

**MC/23/2793**

**Date Received:** 14 December 2023  
**Location:** 63 Woodlands Road, Gillingham, Medway ME7 2DU  
**Proposal:** Construction of a detached block comprising of seven studio flats.  
**Applicant** Ruprai Construction Ltd  
Mr Abdul Mumtaz  
**Agent** BEAU Architecture Ltd  
Mr Samuel Bowman  
Building 1063  
Cornforth Drive  
Kent Science Park  
Sittingbourne  
Kent  
ME9 8PX  
**Ward:** Watling  
**Case Officer:** Sam Pilbeam  
**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 28th August 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 14 December 2023:

Site Plan

002 REV P1 - Proposed Site Plan with Ground Floor Layout

003 REV P1 - Proposed Site Plan with First Floor Layout

005 REV P1 - Proposed Ground Floor and First Floor Plans

Received 20 June 2024:

004 REV P2 - Proposed Site Plan with Second Floor Layout

006 REV P2 - Proposed Second Floor and Roof Plan

007 REV P2 - Proposed Elevations

008 REV P2 - Proposed Elevations

009 REV P3 - Proposed Sections

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

- 3 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.

- 4 Prior to the commencement of the development 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 including delivery/collection times from the site; measures to prevent vehicles from idling when not in use/waiting; measures to control noise affecting nearby residents; parking plan for any associated vehicles; 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 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.

- 5 Prior to first occupation of any of the proposed flats a Parking Management Plan shall be submitted to and approved in writing by the Local Planning Authority. The Parking Management Plan shall contain details of how residents and their visitors will be deterred from parking on street. The Parking Management Plan shall be implemented in accordance with the approved details prior to the first occupation of the residential unit and shall thereafter be retained.

Reason: In the interests of sustainability and residential amenity in accordance with Policies T13 and BNE2 of the Medway Local plan 2003.

- 6 Prior to the first occupation of any flat hereby approved, details of secure private cycle parking provision in the form of individual lockers shall be submitted to and approved in writing by the Local Planning Authority. The cycle parking shall then be implemented in accordance with the approved details prior to first occupation of any of the approved flats and thereafter be retained.

Reason: To ensure the provision and permanent retention of bicycle spaces in accordance with Policy T4 of the Medway Local Plan 2003.

- 7 None of the flats hereby permitted shall be occupied, until the area shown as refuse storage space on drawing number 005 REV P1 Proposed Ground Floor and First Floor Plans (received 14 December 2023) has been provided in accordance with the details submitted within the Design and Access Statement (received 14 December 2023). The approved refuse storage 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.

- 8 The development herein approved shall incorporate the measures to address energy efficiency and climate change as set out within the Climate Change Statement upon page 21 of the Design and Access Statement received on 14 December 2023. The development shall not be first 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 159 of the National Planning Policy Framework 2023.

- 9 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.

- 10 The first floor rear windows serving the circulation hallway shown on drawing number 008 REV P2 Proposed Elevations (received 20 June 2024); 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. This work shall be completed before the relevant flat is first 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.

**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 erection of a detached two and a half storey block comprising of seven studio flats upon an existing car park which provides for five number of parking spaces serving the adjacent development.

The proposed block would measure approx. 12.3m in depth by 13.6m in width, supporting a gable ended pitched roof measuring approx. 7.1m to the eaves and 10.2m to the ridge. To the rear the proposal has been set in at first and second floor level by approx. 4.2m from the boundary of 61 Woodlands Road and seeks the installation of PV units across this section of the pitched roof and lightwells within the flat roof.

The proposal has minimal design features, mostly being material led, aside from large symmetrical fenestration alignments; front enclosures serving the ground floor flats; and flared gable ends establishing outlook for the second-floor flats, amalgamating into an overall contemporary minimalistic style of design approach.

Internally, the proposed block of flats would comprise of three identical studio flats at ground floor level and communal stair-hall, cycle storage and refuse storage located within the eastern flank; two studio flats and hallway and stairway along the western flank at first floor level; and two identical studio flats at second floor.

