

**MC/22/2965**

**Date Received:** 16 December 2022  
**Location:** Avenue Tennis Club, Glebe Road  
Gillingham Medway  
**Proposal:** Construction of 7 Dwellings and 1 Bungalow with associated  
access and parking  
**Applicant** Mr Parped Saron  
**Agent** Mark Carter Associates  
Mr Mark Carter  
Design Studio  
Priestfield Stadium  
Redfern Avenue  
Gillingham  
ME7 4DD  
**Ward:** Watling Ward  
**Case Officer:** Madeline Mead  
**Contact Number:** 01634 331700

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**Recommendation of Officers to the Planning Committee, to be considered and determined by the Planning Committee at a meeting to be held on 5th April 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 16 December 2022:

3449-005 Rev B elevations and floor layout (plots 1, 2, 3, 4 and 8)

Received 19 December 2022:

3449-006 Rev B Street scene and floor layout, elevations (plots 6 and 7)  
3449-008 Rev A Plot 5 elevations and floor layout

Received 23 February 2023:

3449-002 Rev C Proposed block and site location plan

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; 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, unless any variations are otherwise first submitted to and approved in writing by the Local Planning Authority.

Reason: Required prior to commencement to enable the Local Planning Authority to manage such development in the interests of neighbouring amenity in accordance with Policy BNE2 of the Medway Local Plan 2003.

- 4 No development shall take place until a scheme based on sustainable drainage principles, has been submitted to and approved in writing by the Local Planning Authority in consultation with the Lead Local Flood Authority.

Those details shall include (where applicable):

- i. Details of the design of the scheme (in conjunction with the landscaping plan where applicable).
- ii. A timetable for its implementation (including phased implementation).
- iii. Operational maintenance and management plan including access requirements for each sustainable drainage component.
- iv. Proposed arrangements for future adoption by any public body, statutory undertaker or management company.

The development shall be undertaken in accordance with the approved details and thereafter be maintained.

Reason: Required prior to development to manage surface water during and post construction and for the lifetime of the development as outlined at Paragraph 168 of NPPF.

- 5 No development shall commence until details of a Construction Surface Water Management Plan (CSWMP) detailing how surface water and storm water will be managed on the site during construction (including demolition and site clearance operations) is submitted to and agreed in writing by the local planning authority in consultation with the LLFA. The CSWMP shall be implemented and thereafter managed and maintained in accordance with the approved plan for the duration of construction.

The approved CSWMP and shall include method statements, scaled and dimensioned plans and drawings detailing surface water management proposals to include:

- i. Temporary drainage systems.
- ii. Measures for managing pollution / water quality and protecting controlled waters and watercourses.
- iii. Measures for managing any on or offsite flood risk associated with the development.

Reason: Required prior to development to manage surface water during and post construction and for the lifetime of the development as outlined at paragraph 168 of the National Planning Policy Framework 2021.

- 6 No development shall take place until tree protection measures have been put in place, in compliance with the tree protection measures and methods of working set out in the tree protection plan (drawing Ref: 3449-004 Rev B) and the Arboricultural Report (ref: SA/1592/19). Such measures shall be retained for the duration of the construction on site.

Reason: Required prior to commencement to protect the trees, in accordance with Policy BNE43 of the Medway Local Plan 2003.

- 7 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.

- 8 No development shall take place above ground floor slab level until details of the provision of electric vehicle charging points (1 per dwelling) 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 the NPPF.

- 9 No development shall take place above ground floor slab level until details of a hard and soft landscape scheme have been submitted to and approved in writing by the Local Planning Authority. The submitted details should include:

- i. Plans and information providing details of existing and proposed finished ground levels, means of enclosure, car parking layouts, other vehicle and pedestrian access and circulation areas, all paving and external hard surfacing, lighting and services (including drainage), tree grilles, minor artefacts and structures (seating, refuse receptacles and raised planters). 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 (including within hard landscape, raised planters, podium decks and green roofs), 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), tree cell systems (to street tree planting environments).
- iii. A timetable for implementation.

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.

- 10 No development shall take place above ground floor slab level until details of how the development will enhance biodiversity have been submitted to, and approved in writing by, the local planning authority. The approved details shall be implemented prior to first occupation of any dwelling and thereafter retained.

