

MC/23/2861

Date Received: 24 December 2023

Location: 112 Maidstone Road, Chatham, Medway, ME4 6DQ

Proposal: Construction of a detached dwelling with associated garden to rear and parking to front accessed via Scotts Terrace - demolition of existing garage to rear.

Applicant: Mr Nigel Timon

Agent: S Graham Architects Limited
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Ward: Fort Pitt

Case Officer: Chantelle Farrant-Smith

Contact Number: 01634 331700

Recommendation of Officers to the Planning Committee, to be considered and determined by the Planning Committee at a meeting to be held on 13th March 2024.

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 24 December 2023:

2329-001 B - Location Plan
2329-106 B - Proposed Site Plan Level 01
2329-105 B - Proposed Site Plan Level 0G
2329-107 B - Proposed Site Plan Level 02
2329-108 B - Proposed Site Plan Roof
2329-120 B - Proposed GA Plan Level 0G
2329-130 B - Proposed GA Plan Level 01
2329-140 B - Proposed GA Plan Level 02
2329-150 B - Proposed GA Plan Roof
2329-161 C - Elevation 02
2329-162 B - Elevation 03
2329-163 B - Elevation 04

2329-170 B - Proposed Site Section AA
2329-171 B - Proposed Site Section BB
Received 2 February 2024:
2329 - 160 C - Elevation 01

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

- 3 No development above slab level shall take place until details of all materials to be used externally (including PV Panels) 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.

- 4 No development shall commence, and no equipment, machinery or materials shall be brought on to the site for the purposes of the development until an Arboricultural Method Statement and the Tree Protection Measures have been submitted to and approved in writing by the Local Planning Authority. The tree protection measures shall be installed prior to the development commencing and shall be maintained until all equipment, machinery and surplus waste or materials have been removed from the site.

Reason: To ensure no irreversible detrimental harm to the existing trees and to protect and enhance the appearance and character of the site and locality and ecological benefits of this habitat and green network, in accordance with Policies BNE35, BNE37 and BNE43 of the Medway Local Plan 2003.

- 5 No development shall take place until a Construction Environmental Management Plan (CEMP) that describes measures to control, amongst other matters, hours of working, deliveries to the site, noise, dust and lighting arising from the construction phase of the development has been submitted to and approved in writing by the Local Planning Authority. The construction works shall be undertaken in accordance with this approved plan.

Reason: Required before commencement of development in order to minimise the impact of the construction period on the amenities of local residents with regard to Policy BNE2 of the Medway Local Plan 2003.

- 6 No development shall take place (except demolition and excavation) until details of soft landscaping for the area to the front of the proposed dwelling facing Scotts Terrace have been submitted to and approved in writing by the Local Planning Authority. The approved soft landscaping shall be undertaken prior to first occupation or in accordance with a timetable agreed in writing with the Local Planning Authority and shall thereafter be retained as such.

Reason: To protect and enhance the appearance and character of the site and locality, in accordance with Policies BNE1 and BNE43 of the Medway Local Plan 2003.

- 7 Prior to first occupation details of the provision for 1 electric vehicle charging point shall be submitted to and approved in writing by the Local Planning Authority. Details shall include the location, charging type (power output and charging speed), associated infrastructure and timetable for installation. The development shall be implemented in accordance with the approved details and shall thereafter be maintained in working order.

Reason: In the interests of sustainability in accordance with paragraph 112e of National Planning Policy Framework 2021.

- 8 The dwelling herein approved shall not be first occupied until the area shown on the submitted layout (drawing number 2329-120 B - Proposed GA Plan Level 0G) received on 24 December 2023, as vehicle parking spaces has been provided, surfaced and drained in accordance with details submitted to and approved in writing by the Local Planning Authority. Thereafter it shall be kept available for such use and no permanent development, whether or not permitted by the Town and Country Planning (General Permitted Development) Order 2015 (or any order amending, revoking or re-enacting that Order) shall be carried out on the land so shown or in such a position as to preclude vehicular access to this reserved parking space and garaging.

