

MC/23/2753

Date Received: 8 December 2023
Location: Land to the rear of Fenn House Farm, Fenn Street, St Mary Hoo,
Rochester
Proposal: Outline application with all matters reserved for the construction
of 3 x self-build dwellings with associated parking and amenity
space.
Applicant Mr Symmonds
Agent Gill Sterling
Ms Ebcin Whitehall Place
47 The Terrace
Gravesend
DA12 2DL
Ward: All Saints
Case Officer: Madeline Mead
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 20th November 2024.

Recommendation - Approval subject to:

- A) The applicant entering into a Unilateral Undertaking to secure the dwellings as self-builds.
- B) The imposition of the following conditions:
 - 1 Approval of the details of the layout, scale and appearance of the buildings, the means of access thereto and the landscaping (hereinafter called "the reserved matters") on each plot shall be obtained from the Local Planning Authority in writing before any development on that plot is commenced.

Reason: To accord with the terms of the submitted application and to ensure that these details are satisfactory.

- 2 Plans and particulars of the reserved matters referred to in Condition 1 above shall be submitted in writing to the Local Planning Authority for approval. Such application for approval shall be made to the Authority before the expiration of three years from the date of this permission and the reserved matters shall be carried out in accordance with the approved details.

Reason: To comply with Section 92 of the Town and Country Planning Act 1990.

- 3 The development to which this permission relates must be begun no later than the expiration of 2 years from the final approval of the reserved matters or in the case of approval on different dates, the final approval of the last such matter to be approved.

Reason: To comply with Section 92 of the Town and Country Planning Act 1990.

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

Received 11 December 2023:

001 Revision A - Site location plan only

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

- 5 Prior to any reserved matters application being submitted, an updated badger survey and mitigation strategy shall be submitted to and approved in writing by the Local Planning Authority. The requirements of the badger mitigation must be reflected within the landscaping plans for the landscape buffer around the boundary of the site and the landscape section within the Design Code subject to Condition 6. The strategy must be implemented as approved.

Reason: In order to minimise the impact on wildlife and habitat with regard to Policies BNE37 and BNE39 of the Medway Local Plan 2003.

- 6 Notwithstanding the submitted Design Code, prior to any reserved matters being submitted an amended Design Code should be submitted to and approved in writing by the Local Planning Authority. The Design Code should amend the area of landscaping around the site, to reflect the findings of the updated badger survey mitigation strategy (as applicable) in order to reduce the impact of disturbance on the Badger Sett.

Reason: In order to minimise the impact on wildlife and habitat with regard to Policies BNE37 and BNE39 of the Medway Local Plan 2003.

- 7 Prior to any reserved matters being submitted, a precautionary ecological mitigation strategy must be submitted to and approved in writing by the Local Planning Authority. The strategy must detail what measures are required to avoid impacting on any protected/notable species during construction. The mitigation measures must be implemented as approved for the duration of the construction of the development.

Reason: In order to minimise the impact on wildlife and habitat with regard to Policies BNE37 and BNE39 of the Medway Local Plan 2003.

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

Reason: Required before commencement in order to protect residential amenities in relation to Policy BNE2 of the Medway Local Plan 2003.

- 9 No development shall take place until a scheme based on sustainable drainage principles, has been submitted to and approved in writing by the Local Planning Authority.

The scheme shall include (where applicable):

- i. Details of the design of the scheme (in conjunction with the landscaping plan where applicable).
- ii. A timetable for its implementation (including phased implementation).
- iii. Operational maintenance and management plan including access requirements for each sustainable drainage component.
- iv. Proposed arrangements for future adoption by any public body, statutory undertaker or management company.

The development shall be undertaken in accordance with the approved scheme.

Reason: To manage surface water during and post construction and for the lifetime of the development as outlined at Paragraph 174 of the NPPF.

- 10 No development, in relation to each plot, shall take place until a sustainable construction method statement has been submitted to and approved in writing to the Local Planning Authority. Each dwelling shall be constructed in accordance with the approved construction method statement for that plot.

Reason: Required prior to commencement to ensure the sustainability of the site in accordance with BNE4 of the Medway Local Plan 2003.

