

MC/24/1213

Date Received: 11 June 2024
Location: Land rear of the Old Vicarage, High Street, Isle Of Grain, Rochester
Proposal: Construction of two detached dwellings with associated parking and landscaping.
Applicant Agent: M Latif
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Case Officer: Amy Shardlow
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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 23rd October 2024.

Recommendation - Approval subject to:

- A.** The applicant completing a S106 agreement or unilateral undertaking to secure the two dwellings proposed as self-build.
- B.** The imposition of the following 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 11 June 2024:

- 1262A/PL/03.2/- Proposed Elevations Plot 2
- 1262A/PL/03.1/- Proposed Elevations Plot 1
- 1262A/PL/03.6/- Proposed Site Plan
- 1262A/PL/03.5/- Proposed Roof Plan
- 1262A/PL/03.4/- Proposed Floor Plans Plot 2
- 1262A/PL/03.3/- Proposed Floor Plans Plot 1
- 1262A/LOC/01.1- Site Location Plan

1262A/LOC/01.3- Proposed Block Plan

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

- 3 No development above slab level shall take place for each individual plot, until details 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 any development (including site/vegetation clearance) and for the duration of construction, all mitigation for protected and priority species will be carried out in accordance with the details contained in section 4 of KB Ecology Preliminary Ecological Appraisal dated 7th March 2024.

Reason: To ensure the protection of protected species, in accordance with Policy BNE39 of the Medway Local Plan 2003 and paragraph 180 of the National Planning Policy Framework 2023.

- 5 Prior to commencement of development on either of the 2 plots, a detailed plan(s) showing how the development will enhance biodiversity shall be submitted to and approved in writing by the Local Planning Authority. This will include a detailed landscaping plan showing all trees to be retained and secured on site during and post construction, basic management measures to achieve the proposed habitat target conditions, native and wildlife-friendly planting, and durable bat and bird boxes aimed at species of conservation concern and a timetable for the implementation of the various approved measures.. The approved measures will be implemented in accordance with the approved timetable and retained thereafter.

Reason: To ensure the protection of protected species and the delivery of biodiversity enhancements in accordance with Policy BNE39 of the Medway Local Plan 2003 and paragraph 180 of the National Planning Policy Framework 2023.

- 6 No development shall take place above ground floor slab level anywhere within the site until a Landscape and Ecological Management Plan (LEMP) has been submitted to and approved in writing by the Local Planning Authority. This should include details relating to the wildflower meadow, existing and retained trees and any external lighting (including reference to the effect on wildlife and habitats). The development shall thereafter be implemented in accordance with the approved details, retained thereafter and managed in accordance with the approved details.

Reason: To ensure the protected of protected species and the delivery of biodiversity enhancements in accordance with Policy BNE39 of the Medway

Local Plan 2003 and paragraph 180 of the National Planning Policy Framework 2023.

- 7 No development shall take place until a Construction Environmental Management Plan (CEMP) that describes measures to control, amongst other matters, hours of working, parking of operatives vehicles, wheel cleaning/chassis cleaning facilities, deliveries to the site, noise, dust, surface water run off, pollution incident control, site contact details in case of complaints and lighting (including reference to the effect on wildlife and habitats) 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 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: This is required before commencement of development in order to minimise the impact of the construction period on the amenities of local residents, the countryside and wildlife and habitat and with regard to Policies BNE2, BNE36 and BNE39 of the Medway Local Plan 2003.

- 8 No development shall take place including site clearance until a Great Crested Newt survey has been submitted to and approved in writing by the Local Planning Authority. If translocation is required this will need to be evidenced and methodology prepared within this survey. The translocation shall be carried out in accordance with the approved details thereafter.

Reason: Required prior to commencement of development to ensure no irreversible detrimental harm to protected species in accordance with Policy BNE39 of the Medway Local Plan 2003.

- 9 Notwithstanding the submitted details, no development above slab level for each of the individual plots shall take place until the following drawings have been submitted to and approved in writing by the Local Planning Authority:

- i) Elevations of the proposed garages a scale of no less than 1:50.

The development shall thereafter be implemented in accordance with the approved drawings

Reason: To ensure that the appearance of the garage are satisfactory and without prejudice to the appearance of the development site in accordance with BNE1 and BNE25.

- 10 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 within Schedule 2, Part 1 or Part 2 of that Order shall be carried out on the part of the site shown as a wild flower meadow on the plans submitted and approved under

condition 2 above 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 the character and appearance and the nature conservation interest of the locality and with regard to Policies BNE1, BNE25 and BNE36 of the Medway Local Plan 2003.

- 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), the plots herein approved shall remain in use 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.