Reason: Development without provision of adequate accommodation for the parking or garaging of vehicles is likely to lead to hazardous on-street parking and in accordance with Policies T1 and T13 of the Medway Local Plan 2003.

- 9 Prior to first occupation of the dwelling hereby approved the windows on side elevations at first floor (serving secondary windows for bedrooms 1 and 2 and family bathroom) shall be fitted with obscure glass and apart from any top-hung light, that has a cill height of not less than 1.7 metres above the internal finished floor level of the room it serves, shall be non-opening. The windows 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.

- 10 The development herein approved shall incorporate the measures to address energy efficiency and climate change as set out within the Energy Efficiency Statement (dated 3 January 2024) The development shall not be occupied until a verification report prepared by a suitably qualified professional has been submitted to and approved in writing by the Local Planning Authority confirming that all the approved measures have been implemented.

Reason: In the interests of sustainability and to positively address concerns regarding climate change in accordance with paragraph 154 the National Planning Policy Framework 2021.

- 11 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, D 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.

- 12 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 dwellinghouse 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.

- 13 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.

- 14 The dwelling hereby approved shall not be first occupied until details of cycle storage facilities have been submitted to and approved in writing by the Local Planning Authority. The cycle storage facilities shall be implemented in accordance with the approved details prior to first occupation and shall thereafter be retained.

Reason: to ensure satisfactory cycle storage in accordance with Policy T4 of the Medway Local Plan 2003.

- 15 Prior to the first occupation of the dwelling herein approved details of the refuse storage arrangements for the dwelling including provision for the storage of recyclable materials, shall be submitted to and approved in writing by the Local Planning Authority. The dwelling shall not be occupied until the approved refuse storage arrangements for that dwelling are in place and all approved storage arrangements shall thereafter be retained.

Reason: In the interests of visual amenity and to ensure a satisfactory provision for refuse and recycling 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

The proposal site currently forms part of the rear garden of 112 Maidstone Road (Chatham). The application current site comprises of a double garage fronting on to Scotts Terrace with significantly high retaining walls either side which enclose the existing garden. 112 Maidstone Road is sited within the Maidstone Road Conservation Area and comprises of a large family dwelling with generous garden plot typical for this section of Maidstone Road.

The proposal seeks to demolish the existing double garage presently on site to allow for excavation works to construct a two-storey dwelling in the rear garden of 112 Maidstone Road fronting on to Scotts Terrace together associated garden, landscaping and two parking spaces with access from Scotts Terrace.

The proposed dwelling would be comprised of two storeys with accommodation within the roof space served by a dormer window and would be internally arranged as entrance hall, open plan kitchen dining and living space together with WC at ground floor, two double bedrooms, family bathroom and dressing room at first floor together with master bedroom with ensuite and dressing room within the loft space. The proposal also includes access steps to be constructed either side of the proposed dwelling for access to the garden.

Relevant Planning History

No relevant history.

Representations

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

9 letters have been received raising the following objections:

- Lack of consultation.
- Impact on parking particularly through the construction phase.
- Highways safety including residential cars being unable to access parking spaces within the area.
- Noise and Disruption during building works.

It is noted that individual neighbour notification letters were sent to the properties within the immediate vicinity of the site. A public Site Notice was hung at the site within Scott's Terrace and at Maidstone Road. The application due to its location within the Maidstone Road Conservation Area was also published within the Press. This meets the Council's adopted statement of community involvement and exceeds the national requirement.

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 2023 (NPPF) and are generally considered to conform. Where non-conformity exists, this is addressed in the Planning Appraisal section below.

Planning Appraisal

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.