- 11 Notwithstanding the information submitted within the Arboricultural Survey and Constraints, Impact Assessment and Tree Protection by Ben Larkham Associates Limited, reference tr-1553-20 (dated 26 October 2020), no development or site clearance works shall take place until a tree protection plan has been submitted to

and approved in writing by the Local Planning Authority. The approved tree protection measures shall be put in place prior to any development on site and shall thereafter remain in place throughout the construction phases of the development.

Reason: Required prior to development to ensure no irreversible detrimental harm to the existing trees and to protect and enhance the appearance and character of the site and locality, in accordance with Policy BNE43 of the Medway Local Plan 2003.

- 12 No development shall take place until details of the cellular confinement form of construction within the root protection area of trees T3 and T4 as identified on drawing tr-1553-20 aia, has been submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented on site prior to any commencement of development on site.

Reason: Required prior to development to ensure no irreversible detrimental harm to the trees, in accordance with Policy BNE43 of the Medway Local Plan 2003.

- 13 No development shall commence until details of a Construction Surface Water Management Plan (CSWMP) detailing how surface water and storm water will be managed on the site during construction (including demolition and site clearance operations) has been submitted to and agreed in writing by the local planning authority in consultation with the LLFA. The CSWMP shall be implemented and thereafter managed and maintained in accordance with the approved plan for the duration of construction.

The approved CSWMP shall include method statements, scaled and dimensioned plans and drawings detailing surface water management proposals to include:

- i. Temporary drainage systems.
- ii. Measures for managing pollution / water quality and protecting controlled waters and watercourses.
- iii. Measures for managing any on or offsite flood risk.

The development shall be undertaken in accordance with the agreed details.

Reason: To manage surface water during and post construction and for the lifetime of the development as outlined at Paragraph 174 of NPPF.

- 14 Within six months of any works commencing on site, an ecological enhancement plan for the landscape buffer around the site and for each plot, shall be submitted to, and approved in writing by, the Local Planning Authority. The ecological enhancement plan should demonstrate how the site will benefit biodiversity and must include native species and the erection of bat and bird boxes within the site

and on buildings. The development shall be implemented in accordance with the approved details and thereafter retained.

Reason: In order to minimise the impact on wildlife and habitat with regard to Policies BNE37 and BNE39 of the Medway Local Plan 2003.

- 15 No development shall take place above slab level in relation to each dwelling until servicing has been put in place for the plot to which the dwelling relates. The servicing shall provide access to a public highway and connections for electricity, water and wastewater.

Reason: In order to provide amenities in accordance with Policies BNE2 and CF12 of the Medway Local Plan 2003.

- 16 No development shall take place above slab level in relation to each plot until details of the provision of 1 electric vehicle charging point per dwelling has 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. The electric vehicle charging point shall be installed prior to occupation of each plot. The development of each plot shall be implemented in accordance with the approved details and shall thereafter be retained.

Reason: In the interests of sustainability in accordance with paragraph 115e of the NPPF.

- 17 No development of any plot shall take place above slab level until details of the surfacing and drainage of the vehicle access has been submitted to and approved in writing by the Local Planning Authority. The works shall be carried out in accordance with the approved details before the access is brought into use and shall be retained thereafter.

Reason: To ensure that the development permitted does not prejudice conditions of amenity and highway safety in accordance with Policies T1 and CF12 of the Medway Local Plan 2003.

- 18 No development above slab level shall take place, on each plot, until an energy efficiency and climate change statement, for that plot, has been submitted to and approved in writing by the Local Planning Authority. The development shall be undertaken in accordance with the approved details prior to first occupation of the relevant plot.

Reason: In the interests of sustainability and to positively address concerns regarding climate change in accordance with paragraph 159 the NPPF.

- 19 Prior to occupation of any plot (or within an agreed implementation schedule) a signed verification report carried out by a qualified drainage engineer (or

equivalent) must be submitted to and approved by the Local Planning Authority to confirm that the agreed surface water system for that plot has been constructed as per the agreed scheme and plans. The report shall include details and locations of critical drainage infrastructure (such as inlets, outlets and control structures) including as built drawings, and an operation and maintenance manual for the unadopted parts of the scheme as constructed.

Reason: This condition is sought in accordance with paragraph 174 of the NPPF to ensure that suitable surface water drainage scheme is designed and fully implemented so as to not increase flood risk onsite or elsewhere.