- 12 Prior to the first occupation of each dwellinghouse herein approved a plan indicating the positions, design, materials and type of boundary treatment to be erected to serve the relevant dwelling shall be submitted to and approved in writing by the Local Planning Authority. The boundary treatment shall be completed in accordance with the approved details before the relevant dwelling is first 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 Policy BNE1 of the Medway Local Plan 2003.

- 13 The plot(s) must be marketed to self/custom builders for a minimum period of 24 months from the commencement of development on the plot(s), after which time evidence of this should be provided to the satisfaction of the Local Planning Authority before any consideration by the land owner/developer is given to revert to open market sale/to be developed by the land owner/developer. This evidence would be required in any subsequent full planning applications to the Local Planning Authority.

Reason: To take account of the self-build nature of the submitted application and to regulate and control any subsequent development of the site in accordance with Policy BNE1 of the Medway Local Plan 2003.

- 14 Prior to the first occupation of either of the dwellings, the area shown on the approved plans for access and parking as shown on drawing number 1262A/PL03.6/ - shall be surfaced and drained in accordance with condition 17. Thereafter no permanent development, whether or not permitted by the Town and Country Planning (General Permitted Development) Order 2015 (or any order amending, revoking and re-enacting that Order) shall be carried out

on the land so shown or in such a position as to preclude vehicular access to the reserved vehicle parking, access and turning areas.

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

- 15 The development herein approved shall incorporate the measures to address energy efficiency and climate change as set out within the Climate Change and Energy Efficiency Statement prepared by PJArchitecture Received 8 July 2024.

An individual plot 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 in relation to that plot.

Reason: In the interests of sustainability and to positively address concerns regarding climate change in accordance with paragraph 154 of the National Planning Policy Framework 2023.

- 16 No development shall take place above ground floor slab level until details of the provision of an electric vehicle charging point per plot have been submitted to and approved in writing by the Local Planning Authority. Details shall include the location, charging type (power output and charging speed), associated infrastructure and timetable for installation. Neither plot shall be occupied until the approved charging point has been provided to serve the relevant plot and the charging points shall thereafter be maintained.

Reason: In the interests of sustainability in accordance with paragraph 116E of the NPPF.

- 17 The front parking area shall not be brought into use until it has been formed from permeable surfacing materials or has provided with drainage arrangements within the site which shall thereafter be retained.

Reason: To manage surface water in accordance with Paragraph 167 of the NPPF.

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

This application seeks full planning consent for the construction of two detached self-build dwellings (each with a detached garage) with associated parking and landscaping on land to the west of The Old Vicarage.

Plot 1 will be to the south of the site and will comprise a chalet bungalow with kitchen and utility room, family room, living room, dining room, study and hall on the ground floor and 4 bedrooms (1 with en-suite) and a bathroom within the roof space.

Plot 2 will be to the north of the site and will comprise a bungalow with 3 bedrooms, study, living room, kitchen/diner and utility room.

The land along the western and northern boundaries of the site is indicated as a wildflower meadow, separate to the main garden areas for the dwellings.

Access will be provided from the High Street and would be shared with The Old Vicarage and Norview, with the retention of five parking spaces to serve The Old Vicarage.

Relevant Planning History

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|------------|---|
| MC/18/2092 | Outline planning application with some matters reserved (appearance, layout, scale and landscaping) for demolition of existing outbuilding and construction of two detached dwellings with associated garages, parking, access driveway and landscaping.
Decision Date: 6 September 2018
Decision: Approval with conditions |
| MC/08/0216 | Conversion of existing dwelling into two self contained flats with associated parking.
Decision Date: 11 May 2009
Decision: Refused |
| MC/06/1664 | Construction of a three bedroomed detached dwelling with associated parking (resubmission of MC2006/0841).
Decision Date: 5 October 2006
Decision: Refused |
| MC/06/0841 | Construction of detached 3 bedroomed house.
Decision Date: 26 June 2006
Decision: Refused
Appeal dismissed 14 June 2007 |

Representations

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

St James Isle of Grain Parish Council – have objected for the following reasons:

- Inappropriate development in the small village.
- Access to these dwellings in dangerous onto the narrow High Street.
- Additional traffic to the access road to St James Church of England Primary Academy.
- No development should be approved until improvements are made to the B2001 and the A228.

Kent Fire and Rescue have advised that under building regulations should the Fire and Rescue Service require emergency access there may need to be alterations to the access driveway. *This will be picked up under the building regulations and an informative will be added to the decision notice.*

Natural England has required the submission of the HRA and mitigation to be made. *Note this mitigation was previously paid under the previous application MC/18/2092 and a new HRA form has been sent over to Natural England.*

Kent Wildlife Trust has provided comments relating to ecology and suggested conditions and have requested a Great Crested Newts (GCN) Survey be undertaken.