The application falls within the urban area of Chatham. The site is to the rear of the 112 Maidstone Road and fronts onto Scotts Terrace. Policy H4 of the Local Plan supports infill development in urban areas whereby a clear improvement to the local environment would ensue. In addition, as the proposal relates to the development of the rear garden of 112 Maidstone Road, Policy H9 (back land development) of the Local Plan is of consideration. While the proposal is technically back land development it does have a frontage on to Scotts Terrace. Policy H9 states that back land development will be permitted should the proposed scheme demonstrate that it would not result in a loss of privacy; overlooking from adjoining houses and back gardens; provides adequate vehicular access; does not result in unacceptable increases in noise and disturbance or disrupt existing natural features; provides adequate private amenity space for existing and proposed dwellings; and respects the character of the locality. This is further emphasised by paragraphs 70 and 72 of the NPPF, asserting that the development of, and within, residential gardens should be resisted where harm to the local area would ensue, however, in doing so, recognises the importance of windfall sites and their sustainable delivery.

The proposal itself would result in the provision of a detached dwellinghouse within an urban area of Chatham, that, by nature of its siting, would be classified as a sustainable location. The site is located within walking distance to a local bus stop on Maidstone Road, local school, local amenities in the form of shops, green spaces and recreational grounds, and Chatham Train station. As such, given the sustainable location and existing land use within the street scene, no objections would be raised in principle to the proposed development. Subject to compliance with detailed matters of design, amenity and highways which are assessed below.

Design

The Government attaches great importance to the design of the built environment. Good design is considered a key aspect of sustainable development and is indivisible from good planning. Paragraphs 131 and 135 of the NPPF is key to achieving well designed places and requires that developments (in part) function well and add to the overall quality of the area; are visually attractive as a result of good architecture, layout and appropriate and effective landscaping; are sympathetic to local character and

history, including the surrounding built environment and landscape setting. Local Plan Policy BNE1 requires the design of development to be appropriate in relation to the character, appearance and functioning of the built and natural environment.

Furthermore, due to the site siting within the Maidstone Road Chatham Conservation Area (CA) Policy BNE14 of the Local Plan is of relevance which seeks to ensure that development within a Conservation Area or affecting its setting should achieve a high-quality design which will preserve or enhance the historic or architectural character and appearance of the area.

The application site itself is located within the rear garden of 112 Maidstone Road, which is located within the CA. However, Scotts Terrace does not fall with the CA.

The proposed dwelling would be the first on this side of Scotts Terrace. At present there is one row of Victorian terrace properties sited on the east side of Scotts Terrace. The proposed dwelling would be two storeys in height and would incorporate architectural features such as curved lintels and window lintels to match the appearance of the existing modest properties within Scotts Terrace. Whilst it is acknowledged that the proposed dwelling would be of a larger scale to the terrace properties within the immediate area, the careful consideration in design would not result in a development that is detrimental to the character of the street scene. The dwelling would also replace a large dominant garage which fronts immediately onto Scott's Terrace providing a scheme that is set back from the street scene and enhances the street scene by opening up the character of the area. Furthermore, the dwelling will be constructed in external materials to match materials within the street scene to further blend the proposal to its surrounds and an appropriate condition is recommended. While the dormer to rear will have cladding that will not fully match in, the use of a green roof would blend the development into the sloped landscape when viewed from Maidstone Road and aerial views of the site.

It is acknowledged that the character of properties fronting Maidstone Road and within the conservation area, generally includes large gardens which are part of the character, there already has been development within some rear gardens with the construction of the flats at 1-9 Royal Oak House, to the rear of 94-104 Maidstone Road and Gabriel Mews to the rear of 114a-d Maidstone Road. It is not considered that the subdivision of the plot would harm the character of the area. It is also considered that the design, scale and massing of the proposed dwelling would relate well to the surrounding streetscape.

The proposed parking area and landscaping areas to front of the proposed dwelling facing Scotts Terrace will be secured by condition to ensure that the development does not result in the hardening of the street scene and ensures good design that contributes to the surrounding character of the area.

Subject to the recommended conditions it is considered the proposed development would not cause harm to the Conservation Area or the surrounding street scene of Scotts Terrace, in accordance with Policies BNE1 and BNE12 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 neighbouring amenity and secondly the living conditions which would be created for the potential occupants of the development itself.

