

MC/23/1977

Date Received: 5 September 2023

Location: 264 St Margarets Banks, Rochester, Medway, ME1 1HY

Proposal: Part Retrospective - Excavation works for the formation of a basement Including a room under existing patio area. Alteration and enlargement of existing rear ground floor windows.

Applicant Mr Stephen Oakes

Ward: Rochester West & Borstal

Case Officer: Deinma Anga

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 13th March 2024.

Recommendation - Approval with Conditions

- 1 The development hereby permitted shall be carried out in accordance with the following approved plans:

PC04-KL-XX-XX-DR-S-0001-P01 FLOOR PLANS,
PC04-KL-XX-XX-DR-S-0002-P01 PROPOSED FLOOR PLANS
PC04-KL-XX-XX-DR-S-0003-P01 ELEVATIONS

received 30/10/2023.
- 2 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), the extension herein approved shall remain in use with the rest of the house as a single family 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 to C4 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.

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

Reason: To ensure that the development is undertaken in a manner which acknowledges interests of amenity and safety in accordance with Policy BNE23 of the Medway Local Plan 2003.

- 4 Within 1 month of the date of this permission a Construction Environmental Management Plan (CEMP) shall be submitted to and approved in writing by the Local Planning Authority. The Construction Environmental Management Plan shall include amongst other matters details of hours of construction working; measures to control noise affecting nearby residents; wheel cleaning/chassis cleaning facilities; dust control measures; pollution incident control and site contact details in case of complaints. The construction works shall thereafter be carried out at all times in accordance with the approved Construction Environmental Management Plan.

Reason: In the interests of residential amenity and to accord with Policy BNE2 of the Medway Local Plan 2003.

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

Proposal

The applicant seeks planning permission for a part-retrospective (partially completed):

1. 3-metre-deep basement for a cinema and storage space.
2. An associated 3m deep x 3m rear patio extension, to provide fire escape and seating area.
3. Alterations to existing rear ground floor windows to allow for bi-fold doors.

Relevant Planning History

None.

Representations

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

3 letters have been received by neighbouring residents objecting to the application on the following grounds:

- The original Georgian Houses had cellars but when the terrace was re-built in 1980's these were filled in and the foundations pile driven.
- The excavations are major works to the foundations of a terrace and care must be taken during construction not to compromise the structural integrity of properties.
- Concern that development commenced without consent.
- Concern that construction is being undertaken by someone unqualified in structures.
- That proper inspection must be undertaken by building control.
- This is a flood risk area and have the proper requirements been installed.
- Have the necessary reports been produced.
- Is an archaeological assessment required?
- Has potential contamination been addressed.
- Has the material removed been properly disposed of.
- The extension and external works are not in keeping with the historic character of the property and consequently the proposal is contrary to the recent conservation appraisal and Intra development framework.

The City of Rochester Society has raised the following concerns:

- Major excavations ongoing in conservation area without any consent.
- Significant excavation already undertaken limiting any potential archaeological examination.
- Heritage appraisal inadequate.
- Rear elevation unsympathetic to character of conservation area.
- Additional work required regarding foundation impact, neighbour impact, underground water levels and archaeology.

Medway Little Theatre Management Committee have raised the following concerns:

- No consultation prior to work commencing.
- Earth and rubble have been piled up against their side wall and potential impact.
- Rubble had blocked fire exit.
- Spill left exit slippery and unsafe causing some people to fall, and therefore health and safety issues.

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 (December) 2023 (NPPF) and are considered to conform.

Planning Appraisal

Background

It is understood that work initially commenced in May 2023. Following contact by the planning office a retrospective application was submitted.

Principle

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires applications for planning permission be determined in accordance with the Development Plan unless material considerations indicate otherwise.

Policy BNE12 of the Local Plan states that: Special attention will be paid to the preservation and enhancement of the character and appearance of Conservation Areas, as defined on the proposals map.

The site is located within the urban boundary of Rochester and within the Star Hill to Sun Pier Conservation Area. The existing dwelling is a terrace and is subject to article 4 directions, which restricts its permitted development rights to the principal facade which faces the High Street (St Margaret's Banks).

Due to the fact that these works are to the rear and visually will be minimal it is considered that the Article 4 Direction does not apply here and the impact on the Conservation Area is very limited. It is, therefore, considered that the proposal is considered acceptable in terms of the principle of this development and therefore compliant in principle with Policy BNE12 of the Local Plan.

Design

Paragraphs 131 and 135 of the NPPF emphasise 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.

Due to the scale and the siting of the proposed basement works, its impact is considered minimal.

The alterations to the rear elevation ground floor windows will also not be visible from public highways and will have no detrimental impact on the conservation area.

Whilst the Bi-fold doors appear slightly at odds with the retained original brick arch lintels of the removed windows this is not considered to be detrimental to the point that it would warrant refusal of the application.

Overall, the design is considered to be acceptable and is therefore compliant with Policy BNE1 of the Local Plan and Paragraphs 131 and 135 of the NPPF.

Amenity

Paragraph 135f 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 neighbours and secondly the living conditions which would be created for potential occupants of the development itself. Policy BNE2 of the Local Plan and Paragraph 135f of the NPPF relates to the protection of these amenities.

Neighbouring Residential Amenity

The low-level nature of the development poses no daylight and sunlight issues to the neighbouring amenities.

The noise and environmental complaints received from the neighbours are based around the initial construction of the basement. In order to address this a condition is recommended requiring the urgent submission of a Construction and Environmental Management Plan (CEMP) and a further condition relating to the potential for Unexpected Contamination during the on-going works and methods for addressing this event.

Subject to the recommended conditions, no objections are raised with regards to the objectives of Policy BNE2 of the local plan and paragraph 135f of the NPPF.

Future Occupants

The additional floor area of the basement raises concerns of future use of the property as a whole as an HMO. Due to the potential for this to result in poor living conditions for occupants as well as potential impacts on neighbours and the area an appropriate condition is recommended to restrict its C3 to C4 PD rights.

This will ensure the objectives of Policy BNE2 of the Local Plan and paragraph 135f of the NPPF are preserved.

In considering the impact on the amenity of existing and future occupiers, the proposal is considered acceptable. The proposal is in accordance with Policy BNE2 of the Local Plan and paragraph 135 of the NPPF.

Highways

Paragraph 115 of the NPPF states that: Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

There will be no impact as a result of the proposed development on existing parking or highway issues.

In consideration of this, no objection is raised with regards to the objectives of Policies T1 and T13 of the Local Plan and paragraph 115 of the NPPF.

Conclusions and Reasons for Approval

In conclusion, the proposed development would not detract from the overall character and appearance of the host dwelling or wider street scene. Likewise, there would be no detrimental impacts in terms of neighbourhood amenity and highways safety. The proposal would therefore be in accordance with Policies BNE1, BNE2, BNE12 and T13 of the Medway Local Plan 2003 and paragraphs 115, 131 and 135 of the NPPF (*Dec 2023*).

The application is being referred to Committee for a determination due to the extent of the representations received expressing a view 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 on Medway Council's Website <https://publicaccess1.medway.gov.uk/online-applications/>