KCC Biodiversity has reviewed the Preliminary Ecological Appraisal and conditions are recommended for the development to be undertaken in accordance with this PEA. Comments have been made regarding further biodiversity assessments.

5 letters have been received raising the following objections:

- Objecting on the basis that wildlife would be destroyed, and the proposed access is limited and not suitable for numerous vehicles to come and go from the site.
- The road adjacent to the proposal site and for access to the dwellings is congested and dangerous for the proposed development.
- The land shown for access is incorrect as the land is not owned by the applicant.
- Domestic waste storage and disposal concerns.
- Trees and bushes located on site have not been declared on the application form.
- Pressures on local amenities and services.
- Invasion of privacy.

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

There have been four previous applications for new dwellings on part of this site. MC/06/0841 was for a single house on the southeast part of the current site. This was refused for two reasons:

- inadequate justification for such development which would be contrary to policies of rural restraint and
- due to the inappropriate backland nature resulting in overlooking of neighbours.

At appeal the Inspector commented that the development would result in a progressive urbanisation of the countryside which policy said would be protected for its own sake and dismissed the appeal. He, however, did not find the impact on neighbours to be unacceptable

MC/06/1664 was for a similar development to MC/06/0841 and was refused for similar reasons although no appeal against this refusal was lodged.

MC/08/0216 related to an application to convert the Old Vicarage into 2 flats and was refused for two reasons, firstly that the use as flats would be out of character and secondly that the increased level of activity would be detrimental to the amenities of neighbours.

However, in 2018 an application was approved under MC/18/2092 for "Outline planning application with some matters reserved (appearance, layout, scale and landscaping) for demolition of existing outbuilding and construction of two detached dwellings with associated garages, parking, access driveway and landscaping".

Principle

The principle of development of this site has been established by the approval of the 2018 for two dwellings. The policy situation has not fundamentally changed in that the Development Plan Policies with the 2003 Local Plan remain the same and while the NPPF has been updated a number of times since 2018 there have been no substantive changes that would mean that the principle of development for 2 dwellings on this site should be re-considered.

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.

The site is outside the confines of the village as identified on the proposals map to the Local Plan and adjoins, but is not within, a site of nature conservation interest (SNCI).

Policy BNE25 is relevant therefore and states that development should maintain and where possible enhance the character of the Countryside. Policy BNE36 seeks to protect sites of nature conservation interest.

The Medway Landscape Character Assessment adopted 2011 (MLCA) shows the site within the Allhallows to Stoke Marshes Character Area which is described as marshland fringe in moderate condition and of high sensitivity. However, the site itself appears distinct from this wider area and the lower lying land within the SNCI to the north and west, there being a fall in land levels on the edge of the site down to the SNCI.

The submitted plans show this sloping area of the site as a wildflower meadow. Subject to the recommended conditions to secure the planting of this area, as well as to prevent built development on it, it is considered that the proposed residential development would not harm the character and appearance of the wider rural landscape nor harm the adjacent site of nature conservation interest.

The proposed dwellings have been sited and designed to respect the rural setting of the site with the bungalow on plot 2 closest to the rural edge and a chalet bungalow only on plot 1. An appropriate condition is proposed to restrict extensions to the properties, including upward extension, in order to protect this rural character.

Further conditions are proposed regarding external materials and boundary treatment to be used in the construction of the properties to ensure the appearance is appropriate for this rural area. In addition no details of the proposed double garages have been provided and an appropriate condition is recommended to secure those in order to ensure their design and materials are in keeping.

Overall, it is considered that the proposed design is in accordance with Policy BNE1, BNE25 and BNE36 of Medway Local Plan 2003 and Paragraphs 131 and 135 of the NPPF 2023.

Amenity

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 the future occupiers of the development. Policy BNE2 of the Local Plan and paragraph 135f of the NPPF relates to the protection of these amenities.

Neighbouring Amenity

The site is large and the proposed dwellings sited and designed so as to not impact on the amenities of neighbouring properties through any loss of outlook, overshadowing or loss of privacy.

The development would result in additional movements to and from the site including the use of the existing vehicular access past The Old Vicarage, between the Parsonage and Norview. However, as this would be at a fairly low level, for two dwellings only, it is not considered that this would result in harmful noise and disturbance to these or any other neighbours.

There is the potential for the property to be converted into a small HMO in the future, which in turn may result in a harmful impact to the amenity of neighbouring residents. It is therefore recommended that a condition is imposed to remove permitted development rights with regard to the change of use between use classes C3 and C4.

Future Occupants Amenity

Whilst the submitted plans show details of the internal arrangement of both dwellings, as the application is for self-build units the internal arrangement could be subject to change. Notwithstanding this, the gross internal floor area of each unit has been assessed against the nationally described space standards and would exceed all requirements.