## **Relevant Planning History**

MC/05/0200

Demolition of existing buildings and construction of a three storey block comprising shop/off-licence (Class A1) on ground floor and 4 one-bedroomed flats above together with associated parking.

Decision: Refusal

Decided: 31 March 2005

Appeal Allowed 16 November 2005

## **Representations**

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

**Six** letters of objection have been received on the grounds:

- Lack of off-street car parking
- Increase pressure on existing highway network, by reason of the proposed lack of parking and increased number of units
- Noise and disturbance, alongside highways safety concerns in respect to the unloading/loading of deliveries to the ground floor shop
- Overlooking to the rear gardens of Woodland Road
- Loss of light into rear gardens and dwellings

- No provision of EV parking spaces
- Overdevelopment of the site in terms of the number of proposed units contained within the block

**Southern Water** state the proposal would be built over an existing foul sewage which would not be considered acceptable by Southern Water. They go on to state it is possible to rectify this by diverting the pipework, so long as this does not result in a loss of hydraulic capacities and is carried out at the developers expense to the standard of Southern Water.

*This has been forwarded to the applicant for attention and will be an informative on any decision.*

## **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 generally considered to conform. Where non-conformity exists, this is addressed in the Planning Appraisal section below.

## **Planning Appraisal**

### *Background*

The application site has been subject to two former applications, which sought to demolish and redevelop the site which previously was occupied by bungalow and shop. Both MC/04/2231 and MC/05/0020 were refused.

These were subsequently taken to appeal, with the former being dismissed on the basis of the levels of associated noise and disturbance upon proposed and existing residents by virtue of the proposed takeaway and insufficient levels of parking to accommodate for the combined parking demand of the flats and the hot-food takeaway.

The latter were approved, with the inspector finding that the appeal would be acceptable subject to conditions.

The approved scheme has been implemented.

The current application relates to the parking area which serves the flats and shop related to the development allowed on appeal.

### *Principle*

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

The NPPF seeks to pursue sustainable development, in a positive and proactive manner through paragraph 11 of the NPPF. Stating that applications should be considered in favour for a presumption in favour of sustainable development, unless the Policies within the NPPF provide clear reasons for refusing development, or any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits. Furthermore, paragraph 60 of the NPPF also seeks to boost the supply of housing by bringing forward a variety of land to meet specific housing requirements.

The site is located within the urban area of Gillingham and Policies S1 and H4 of the Local Plan promote the best use of development opportunities within urban areas and the re-development and investment within the urban fabric of underused areas in Gillingham. In this instance, the proposal would utilise an off-street private parking area to provide a block comprising of seven studio flats. This would be 7 units that would contribute towards Medway Council's housing requirements.

The site is in a sustainable location that benefits from its close proximity to local facilities and wider public transport links.

Therefore, subject to the assessment of more detailed matters below, the principle of the proposal is acceptable and in accordance with Policies S1 and H4 of the Local Plan and paragraphs 11 and 60 of the NPPF.

### *Design*

Both the NPPF and Local Plan stress the emphasis of good design and achieving high quality buildings. Policy BNE1 of the Local Plan states that the design of development should be appropriate in relation to the character, appearance and functioning of the built and natural environment by amongst other matters being satisfactory in terms of scale, mass, proportion, details, and materials. Paragraph 131 of the NPPF states that developments should contribute to the overall quality of the area and be sympathetic to local character, including the surrounding built environment and landscape setting, supported by paragraph 135 which adds that good design is a key aspect of sustainable development.

The application site is located just off the junction of Cornwallis Avenue and Woodlands Road, and adjacent to Canadian Avenue to the west. The surrounding properties are relatively uniform in terms of size and scale formed of a mix between two-storey semi-detached and terraced properties. The curtilages are typically suburban delineated by relatively shallow front gardens, demarcated by approx. 1m high front brick boundary treatments and some raised planters and relatively deep rear gardens consistently measuring approx. 15m in depth; in terms of the width, the plots again remain relatively consistent, measuring approx. 6m in width.