Reason: To provide improvements through biodiversity enhancements to wildlife habitat in accordance with the objectives of paragraph 180 of the NPPF and Policies BNE37 and BNE39 of the Medway Local Plan 2003.

- 11 The development shall be implemented in accordance with the measures to address energy efficiency and climate change set out within the energy statement, BY Mark Carter Associates dated December 22. 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 on site.

Reason: In the interests of sustainability and to positively address concerns regarding Climate Change in accordance with the NPPF.

- 12 No part of the development shall be occupied until the area shown on the submitted layout as vehicle parking space has been provided, surfaced and drained in accordance with details that have been 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 to accord with Policy T13 of the Medway Local Plan 2003.

- 13 No dwelling shall 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 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 Policies BNE1 and BNE6 of the Medway Local Plan 2003.

- 14 Prior to the first occupation of the development herein approved, a Landscape Management Plan shall be submitted to and approved in writing by the Local Planning Authority. The Landscape Management Plan shall include long-term design objectives, management responsibilities and maintenance schedules for all hard and soft landscape areas, including communal amenity space (except for small, privately owned, domestic gardens) for a minimum period of five years and arrangements for implementation. The development shall thereafter be managed in accordance with the approved details.

Reason: To ensure a satisfactory external appearance and provision for landscaping in accordance with Policies BNE1 and BNE6 of the Medway Local Plan 2003.

- 15 Prior to first occupation (or within an agreed implementation schedule) a signed verification report carried out by a qualified drainage engineer (or equivalent) shall be submitted to and approved in writing by the Local Planning Authority to confirm that the agreed surface water system has been constructed as per the scheme and plans approved pursuant to condition 4. The report shall include details and locations of critical drainage infrastructure (such as inlets, outlets and control structures) including as built drawings, and an operation and maintenance manual for the unadopted parts of the scheme as constructed.

Reason: This condition is sought in accordance with paragraph 168 of the NPPF to ensure that suitable surface water drainage scheme is designed and fully implemented so as to not increase flood risk onsite or elsewhere.

- 16 Notwithstanding the submitted plans, the stairway window on the side elevation of plot 6, shall be fitted with obscure glass and 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.

- 17 From the commencement of works (including site clearance), all precautionary mitigation measures for reptiles are to be carried out in accordance with the details contained in the walkover survey (KB Ecology January 2021).

Reason: To enable the careful management of any reptile habitat during the course of any development works on site in accordance with the objectives of paragraph 180 of the NPPF and Policies BNE37 and BNE39 of the Medway Local Plan 2003.

- 18 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, B 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.

- 19 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 application seeks planning permission for the construction of two detached 3-bedroom dwellings, a pair of 3-bedroom semi-detached dwellings, three 4-bedroom detached dwellings and a bungalow, with associated parking, access road.

To improve the access to the site from Second Avenue, side extensions at Nos. 26 and 28 have been demolished to increase the width of the access road to this backland site and also to provide a new footpath, approx. 1.8m wide, linking to the pavement on Second Avenue. The reduction in the rear gardens of these properties also allows

provision for additional parking spaces within the development. This results in the rear gardens of nos. 26 and 28 being reduced to 7m and 12m (respectively).

In addition, a parking space will be provided to the front of no. 26 while two spaces will be provided to the rear of no. 28. The new access road will be accessed via Second Avenue, running along the side boundaries and to the back of no. 28. Four dwellings are proposed to the east of the access road with three dwellings to the west of the access road and a bungalow at the end of the access road.

The three-bedroom dwellings would provide at ground floor level living room, w.c., kitchen/breakfast and utility room and at first floor level three bedrooms, one with en-suite and a bathroom.

The four-bedroom dwellings would provide at ground floor level living room, w.c., kitchen/breakfast and utility room and at first floor level four bedrooms, one with en-suite and a bathroom.

The bungalow would provide lounge/dining/kitchen, two bedrooms and a bathroom.

Parking is provided either to the front or side of the properties, with visitors parking to the rear of number 26 Second Avenue, on the western side of the new access to the site.

Materials would consist of a mix of brick, render and roof tiles.

