13 *No development shall commence (including site clearance) until a site wide ecological mitigation strategy, including measures for bats, reptiles, badgers and hedgehogs has been submitted to and approved in writing by the Local Planning Authority. The mitigation measures shall be retained throughout the duration of the site clearance and construction phase of the development and thereafter the recommendations set out in the site wide ecological mitigation strategy shall be complied with.*

Reason: In the interest of conserving protected species in accordance with Policy BNE39 of the Medway Local Plan 2003.

The documents submitted in relation to this condition are:

- Application form
- Greenspace Ecological Solutions – Ecological Mitigation Strategy (J21032-P6_Rev A-EMS)
- JWS Wildlife Surveys – Badger Status and Mitigation Strategy Summary (dated 16 January 2023)
Received 16 December 2022 and 17 January 2023

The reason for the imposition of this condition was to ensure conservation of protected species.

The ecological mitigation strategy has been reviewed in consultation with our ecology consultants and it is considered that the mitigation for bats, reptiles, hedgehogs and badgers is acceptable (with the inclusion of the addition badger information).

A bat roost is proposed to be created within B4 to mitigate for the loss of a hibernation/mating roost. It is however important to note that works must be carried out under EPS licence.

The proposed precautionary mitigation for reptiles and hedgehogs is appropriate.

If any protected species are found on site during the works, all works must cease until an ecologist is contact for further information.

The report has made a number of recommendations to avoid impacting any species present within the adjacent River Medway. It has recommended best practice construction methodology which are satisfactorily covered in the construction management plan.

Taking into account the above, the submitted details for this condition have been reviewed and are considered to be suitable and acceptable.

Condition 13 of MC/21/3663 can therefore be discharged.

Condition 14 (Roosting Bats)

The wording of condition 14 reads:

14 *No development shall commence on site until the bat hibernation surveys within the WWII air raid bunkers (B1 and B3), as set out within the submitted ecological appraisal, have been carried out and submitted to and agreed in writing with the Local Planning Authority. All recommendations and requirements resulting from the surveys shall be implemented in full.*

Reason: Required prior to commencement of development to ensure no irreversible detrimental harm to protected species in accordance with Policy BNE39 of the Medway Local Plan 2003.

The documents submitted in relation to this condition are:

- Application form
- Greenspace Ecological Solutions – Ecological Mitigation Strategy (J21032-P6_Rev A-EMS)
Received 16 December 2022

The reason for the imposition of this condition was to ensure no irreversible detrimental harm to protected species.

The Council are satisfied with the conclusions of the submitted report that building 1 is a brown long eared bat hibernation and mating roost. The Council are satisfied that appropriate mitigation has been proposed.

The submitted details for this condition are considered to be suitable and acceptable.

Condition 14 of MC/21/3663 can therefore be discharged.

Conclusions

In order to fully comply with the above conditions, the development shall be implemented in accordance with the details approved.

The details submitted pursuant to these conditions have been considered under the provisions of Policies BNE2, BNE37 and BNE39 of the Medway Local Plan 2003 and having regards to nearby residential amenity, footpath accessibility and

ecological mitigation.

The details are considered to be in accordance with the abovementioned Development Plan Policies and NPPF requirements.

The application would normally be determined under delegated powers but is being referred for Committee determination due to the number of representations received expressing objection and concern on matters for consideration.

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/>