The application site itself represents a different style of development, maybe reflecting its corner location with a 3 storey block of four one-bedroom flats, incorporating a shop at ground floor level with car parking to the west accessed from Canadian Avenue.

The proposal itself seeks to erect a block of seven studio flats within the car park of the existing property. The proposed block would measure approx. 13.6m in depth by 12.3m in width, supporting a gable ended pitched roof measuring approx. 7.1m to the eaves and 12.3m to the ridge. To the rear the proposal has been set in at first and second floor level by approx. 4.2m from the boundary of 61 Woodlands Road and PV units are proposed to be installed across the pitched roof.

The proposal features minimal design features, mostly being material led, aside from large symmetrical fenestration alignments; front enclosures serving the ground floor flats; and flared gable ends – establishing outlook for the second-floor flats – amalgamating into an overall contemporary minimalist style design approach, with design notes throughout that are reflective of the surrounding character.

The proposal would be clearly visible when traversing west-to-east and vice versa along Cornwallis/Canadian Avenue and north-to-south along Woodlands Road, from within the rear gardens of adjacent properties 61 – 51 Woodlands Road, 76 and 74 Canadian Avenue and to some extent properties along the junction of Third Avenue. Clearly, therefore, the proposal would be visible from multiple different views, vistas and vantage points.

With this in mind, when considering the overall massing and bulk of the block against that of its surroundings, the proposed ridge height would sit between that of the adjoining block to the east and houses to the west.

The massing and footprint would appear proportionally relative to the overall size of the plot afforded and comparable in size and scale to that of the adjoining semi-detached and terraced properties. Fostering an overall cohesive relationship alongside the existing scale and proportions of the established streetscene.

Further assisting in the block's integration into its locality is the proposed design and detailing. With the block appearing akin to a pair of semi-detached properties when viewed from the principal elevation: supporting a mirrored symmetrical design replicating the repeating rhythm of the streetscene, albeit with a more contemporary overall finish. Such an approach again builds upon the spatial repetitions within of the streetscene.

No objections are therefore raised in regards to Policy BNE1 of the Local Plan and paragraphs 131 and 135 of the NPPF.

### *Amenity*

Paragraph 135f of the NPPF requires that development functions well over its lifetime and provides a high standard of amenity for future occupiers and neighbours, which is reflected in the requirements of Policy BNE2 of the Local Plan; to protect the amenities of neighbours in terms of privacy, daylight, sunlight, noise, vibration, heat, smell and airborne emissions. These amenity considerations should be assessed on two grounds, firstly the impact of the proposal on adjoining neighbours and secondly how the proposed works would impact future occupants.

### Neighbouring Amenity

By virtue of the proposal's height in relation to adjoining neighbours in conjunction with the tracking of the sun, no objections would be raised in regard to overshadowing; the shadow cast by the proposal would fall to the north upon Canadian Avenue.

Likewise, while it is acknowledged that the proposal would extend along the depth of the 61 Woodlands Road the block has sought to mitigate any overbearing impact upon the adjoining property. This has been achieved via the inseting of the first and second floors from the boundary line by approx. 4.2m, in addition to this, the parapet of the ground floor element to the rear would meet flush with the height of the existing fence line.

Consequently, the inset alongside the sunken topography of the site and well considered height of the ground floor extension would not appear domineering nor as an overbearing presence when viewed from within the rear garden or the dwellinghouse of 61 Woodlands Road.

To the rear elevation the proposal also has four windows and four roof lights, facing into the rear gardens of 61 – 55 Woodlands Road. However, the first-floor windows serve as a circulation stairway/hallway, allowing residents access into units 4 and 5, as well as, access to the stairway leading to units 6 and 7. The windows do not therefore serve habitable rooms and an appropriate condition is recommended for these windows therefore to be obscure glazed and non-opening. Subject to said proposed condition, it is not considered the first-floor rear windows would result in any significant overlooking into the adjacent rear gardens of residential properties along Woodlands Road.

The windows contained within the roofscape would sit approx. 1.7m in height from the floor level of the respective flat. Therefore, while not obscure glazed, owing to the windows height there would be highly limited scope for any overlooking.