It is considered that the plots both achieve adequate, daylight, sunlight and outlook and would meet the space standards requirements and with a significant garden area and, subject to the recommended conditions, no objection is to be raised under Policy BNE2 of the Local Plan and Paragraph 135(f) of the NPPF.

Highways

The adopted Interim Residential Parking Standards require a minimum of 2 parking spaces for dwellings with 3 plus bedrooms. In this instance both dwellings show 2 car parking spaces in addition to a detached double garage per property and there are 5 spaces retained for the Old Vicarage. This is considered to be in accordance with Medway Councils guidelines and therefore acceptable under Policy T13 of Medway Local Plan.

The proposed dwellings would share the existing access from the High Street with The Old Vicarage and Norview. It is not considered that the two dwellings would lead to an unacceptable level of traffic increase and therefore is not considered to be impact upon Highways Safety.

Climate Change and Energy Efficiency

A climate change and energy efficiency report has been submitted alongside the application. It is proposed that the dwellings have been designed to achieve water usage at 110 litres per person per day and rainwater may be collected and used for garden watering using a rainwater butt. The development will provide Electric Vehicle Charging points for each dwelling and this will be secured via condition and that the dwellings will be built with good insulation to ensure a reduction in energy consumption.

A condition requiring the measures to be implemented within the development prior to occupation and a verification certificate submitted for each plot are recommended in accordance with paragraph 159 of the NPPF.

Ecology

Paragraphs 180 of the NPPF 2023 states that planning decisions should contribute to and enhance the natural and local environment by protecting and enhancing sites of

biodiversity value and Policy BNE36 provides long term protection to sites of nature conservation interest (SNCI).

The main part of the site is cleared fairly level ground although there is some vegetation on the edges where the site slopes down to the adjacent to a SNCI, Grain Pit Local Wildlife Site. There are also some trees by the site edges including some conifers to the southern boundary. The trees are considered to provide limited value aside from screening purposes. A Landscape Ecological Management Plan is recommended to protect the adjacent SNCI and ecology within and around the site and this should include details regarding the wildflower meadow, retained and proposed trees and lighting on the site.

Kent Wildlife Trust consider that there is the potential for Great Crested Newts (GCN) to be present on the site and as GCN are a protected species, and it is an offence under the Conservation of Habitats and Species Regulations 2017 to damage or destroy their breeding sites and resting places, it is recommended that a condition is imposed for the submission of a GCN survey prior to the commencement of development.

Subject to the recommended conditions the development is considered to be in compliance with Policies BNE36, BNE37 and BNE39 of the Medway Local Plan 2003 and paragraph 180 of the National Planning Policy Framework 2023.

Biodiversity Net Gain

The applicant has stated that the development is exempt from the Biodiversity Net Gain (BNG) 10% net gain due to the development being under 0.5ha and falling within the definition of the self-build under the Self Build and Customer Housebuilding Act 2015.

To be considered a self-build Section 1(A1) of the Self-build and Custom Housebuilding Act 2015 states: "In this Act "self-build and custom housebuilding" means the building or completion by—

- (a) individuals,
- (b) associations of individuals, or
- (c) persons working with or for individuals or associations of individuals, of houses to be occupied as homes by those individuals."

Section 1(A2) states: "But it does not include the building of a house on a plot acquired from a person who builds the house wholly or mainly to plans or specifications decided or offered by that person."

In this instance, the applicant has submitted written confirmation that one plot will be built by the applicant for their own family home and the second unit will be sold on as a self-build unit whereby with conditions relating to the submission of materials of the unit and the internal layout can be determined by the owner and overall it is considered that this meets the definition of Self Build and an appropriate Unilateral Undertaking and condition are recommended. Therefore the development is exempt from the 10% BNG requirement.

Notwithstanding the above It is considered appropriate to secure measures to improve biodiversity within the site and an appropriate condition is recommended.

Subject to the above recommended conditions no objection is raised in relation to Paragraphs 180 and 186 of the NPPF 2023.

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 £328.27 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 via the previously approved application under planning application reference MC/18/209, and therefore no objection is 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 and has been submitted to natural England as part of this application.

Conclusions and Reasons for Approval

The principle of the development of this site has been established by the previous grant of permission within the same policy context. The development proposed is well designed and reflective of its rural location and will not impact on the amenities of neighbouring residents. The proposal is acceptable in access and ecology terms. The application is therefore considered to accord with Policies H9, S6, BNE1, BNE2, BNE25, BNE35, BNE36, BNE37, BNE39, BNE43, T1, T4 and T13 of the Local Plan and Paragraphs 11, 60, 70, 115, 131, 135, 135(f) and is recommended for approval.

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