Neighbour amenity

There are neighbouring properties to the west (Scotts Terrace) and East (Maidstone Road) of the application site. In respect of the dwellings located in Maidstone Road, due to the changes in land level within the site and neighbouring properties, together with the design of the proposed dwelling being intertwined within the changing land levels the proposed dwelling would not result in unacceptable harm in terms of overlooking, overshadowing or loss of privacy to the dwellings or private amenity spaces of the properties in Maidstone Road.

In terms of 112 Maidstone Road, due to the land levels of the site together with the design of the dwelling being sunken in at first and ground floor within the slope, only the roof scape and dormer window will be visible from 112 Maidstone Road. The proposal includes the subdivision of the garden areas with boundary treatment which would further screen the proposed dwelling. As such, it is not considered the proposed development would result in harm to neighbouring amenity of the host property.

In respect of the terrace of properties within Scotts Terrace. The proposed dwelling would be set back within the site, with parking to the front and therefore would be approx. 15.5m from the properties opposite the site in Scotts Terrace (numbers 18 and 19). Whilst it is acknowledged that the proposal would introduce a form of facing development that does not exist in the street scene at present, with habitable window to habitable window distances of 15.5m, taking into consideration this distance between the properties and the fact that the windows already face directly on to a public road, it is not considered that the introduction of a dwelling in this location would result in unacceptable harm to neighbour amenity that would justify refusing permission.

In terms of overshadowing and loss of the light and impact on outlook, the properties opposite currently face onto the existing garage and wall which are right on the footpath and approximately 4m in height. The proposed dwelling would be set back into the site by 8m and although it would be 5.2m in height to the eaves of the roof (8m to ridge), that set back from the road would greatly improve outlook for the properties opposite and means that the proposal would not result in additional harm in terms of overshadowing the properties within Scott Terrace.

The proposal does include windows at first floor on side elevations which are either secondary bedroom windows or serve a bathroom. Whilst it is unlikely that this would result in significant overlooking from these windows, to mitigate any concerns of overlooking into neighbouring gardens of 110 and 114 Maidstone Road the windows at first floor on side elevations will be conditioned to be obscure glazed.

In order to address and minimise impacts during construction a condition requiring a Construction Environmental Management Plan (CEMP) is recommended. The CEMP will include control measures for dust, noise, vibration, lighting, delivery locations, restriction of hours of work and all associated activities audible beyond the site boundary, advance notification to neighbours and other interested parties of proposed works and public display of contact details including accessible phone contact to persons responsible for the site works for the duration of the works.

In addition to this, due to the size of the proposed dwelling, there is the potential for it to be converted to an HMO in the future. The consequence of such a change may result in harm to neighbouring residential amenity in terms of noise and disturbance from increased comings and goings as well as pressure for parking. An appropriate condition is therefore recommended removing the permitted development right.

It is also recommended that permitted development rights be removed for further outbuildings, and extensions to the dwelling to ensure the impact on the street scene and neighbouring amenity is properly assessed through consideration of an application.

Subject to the recommended conditions, the proposal would not result in unacceptable harm to neighbouring amenity and is therefore in accordance with Policy BNE2 of the Local Plan and paragraph 135f of the NPPF.

Occupant Amenity

It is also necessary to consider whether a satisfactory environment would be provided for the future occupiers of the proposed dwellings in compliance with the Technical Housing Standards – Nationally Described Space Standards March 2015.

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

	Number of Bedrooms	Number of bed spaces	1 storey dwellings
Standard	3	6p	95m ²
Proposed	3	6p	151m ²

All bedrooms would meet the requirements of the technical housing standards.

The development would also provide sufficient garden space for both the proposed dwelling and that of 112 Maidstone Road in line with Medway Housing Design Standards which states gardens should be a minimum of 10m in depth (7 within constrained sites).

As such, it is considered that the proposal would be acceptable relating to occupant amenity in accordance with Policy BNE2 of the Local Plan and paragraph 135f of the NPPF.

Highways

Policy T13 of the Local Plan relates to vehicle parking standards, cars and cycles. Policy T1 of the Local Plan relates to the impact of development on the highway network.