The proposed block would adjoin the existing block which supports windows on the side flank facing into the application site – at approx. 2.6m (communal stairway) and 5.5m (bedroom and bathroom) away from the adjoining flank.

No objections would be raised in relation to the impact on the stairway windows as this is not a habitable room. A similar stance can be taken in relation to impact on bathroom windows which are also obscure glazed.

The impact on the bedroom windows requires more careful assessment. In that respect the windows are already impacted by the return of the rear elevation containing the stairway would intercept the BRE-45 degree line of outlook from the first and second floor window. Affording a sufficient, but nevertheless, comprised level of outlook and daylight within the bedrooms of each flat.

The proposal would not result in a loss of outlook but would tunnel the remaining views across its rear elevation. As it is not considered the proposal would unacceptably impact on outlook or light the impact is considered acceptable.



Therefore, given the existing levels of outlook afforded to the property, it is not considered that the proposal would result in a significant material deterioration of the levels of amenity currently observed from the first or second floor bedroom windows.

Due to the proximity of the proposal to neighbouring dwellings and potential for the construction of the development to result in noise, disturbance and dust, a Construction Environmental Management Plan is recommended to be secured by condition to mitigate against such amenity impacts in accordance with Policy BNE2 of the Local Plan.

### Future Occupants

The proposed flats have been considered against Technical Housing Standards – Nationally Described Space Standard 2015. Whereby, a studio flat would be required to meet a gross internal floor area (GIA) of 39m<sup>2</sup> and to 37m<sup>2</sup> where the studios support a shower room instead of a bathroom. The proposal is formed of seven studio flats, all comprising of a shower room.

The layout of the flats on the ground floor are identical, each of which provides a GIA of 37m<sup>2</sup> including a shower room and 1m<sup>2</sup> of internal storage space. In addition to this, the ground floor units are also afforded a small area of defensible space to the front.

On the first floor the layout differs between the units and comparative to that of the ground floor units. But again, each of the two units is comprised of a total GIA of 37m<sup>2</sup> including a shower room and storage space of 1m<sup>2</sup> to 2.2m<sup>2</sup>.

Lastly, on the second floor the two units would be identical – symmetrical to one-another – again meeting the criteria of a total GIA of 37m<sup>2</sup> and this time facilitating a larger degree of storage within the eaves.

The proposal therefore meets the requirements of the space standards.

With regard to the levels of light each unit would receive, the applicant has submitted a supporting Internal Daylight and Sunlight report which demonstrates that each of the units is provided with sufficient volumes of light in compliance with BRE guidelines.

The Council Housing standards would normally require either external open space in the form of gardens or balconies. No balconies are proposed to serve the flats. However, this is considered acceptable in this instance based upon the existing characteristics of the locality and potential impacts of balconies upon adjoining neighbouring amenity. In addition, any balconies located to the east, south or west of the proposed block would likely result in significant conflicts with adjoining neighbouring amenities, given the relative location of habitable room windows and neighbouring gardens. There is a public open space a short distance away to the South in Woodlands Road.

Consequently, it is considered there is reasonable justification for departure from the MHS standards in this instance.

Provision for refuse storage are provided via a separate side entrance to the east, providing room for at least four 1100 litre euro bins. The entrance would be accessible from the highway and is less than approx. 15m from the main ground floor stairway entrance. No objections would therefore, be raised in regard to the refuse arrangement.

No objections are therefore raised on balance to Policy BNE2 of the Local Plan and paragraph 135f of the NPPF.

### *Highways*

Policy T1 of the Local Plan relates to the impact on new development on the highway network. Policy T13 of the Local Plan is related to parking standards. Paragraph 114 of the NPPF seeks development located in sustainable locations, limiting the need to travel and offering choice of transport modes to reduce congestion and emission and improve air quality and public health. Paragraph 119 of the NPPF states that development should only be refused on highways grounds if there is an unacceptable impact on highways safety.

The application site is currently in use as a car park to serve the flats in the adjacent block.

