

MC/23/1391

Date Received: 20 June 2023
Location: Avenue Tennis Club Glebe Road
Gillingham Medway
Proposal: Variation of condition 2 (approved drawings) to allow a minor material amendment to appeal decision APP/A2280/W/21/3277702 for alterations to the house type elevation design including changes to the fenestrations and plot positions to allow for larger turning heads and an increase in the ridge heights of plots 1, 5, 6 and 7.
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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 30th August 2023.

Recommendation - Approval with Conditions

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of the appeal decision APP/A2280/W/21/3277702 (planning reference MC/20/3204) (from 25 May 2022).

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 14 December 2020:

Tree Survey Plan
Tree Protection Plan

Received 20 June 2023:

3111-051 Proposed block plan
3111-052 Proposed elevations and floor layout

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: 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 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: SA/TPP/1769-02) and the Arboricultural Report (ref:SA/1769/20). The protection measures approved shall remain in place until the development has been completed.

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

- 5 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.

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

- 6 Prior to the commencement of the development hereby permitted, 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) shall be submitted to and approved in writing by the Local Planning Authority. The approved CSWMP 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 off-site flood risk associated with the development.

The CSWMP shall be implemented as approved and thereafter managed and maintained in accordance with the approved plan for the duration of construction works.

Reason: Required prior to commencement to manage surface water during the construction phase of the development as outlined at Paragraph 167 of National Planning Policy Framework.

- 7 No development or site clearance shall take place on the areas shown in yellow on the plan on page 1 of the Walkover Survey by KB Ecology dated 21 January 2021, until a survey has been undertaken by a suitably qualified ecologist to establish the presence or absence of reptiles on the application site, and survey along with any necessary recommendations that flow from it has been submitted to and approved in writing by the Local Planning Authority. The development shall be undertaken in accordance with the approved recommendations.

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.

- 8 No development above ground floor slab level shall take place until, the details and timing of construction of the site access including visibility splays has been submitted to and approved in writing by the Local Planning Authority. The access shall be constructed in accordance with the approved details, and thereafter be maintained as such at all times.

Reason: To ensure the development preserves conditions of highway safety, pedestrian safety and the free flow of traffic in accordance with Policies T1, T2, and T3 Medway Local Plan 2003.

- 9 No development shall take place above ground floor slab level until details and samples of all materials to be used externally in the development hereby permitted, have been submitted to and approved in writing by the Local Planning Authority. The development hereby permitted shall only 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.

- 10 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. The details shall include the location, charging type (power output and charging speed), associated infrastructure and timetable for installation. The development hereby permitted shall be implemented in accordance with the approved details prior to first occupation and shall thereafter be maintained.

Reason: In the interests of sustainability in accordance with paragraph 112E of the NPPF.

- 11 There shall be no tree felling, vegetation clearance works, or other works that may affect nesting birds between March and August inclusive, unless the absence of nesting birds has been confirmed by survey or inspection carried out by a suitably qualified ecologist, the results of which shall have been first submitted to and approved in writing by the Local Planning Authority.

- 12 No development shall take place above ground floor slab level until details of a scheme of biodiversity enhancement have been submitted to, and approved in writing by, the Local Planning Authority. This will include details of measures set out in the recommendations in section 4.10 of the Preliminary Ecological Appraisal (KB Ecology August 2017) and timescales for implementation. The approved details shall be implemented prior to first occupation in accordance with the approved timescales and be maintained thereafter.

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.

13 From the commencement of works including site clearance, all precautionary mitigation measures for reptiles shall be carried out in accordance with the details contained in the walkover survey by KB Ecology dated January 2021.

14 No part of the development hereby permitted shall be occupied until the areas shown on the submitted layout as vehicle parking spaces 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 the areas 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 and parking on the parking spaces.

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.

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

The submitted details shall include:

- i. Plans and details of existing and 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).
- ii. 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, sizes, root treatments and proposed numbers/densities.
- iii. Details for the design and specification of tree planting to enable healthy establishment at maturity, including 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, tree cell systems (to street tree planting environments).

iv. A timetable for implementation.

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

16 Prior to the first occupation of the development hereby permitted, a Landscape Management Plan (LMP) shall be submitted to and approved in writing by the Local Planning Authority. The LMP 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 maintained and 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.

17 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.

18 Prior to occupation of any dwelling (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 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 5. 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.

- 19 Notwithstanding the submitted plans, the stairway window on the side elevation of plot 5, shall be fitted with obscure glass and shall be non-opening. This work shall be completed before the dwelling is occupied and shall be permanently 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.

- 20 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 in 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.

- 21 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.

- 22 The development shall be implemented in accordance with the measures to address energy efficiency and climate change set out within the Energy Statement dated March 2021 for application Ref. MC/20/3204. Prior to first occupation of each dwelling 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 for that dwelling and will thereafter be maintained.