### **Site Area/Density**

Site Area: 0.3 hectares (0.07 acres)

Site Density: 27dph (114 dpa)

### **Relevant Planning History**

MC/21/1534	Proposed reduced scheme consisting of three 3-bedroom and three 4-bedroom dwellings with two detached Garages and associated parking, access road and open landscape area (resubmission of MC/20/3204) Decision: Refused Decided: 23 August 2021 Appeal allowed on 25 May 2022
MC/20/3204	Construction of four 3-bedroom and three 4-bedroom houses with associated parking, access road and open landscape area Decision: Refused Decided: 6 April 2021 Appeal allowed on 25 May 2022
MC/19/2404	Construction of seven 4-bedroomed dwellings with associated parking and access road Decision: Refused Decided: 20 January 2020

Appeal dismissed on 31 July 2020

MC/18/3114 Construction of eight 4-bedroomed dwellings with associated parking and access road (demolition of existing extension to 26 Second Avenue)  
Decision: Refused  
Decided: 20 February 2019  
Appeal dismissed on 8 November 2019

Featherby Road tennis centre – relocation of club

MC/15/1751 Construction of an indoor tennis centre with associated reception, changing facilities, function area, kitchen/cafe, grass/hard tennis courts, storage shed, entrance gates and parking area  
Decision: Approved with Conditions  
Decided: 29 July 2015

MC/16/3217 Application for non-material amendment to planning permission MC/15/1751 - for enclosure and canopy over external dining area adjacent to restaurant  
Decision: Approved with conditions  
Decided: 7 September 2016

MC/15/3205 Application for a variation of condition 2 for minor material amendment to planning application MC/15/1751 - Revised vehicle entrance position off Featherby Road, hard courts repositioned adjacent to the clubhouse with the parking positioned along Featherby Road, entrance position into club house building revised, balcony to club house at first floor removed, minor elevation change to materials on North East elevation, minor revisions to end elevation to North East and minor revisions to South West elevation (club house only)  
Decision: Approval with conditions  
Decided: 4 November 2015

#### **Adjacent land:**

MC/17/2328 Construction of a single terrace of four town houses with associated parking and refuse storage - resubmission of MC/17/1708  
Decision: Approved with conditions  
Decided: 18 October 2017

#### **Representations**

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

**Thirty** letters have been received raising the following objections:



- Increased tree screening should be planted around the site
- Loss of trees and wildlife habitat
- Overdevelopment
- Lack of parking
- Increased traffic
- Highway safety
- Drainage issues
- Loss of privacy
- Cramped and overbearing development
- Noise and light pollution
- Not in keeping with the character of the surrounding area
- Backland development
- Loss of sunlight
- Loss of open space
- Impact on doctors, hospital and schools.

**One** further letter of representation has been received, however, it has not been included as an objection letter as it is asking for answers to questions.

**Councillor W Purdy** has written in objecting to the proposal due to overdevelopment of the site.

**Councillor C Stamp** has written in objecting to the proposal for the following reasons:

- "Garden-grabbing"/back-land development: the development effectively amounts to back-land development or 'garden grabbing' as the development is being facilitated by the part-demolition of an existing residential property with inadequate access and egress from the site. This development would cause a significant increase in noise levels if this development was approved. 7 houses and a bungalow are literally being built in the back gardens of the surrounding residents. There is also a road going through the development which will increase noise levels even more, with cars going to and from the properties. I feel this is in breach of Policy H9 and Policy BNE3 of the Local Plan.
- Over-development of the site: building 8 properties on a back-land site of this nature is excessive and constitutes an over-development of the site. The proposed garden sizes are also very small and not in keeping with the character of the area. Building three houses and putting 6 car parking spaces in the back garden of number 26 Second Avenue, significantly reduces the size of this garden, leaving it only a fraction of the size that it was. This is not in keeping with the character of the area. Plot 5 runs down the side of a garden. This will cause loss of daylight. The proposals are cramped and overbearing; it will cause overlooking to the surrounding properties and gardens. Policy H9 of the Local Plan states 'back-land development will be admitted when there is no loss of privacy from overlooking adjoining houses and/or back gardens'. The planning application clearly shows that there will be loss of privacy. I feel that this is in breach of Policy H9 and Policy BNE2 of the Local Plan. I would also like to point out that there has previously been a planning application submitted

to Medway Council for 8 properties on this piece of land which was refused by the Planning Committee and lost at appeal to the Secretary of State.