The proposal would result in the loss of all off-street parking bays serving the adjacent block. In addition, subject to Medway Council Residential Parking Standards 2010 the development itself would be required to provide a total of seven off-street bays for the proposed units. However, in this instance the applicant has opted for a car free development in relation to the existing and proposed flats, representing a significant shortfall in car parking spaces.

Medway Residential Parking Standards do confirm that: *"Reductions of the standard will be considered if the development is within an urban area that has good links to sustainable transport and where day-to-day facilities are within easy walking distance"*.

The application site falls within the urban area of Gillingham, and is located an approx. 10 minute walk away from a local village centre sited upon Sturdee Avenue, is less than 50m away from a local bus stop affording links into Gillingham and Rochester Town Centres, with array of amenity provisions and train stations with high speed links into London and wider connections across the south east coast. Consequently, granting future occupants with a network of practical alternatives to the private car and access to day-to-day facilities. As such, flexibility in the standards, in this instance, is considered justifiable.

The applicant has submitted a parking beat survey outlining the existing and future parking capacities within a 200m area of from the site. Finding that the current average recorded parking occupancy was at 88%; with the addition of the displaced vehicles from the proposal this would increase by a factor of 2% to 90%.

It should be understood that whilst Medway Council does not have a confirmed Policy stating the required or acceptable thresholds of parking capacities, this level of

saturation has nonetheless has been found acceptable at appeal within London Boroughs: take appeal reference number as example APP/L5810/A/14/2211027.

Therefore, while it is accepted that the proposal would result in an increased stress level against the existing overall parking arrangement of the site (within an area of 200m), this would ultimately remain relatively limited; increasing the current stress by approx. 2% and not exceeding levels that could be reasonably considered acceptable within a high-density urban environment.

Against this backdrop, such a low level of harm is not considered sufficient to warrant refusal. Flexibility against the parking standards would be accepted on the basis of the sites sustainability; which is further mitigated given that the occupancy of the site of one bed units in such a location could lend itself towards attracting residents who do not own cars; the applicant has clearly and sufficiently demonstrated the resultant parking stresses of the proposed development and impact upon the wider area; and this can be further mitigated through the requirement of a parking management plan and an appropriate condition is recommended.

Subject to the above condition and with consideration upon balance, no objections would be raised in regard to the car free proposal or loss of existing car parking spaces.

In addition to the proposed parking management plan, a condition securing the details of the proposed cycle storage arrangement is also recommended in relation to compliance with Policy T4 of the Local plan. Subject to the recommended conditions no objections would be raised in regard to Policies T1, T13 and T4 of the Local Plan.

#### *Climate Change and Energy Efficiency*

A Climate Change Statement has been submitted by the applicant. An appropriate condition is recommended requiring the implementation of the measures agreed and for this to be verified on site prior to occupation No objections would therefore be raised regarding paragraph 159 of the NPPF.

#### *Contamination*

Policy BNE23 of the Local Plan confirms that development upon land known or likely to be contaminated or affected by contamination must be accompanied by the findings of a detailed site examination in order to identify said contaminants and present appropriate measures to mitigates against its risk.

Historical maps and records clearly indicate that the site has previously been developed and as such it is likely the site is overlain with made ground. Consequently, given the proposal would result in the excavation of the ground to facilitate the foundations and utility services, to ensure that any potential contamination is identified and delt with accordingly, a method statement condition is recommended in order to secure the details of how any unsuspected contaminants will be delt with.

Subject to the proposed condition, no objections would be raised in regard to Policy BNE23 of the Local Plan.

## *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 application is in a sustainable urban site and is acceptable in terms of design, amenity and highways terms and therefore complies with the provisions set out in paragraphs 11, 60, 114, 119, 131, 135, 135(f), 159, 180 and 181 of the National Planning Policy Framework and Policies BNE1, BNE2, BNE23, BNE35, H4, S1, S6, T1, T4 and T13 of the Medway Local Plan 2003. Therefore, the application is recommended for approval.

The application would normally be determined under delegated powers but is being referred to Planning Committee for determination due to the number of representations received expressing a view contrary to Officer's recommendation for approval.

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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/>