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

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 to vary the approved drawings listed in condition 2 of appeal decision APP/A2280/W/21/3277702 (MC/20/3204). This application is for a minor material amendment and the supporting covering letter, submitted with the application, advises that the revisions would allow for a larger turning head, by slightly altered plot positions and alterations to the elevational design of the dwellings.

The drawings submitted with the application show:

- Alteration in height of plots 1, 5, 6 and 7 by approx. 0.8m.
- Alteration in roof shape of plots 1, 5, 6 and 7 (plots 1 and 7 barn hipped and gable ended and plots 2, 3 and 4 barn hipped).
- Plots 2 and 3 set further back into the plot by approx. 0.7m.
- Plot 3 moved south east by approx. 1.1m to allow for the car parking spaces to be provided on the north west side of the dwelling, instead of the south east. The property has also been handed.
- Revision to the access to and location of the two parking spaces for plot 4, which would result in a reduction in the driveway length.
- Revision to the design of all of the dwellings, to include: alterations to size and style of windows on all elevations, Juliet balconies to the front elevations, square bay windows to front of all dwellings and feature canopies to front elevations around the front doors.
- The dwellings are 100mm/120mm wider due to the wall thickness requirements for the new Building Regulation standards.

Relevant Planning History

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 Decision: Allowed with Conditions
Decided: 25 May 2022

Representations

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

Seven letters have been received, two from the same person and two from the same household, raising the following objections:

- Loss of daylight/sunlight
- Traffic
- Over density
- Loss of wildlife habitat
- Surface drainage problems
- Loss of trees

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

Overview

The National Planning Practice Guidance (ref. 17a-017-20140306, NPPG) confirms that there is no statutory definition of a 'minor material amendment' but that 'it is likely to include any amendment where its scale and/or nature results in a development which is not substantially different from the one which has been approved'. The NPPG also advises that pre-application discussions will be useful to judge the appropriateness of this route in advance of an application being submitted.

Principle

The principle of the development has been accepted by the appeal decision APP/A2280/W/21/3277702 (MC/20/3204). As the proposal is for a minor material amendment to the approved plans of this application, the only issues for consideration are the design, the effect of the proposal on neighbouring amenity and highways safety.

Design

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. Paragraphs 126 and 130 of the NPPF emphasise the importance of good design.

In terms of design, the proposed dwellings would be two storeys in height. The revisions to the design of the dwellings include: a mix of barn hip and gabled roofs; alterations to size and style of windows on all elevations; square bay windows and feature canopies around the front door, at ground floor level and Juliet balconies at first floor level, to the front elevations. The height of plots 1, 5, 6 and 7 would be increased by approx. 0.8m. Plot 3 has also been handed.

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.

The development is considered to be in accordance with Policy BNE1 of the Local Plan and paragraphs 126 and 130 of the NPPF.

Amenity

Policy BNE2 of the Local Plan states that all development should secure the amenities of its future occupants and protect those amenities enjoyed by neighbouring properties. Paragraph 130 of the NPPF asserts that achieving well-designed places should include creating a high standard of amenity for existing and future users.

The heights of plots 1, 5, 6 and 7 would increase by approx. 0.8m and the roof shapes of plots 1, 5, 6 and 7 altered (plots 1 and 7 barn hipped and gable ended and plots 2, 3 and 4 barn hipped). Plot 2 and plot 3 are set further back into the plot by approx. 0.7m and plot 3 would move south east by approx. 1.1m. The dwellings would also be 100mm/120mm wider due to the wall thickness requirements for the new Building Regulation standards.

Overall, it is not considered that the amendments would have a detrimental impact on neighbouring properties in terms of loss, of daylight, outlook, sunlight and privacy.

The proposal is therefore in accordance with Policy BNE2 of the Local Plan and paragraph 130 of the NPPF.

Highways

The proposed minor material amendments would not reduce any parking provision within the development and would only change the location of the parking spaces for plot 3 from the south east of the dwelling to the north west of the dwelling and would revise the access to and location of the two parking spaces for plot 4, which would also result in a reduction in the driveway length. Overall, it is not considered that the amendments would result in any adverse highways impacts.

Consequently, the development is considered acceptable with regard to Policy T13 of the Local Plan and paragraph 111 of the NPPF.

Conclusions and Reason for Approval

It is considered that the proposed changes would not have a harmful impact on design, amenity and highways considerations and therefore, in the context of the overall scheme, and by virtue of their nature, can be dealt with as a minor material amendment. Accordingly, the scheme is considered to comply with Policies BNE1, BNE2 and T13 of the Local Plan and paragraphs 126, 130, and 111 of the NPPF.

The application would normally be determined under delegated powers but is being referred to Committee for decision due to the extent of representations expressing views contrary to the 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/>