- Inadequate parking provision: parking is already at a premium on Second Avenue and the surrounding area. The proposed development will make the existing parking problems even worse. While there appear to be 2 parking spaces provided per property, the provision of 4-bedroom family homes means it is inevitable that they will have more than 2 vehicles, resulting in an over-spill of vehicles parking on Second Avenue and the wider surrounding area. This is supported by the fact that the development is in a suburban area where public transport links are poor and day-to-day facilities are not within walking distance, which means residents are likely to be reliant on the use of a car.
- Road safety: Second Avenue is an increasingly busy residential street which is being used more and more as 'rat-run'. Cars are parked on both sides of the road, leaving just a single lane thoroughfare for vehicles despite it being a two-way street. The shortage of available on-street parking means there are very few passing places for vehicles travelling in opposite directions, which encourages vehicles to speed up and down the road. The cramped on-street parking situation also means there is very poor visibility for vehicles turning into and out of the existing junctions with Keeley Mews, Portree Mews, Ashburn Mews and Glebe Road. The new access to the proposed development will have no clear sight lines looking up and down Second Avenue. This poses an unacceptable additional road safety risk. The proposed new access is located opposite Keeley, Portree and Ashburn Mews, which will exacerbate existing road safety issues.
- Poor access and egress: cars parked on-street on Second Avenue (on both sides of the new access road and opposite the new access road) will restrict access to and egress from the proposed development. This will make it extremely difficult for the emergency service (particularly the fire service) and refuse collection lorries to access the development when turning into the development and when turning back onto Second Avenue.
- Environmental Impact: the proposed development will result in the unacceptable loss of trees and green space which will be detrimental to both the visual amenity of the area and to local wildlife. The application does not provide sufficient reassurance that the necessary ecological and reptile surveys have been conducted, you are unable to view these documents online.

**KCC Ecology** has advised that the ecological information submitted in support of this application is sufficient.

**Sport England** raise no objection.

**Southern Water** have advised that a sewer may be crossing the site and if during construction works one is found, investigation of the sewer will be required to ascertain its ownership. They have also provided details of distances from the sewer for construction works, tree planting and soakaways.

**Natural England** advises that subject to the appropriate financial contribution being secured, they are satisfied that the proposal will mitigate against the potential recreational impacts of the development on the site.

## **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*

A planning application for 8 dwellings under ref: MC/18/3114, was refused on 20 February 2019 and subsequently dismissed on appeal on the 8 November 2019.

The main issue of the appeal, which is relevant to this application, would be the impact the construction of eight dwellings would have on the character and appearance of the area, mainly the addition of a bungalow.

With regard to the character and appearance the Inspector concluded:

*“The introduction of 8 dwellings onto the site will change the character and appearance of the area. The appellant contends that the density of the proposal is consistent with the surroundings and that, anyway, the Government recognises that increased densities might in some cases be appropriate (paragraph 127(c) of the Framework). As I have already noted, many of the surrounding properties are terraced and thus have quite high development densities. Nevertheless, because of the small back gardens I consider that the proposed development is too cramped for the site. I also find that, notwithstanding the 4 recently constructed townhouses to the rear of Glebe Road referred to earlier in this decision, the introduction of 2 three-storey dwellings will be very dominant and incongruous and thus harmful to the character and appearance of the area.”*

A planning application for 7 dwellings under ref: MC/19/2404, was refused on 20 January 2020 and subsequently dismissed on appeal on the 31 July 2020.

With regard to the character and appearance the Inspector concluded:

*“The development proposed would make use of currently under-utilised land, which is supported by Paragraph 117 and 118 of the National Planning Policy Framework (2019) (the Framework). Whilst the revised scheme differs in layout to the previously dismissed appeal, the side elevations of the proposed dwellings on Plots 1, 4 and 5 would be very close to the boundaries of the adjoining rear gardens of dwellings on First Avenue, Second Avenue and Glebe Road and only limited landscaping is proposed to soften the visual appearance of the side elevation walls. As a result, the proposed dwellings on Plots 1, 4 and 5 would have a cramped appearance which*

*would significantly detract from the overall appearance of the development proposed and the surrounding area.”*

With regard to the current planning application, the layout of seven of the dwellings identified as plots 1-4 and 6-8 on drawing number 3449-002 revision C has previously been allowed on appeal under planning reference MC/20/3204 (APP/A2280/W/21/3277702) which was for the construction of seven dwellings and therefore, the main consideration for this application is for the design of the dwellings and the introduction of a further dwelling and its siting (plot 5, a bungalow). The above-mentioned applications dismissed on appeal are relevant to this case as the location of this bungalow was considered at appeal for a two-storey dwelling with a height of approx. 8.37m to the ridge.