The Medway Interim Parking Standards states that a three-bedroom dwelling should provide a minimum of 2 parking spaces. In this case, the site layout plan demonstrates two off road parking space located within the site. There is also on street parking within Scotts Terrace which serves the current properties and is a permit-controlled zone. The visibility splays of the site are sufficient and cars accessing the site would not pose a safety risk to vehicle or pedestrian safety within the street.

The proposed access would span the width of the existing opening to the double garage (approx. 5.4m) in front of which there cannot be on street parking currently (as this would block access to the garage) and as a result the proposal will not impact on existing on street parking. The existing property at 112 Maidstone Road also benefits from car parking to the front, facing Maidstone Road and this is considered sufficient to serve the needs of the existing property.

One electric vehicle charging point is required, along with provision for cycle parking and refuse arrangements within the site. Appropriate conditions are recommended to secure these.

Subject to the recommended conditions no objection is raised in relation to vehicle parking or highway safety under Policies T1, T4 and T13 of the Local Plan and paragraphs 115 and 116E of the NPPF.

Impact on Trees

An Arboricultural Impact Assessment was submitted with the application that states that the trees to be removed within the site to facilitate the proposed dwelling are not of significance and the removal of them is necessary to facilitate the proposal. It is not considered the loss of these trees would result in harm to the visual amenity of the site as they are not visible from public vantage points including Maidstone Road or Scott's Terrace.

The Assessment and associated plans demonstrate that the majority of retained trees both within the site and neighbouring property of 114 Maidstone Road will not be impacted. However, the assessment does identify that the proposal would be within the root protection area of two mature Lime trees. The assessment states that traditional foundation designs would not be acceptable and advice regarding the footings should be sought. The applicant has confirmed that due to the nature of the proposal being built into the sloped land level that traditional foundations would not be suitable, and that the majority of works will be hand-dug rather than machine driven.

Therefore, to demonstrate that the proposed method of works would not cause harm to the mature trees an Arboricultural Method Statement will be secured via condition to demonstrate how the dwelling will be constructed.

Subject to the recommended condition, it is considered that the proposal would not result in detrimental harm to the retained trees within the site and is therefore in accordance with Policy BNE43 of the Local Plan.

Contamination

Due to the former use of the site, particularly the existing garage element, it is likely that some contamination has occurred. In order to fairly assess the contamination, additional information is required, and an appropriate condition is recommended. Subject to this, the development would comply with the objectives of Policy BNE23 of the Local Plan.

Climate Change and Energy Efficiency

A Climate Change and Energy Efficiency Statement has been submitted which includes sustainable design principles, energy and carbon reduction methods, biodiversity net gain, water efficiency and recycling, waste reduction, sustainable transport methods, air quality improvement measures, education or new resident/occupier information pack. An appropriate condition is recommended to secure these in accordance with paragraph 159 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. Natural England has advised that an appropriate tariff of £314.05 per dwelling (excluding legal and monitoring officer's costs, which separately total £550) should be collected to fund strategic measures across the Thames, Medway and Swale Estuaries. This tariff should be collected for new dwellings, either as new builds or conversions (which includes HMOs and student accommodation).

These strategic SAMMS mitigation measures are being delivered through Bird Wise North Kent, which is the brand name of the North Kent Strategic Access Management and Monitoring Scheme (SAMMS) Board, and the mitigation measures have been informed by the Category A measures identified in the Thames, Medway & Swale Estuaries Strategic Access Management and Monitoring Strategy (SAMM) produced by Footprint Ecology in July 2014. Further information regarding the work being undertaken is available at The Bird Wise website which can be found at <https://northkent.birdwise.org.uk/about/>.

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

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

Conclusions and Reasons for Approval

The proposed development would create an attractive dwelling that relates well to the character of the area and would not result in unacceptable harm to neighbouring amenity, highways safety or function and is therefore in accordance with Policies H4, H9, BNE1, BNE2, BNE34, T1, T13 and paragraphs 70, 72, 112, 115, 131, 135, 159, 186 and 187 of the NPPF 2023.

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 for Approval.

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/>