The main consideration the Inspector gave to the two previously dismissed appeals was the cramped appearance, due to the small back gardens and the impact the two storey dwellings would have, with limited landscaping to soften the visual appearance of the side elevation walls on neighbouring dwellings.

This current application has attempted to address the issue raised regarding the harm caused to the character and appearance of the surrounding area.

### *Principle*

The previous applications raised no objection to the loss of the former tennis courts and the appeal decisions corroborate this. The site is in a sustainable location in an urban area, and Policy H4 supports residential development in urban areas. Policy H9 supports backland development subject to a number of criteria being met. The principle of residential development has also been considered acceptable through the two previous applications that have been allowed on appeal.

Subject to compliance with detailed matters that are assessed below, the principle of the redevelopment of the site for residential purpose is considered acceptable given the residential nature and character of the area and the previous appeal decisions.

### *Design*

Paragraphs 126 and 130 of the NPPF emphasises the importance of good design and Policy BNE1 of the Local Plan states that development should be satisfactory in terms of scale and mass and should respect the visual amenity of the surrounding area.

In terms of design, seven of the proposed dwellings would be two storeys in height, with a mix of barn hip and gabled roofs. The eighth dwelling proposed would be a bungalow with a hipped roof. The height of the proposed development would be in keeping with the existing built form within the area. The design of the dwellings are more modern than those within the vicinity, however, due to the backland nature of the site, the development would not cause harm to the street scene.

As previously advised above the layout of the development for plots 1-4 and 6-8 as shown on drawing number 3449-002 revision C, submitted with the application have the benefit of planning permission. This application introduces a further dwelling, being

a bungalow, to the proposal. The bungalow would be located in a position that was subject to consideration under the two above mentioned appeals.

The inspectors comment in relation to the first appeal concluded, that the introduction of 8 dwellings onto the site would change the character and appearance of the area, due to the small back gardens proposed and therefore considered the proposed development too cramped for the site.

The inspectors comment in relation to the second appeal concluded that due to the location of Plots 1, 4 and 5 (plot 5 being the location for the proposed bungalow) would be very close the boundaries of neighbouring gardens with limited landscaping to soften the visual appearance of the side elevation walls and as a result these plots would have a cramped appearance and significantly detract from the overall appearance of the development proposed and the surrounding area.

It is considered that the proposed scheme, with the introduction of a bungalow on the site, would overcome the previous issues raised by the Inspector as the garden areas of all of the plots are now larger in depth which gives the development a less cramped appearance, larger landscape buffers between properties and gardens and the introduction of a bungalow and not a two storey dwelling, which therefore does not have an impact on neighbouring properties in terms of the visual appearance of the side elevation wall.

The current scheme proposes seven two storey dwellings, a bungalow and areas of soft landscaping and screening. Consequently, it is considered that the current scheme has sought to address the only issues raised by the Inspector and, as such, the proposed development would not result in a cramped appearance that would detract from the overall appearance of the development or surrounding area.

Subject to a condition to secure the materials and appropriate landscaping, the proposal would be in accordance with Policy BNE1 of the Local Plan and the objectives of paragraphs 126 and 130 of the NPPF.

### *Amenity*

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

### Neighbouring Residential Amenity

The current proposal arranges plots 1-4 aligned along the eastern boundary of the site. This arrangement results in the rear elevations and rear gardens of these plots backing on to gardens of properties within Second Avenue. These properties have significantly long rear gardens, over 60m. Given the layout and orientation of the houses (plots 1-4), the distances to the closest rear garden would range between 12.2m and 14.8m from the rear elevation of the proposed dwellings and the boundary with the neighbouring garden, with additional hedging providing a further 1m buffer along this neighbouring garden. It is considered that, the section of the garden that is

likely to be affected would not be so significant as to result in unacceptable harm to the living conditions of the occupiers of that property.

The side elevation of plot 1 is approx. 23m from the rear elevations of the properties within Second Avenue. No windows are proposed within the first floor of the side elevation of the property.

Plot 5 would be a bungalow and would not have an impact on neighbouring residential amenity in terms of loss of daylight, sunlight, outlook or privacy, due to its single storey nature.

The rear elevation of plots 6 to 8 are approx. 41m from the rear elevations of the properties in Glebe Road. The side elevation of plot 8 is approx. 25m from the rear elevations of the properties in Second Avenue.

Plot 6 would have a window in the side elevation between ground and first floor level that would serve the staircase. This window would overlook the rear garden of the adjacent building within Glebe Road and therefore it is recommended that a condition be secured for the window to be obscure glazed and non-opening.

Overall, the current scheme would not present significant or unacceptable amenity issues in terms of overlooking, loss of daylight, privacy or sunlight to the neighbouring properties.

#### Amenity of Future Occupiers

With regard to the amenities of the future occupiers, the proposed houses have been considered against the technical housing standards - nationally described space standard dated March 2015.

The proposed dwellings would comprise a 2B4P dwelling, four 3B5P dwellings and three 4B7P dwellings. The nationally described space standards require a gross internal floor area of 70m<sup>2</sup> for a 2B4P, 93m<sup>2</sup> for a 3B5P, and 115m<sup>2</sup> for a 4B7P dwelling. A double bedroom should have a floor area of 11.5m<sup>2</sup> and be at least 2.55m wide, with subsequent double bedrooms 2.55m wide and a single bedroom should have a floor area of 7.5m<sup>2</sup> and be at least 2.15m wide. All of the proposed dwellings would either meet or exceed these requirements.

The proposal is therefore considered to provide adequately sized living accommodation for future occupants of the units.

The Medway Housing Design Standards requires a depth of 10m for private amenity space. All of the dwellings are provided with rear gardens and side access to these gardens. All of the gardens, except for the bungalow, would be over 10m in depth and are therefore provided with adequate amenity space. The rear garden of the bungalow would have a depth of between approx. 6.1m and approx. 7.5m with a width of approx. 14.2m. A garden with a depth of 7.5m is generally acceptable on a constrained site. It is noted that the depth at certain parts would be less than 7m, however, in consideration of the depth of the majority of the garden being 7m or over and that the

with is around 14m, it is considered that this dwelling would also be provided with adequate amenity space.

In order to control development within the site, it is necessary to remove permitted development rights for enlargement to the houses and to ensure the houses remain in single family occupancy. As such, a condition removing permitted development rights for extensions under Classes A, B and E would be appended in addition to the removal of rights for small HMOs. These conditions are necessary in the interest of amenity.

The construction of the development itself could lead to noise and nuisance dust emissions to nearby residential properties and therefore if the application were to be recommended for approval, then a condition requiring the submission of a Construction Environmental Management Plan would be recommended.

Consequently, the proposal would be in accordance with Policy BNE2 of the Local Plan and paragraph 130(f) of the NPPF.

### *Highways*

The site access is to be provided via a simple bell mouth junction with a road width of 4.8m maintained throughout the site and this is considered acceptable in terms of access. A 1.8m wide footpath would also be provided into the site.

In line with Medway Councils Interim Parking Standards, two car parking spaces would be required for a 3+ bedroom dwelling and a further two visitor parking space provided. The proposed development would provide two car parking spaces per dwelling and three visitor parking spaces and therefore would provide adequate parking for the proposed development.

Paragraph 112e of the NPPF outlines that development should provide electric charging facilities, therefore a suitably worded condition is recommended to secure one charging point per dwelling.

It is considered that the proposed development would comply with Policies T1, T2 and T13 of the Local Plan and paragraph 111 and 112e of the NPPF.

### *Sustainable Drainage*

The proposed development is located in a drainage catchment with some areas 'downstream' that are prone to flooding. The government's Flood Risk and Coastal Change guidance states any development should not increase flood risk off-site and elsewhere, so a drainage scheme needs to be appropriately secured including surface water drainage mitigation through soakaways for example. As the site will have increased impermeability, surface water runoff is likely to increase. Soakaways are likely a suitable option to manage surface water, but it needs to be ensured they have capacity to cope. In addition, the applicant would also need to demonstrate how water quality will be managed across the site. The site is located above an area of groundwater, which is of moderate susceptibility to contamination. It is therefore required that any infiltrating water (such as that from soakaways) should be free of contaminants. Permeable paving however is likely to be appropriate. The use of

rainwater harvesting grey water recycling and water butts where practicable in order to provide an additional means of surface water attenuation as well as reduced demand on potable water supplies. Using these systems may allow smaller soakaway units to be used, as there will be alternative storage for rainwater under storm conditions.

A maintenance scheme would need to be submitted and approved for any Sustainable Urban Drainage Systems (SuDS such as soakaways and permeable paving) on site. This includes details of when and what maintenance will be carried out, as well as who will be carrying it out. If the proposed SuDS systems are not properly maintained, there is potential for flooding. Accordingly, an appropriate planning condition is recommended to be imposed to address this.

Overall, no objection is raised subject to recommended condition. The development is considered to be in accordance with paragraph 168 of the NPPF.

### *Impact on wildlife*

The original ecological survey submitted with the application was carried out in 2017. An updated walkover survey has since been carried out and this survey states that habitat has not significantly changed since the original survey in 2017 and that small areas of habitat on-site are still suitable for reptiles. The report recommends a suitable precautionary approach, including habitat manipulation during the reptile active period. To secure precautionary mitigation measures for reptiles a suitable worded condition is recommended.

The proposed strategy is adequate to ensure any present reptiles are not harmed in the construction phase of the development and can be retained on-site. A planning condition is recommended to secure the implementation of these measures.

Bird-nesting habitat is present on and around the site that provide opportunities for breeding birds. As breeding birds are protected, any site clearance works should be undertaken outside of the bird breeding season (March to August) to avoid destroying or damaging bird nests in use or being built. If vegetation will be impacted during the breeding season, mitigation measures need to be implemented during construction in order to protect breeding birds. An informative is recommended to remind the applicant of their responsibilities in respect of this.

The application provides opportunities to incorporate features into the design which are beneficial to wildlife, in accordance with paragraph 175 of the NPPF which states “...opportunities to incorporate biodiversity improvements in and around developments should be encouraged”. Therefore, an enhancement plan for biodiversity will be required (incorporating enhancements that are in addition to the necessary mitigation measures), and this can be secured by planning condition.

With the above recommended condition imposed the development would be in accordance with paragraph 175 of the NPPF.



## *Trees*

The application has been submitted with an arboricultural report and tree protection measures plan. Trees are present on the site and in adjacent neighbouring gardens. No objection is raised to the removal of the trees that have been identified for removal on the site, subject to replacement tree planting within the landscaped areas of the proposed development. A condition is recommended to secure tree protection measures for the retained trees either on site or within the neighbouring gardens. Overall, it is considered that the removal of the trees identified on the site is acceptable and complies with Policy BNE43 of the Local Plan.

## *Climate Change and Energy Efficiency*

The application has been submitted with an energy statement which outlines within it how the dwellings would be constructed to address climate change and energy efficiency.

A condition is recommended for an energy efficiency and climate change verification report to be submitted. With the abovementioned condition imposed the proposal is in accordance with paragraph 154 of the NPPF.

## *Bird Mitigation*

As the application site is within 6km of the North Kent Marshes SPA/Ramsar Sites, the proposed development is likely to have a significant effect, either alone or in combination, on the coastal North Kent Special Protection Areas (SPAs)/Ramsar sites from recreational disturbance on the over-wintering bird interest. 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. There was therefore a need under the Conservation of Habitats and Species Regulations 2017 for an appropriate assessment to be carried out as part of this application.

As a result of the Appropriate Assessment 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 by way of mitigation for the adverse effects of the development. 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**

It is considered that the revised scheme has satisfactorily addressed the area of concern raised by the previous Inspector, while providing for a well-designed scheme which protects the amenities of existing and prospective residents and is acceptable against all planning consideration matters.

The scheme under this current proposal is considered to be acceptable and would comply with Policies BNE1, BNE2, BNE35, BNE43, H4, H9, S6, T1, T2 and T13 of the Medway Local Plan 2003 and the objectives of paragraphs 111, 112e, 126, 130, 154, 168, 175, 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.

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### **Background Papers**

The relevant background papers relating to the individual applications comprise: the applications and all supporting documentation submitted therewith; and items identified in any Relevant History and Representations section within the report.

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