- 20 Prior to the installation of any external lighting on the site, including for each individual plot, a lighting design strategy for the site boundaries and for each plot should be submitted to and approved in writing by the Local Planning Authority. The lighting strategy shall include the following details: height, position, external appearance, any shielding, light intensity, colour, spillage (such as light contour or lux level plans); demonstration of the effect on the rural landscape; identification of those areas/features on site that are particularly sensitive for bats and that are likely to cause disturbance in or around their breeding sites and resting places or along important routes used to access key areas of their territory; how and where external lighting will be installed so that it can be clearly demonstrated that the areas to be lit will not disturb or prevent bats using their territory.

All external lighting shall be installed in accordance with the specifications and locations set out in the approved strategy and these shall be maintained thereafter in accordance with the approved strategy.

Reason: In order to limit the impact of the lighting on the surrounding landscape and wildlife with regard to Policies BNE1, BNE5, BNE37 and BNE39 of the Medway Local Plan 2003.

- 21 Prior to the first occupation of each dwelling, 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.

- 22 Prior to the first occupation of any dwelling, a plan indicating the positions, design, materials and type of boundary treatment to be erected around the boundary of the site 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 any dwelling is occupied and shall thereafter be retained.

Reason: To ensure that the appearance of the development is satisfactory and without prejudice to conditions of visual amenity in the locality, in accordance with Policy BNE1 of the Medway Local Plan 2003.

- 23 The details submitted in pursuance of Condition 1 shall show land reserved for parking or garaging in accordance with the adopted Parking Standards. None of the dwellings shall be occupied until this area has been provided, surfaced and drained in accordance with the approved details. 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 area.

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.

- 24 The dwelling within an individual plot shall not be occupied until a verification report prepared by a suitably qualified professional, for that plot, has been submitted to and approved in writing by the Local Planning Authority confirming that all the approved measures agreed within the energy efficiency and climate change statement have been implemented.

Reason: In the interests of sustainability and to positively address concerns regarding climate change in accordance with paragraph 159 the NPPF.

- 25 Prior to first occupation of any dwelling a Landscape Management Plan (LMP) for the boundary landscaped area shall be submitted to and approved in writing by the Local Planning Authority. The Landscape Management Plan shall include long-term design objectives, management responsibilities and maintenance schedules for the boundary landscape area, as identified within the Design Code to be submitted pursuant to condition 6, for a minimum period of five years and a timetable for the implementation. The development shall thereafter be implemented in accordance with the approved landscaping (and LMP) and shall thereafter be managed in accordance with the approved details.

Reason: To ensure a satisfactory external appearance and provision for landscaping in accordance with Policies BNE1 and BNE6 of the Medway Local Plan 2003.

- 26 For each reserved matters application relating to an individual plot, evidence should be provided from the person(s) purchasing the plot to prove they have had primary input into the final design and layout of their home. This evidence shall be

submitted to the Local Planning Authority as part of the reserved matters application.

Reason: To take account of the self-build nature of the application in accordance with Policy BNE1 of the Medway Local Plan 2003.

- 27 Each reserved matters application submitted in pursuance of this permission shall include statements of conformity with the latest approved Design Code.

Reason: To ensure a satisfactory external appearance in accordance with Policy BNE1 of the Medway Local Plan 2003.

- 28 If, during development, contamination not previously identified is found to be present at the site then no further development shall be carried out until the developer has submitted a method statement and obtained written approval from the Local Planning Authority. The Method Statement must detail how this unsuspected contamination shall be dealt with.

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.

- 29 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 dwellinghouses 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.

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

Proposal

This is an outline application for three self-build detached houses with garages, with all matters reserved for future consideration.

An indicative site layout drawing has been submitted that shows how three detached dwellings and garages could be accommodated within the site. The dwellings are proposed as self-build plots, all of similar size to be located in a row. Access is also

indicative, but the drawings show that the dwellings would be accessed off Fenn Street, via an existing access between two existing dwellings.

Site Area/Density

Site Area: 0.4 hectare (1 acre)

Site Density: 7.5 dph (3 dpa)

Relevant Planning History

MC/22/1317 Outline application with all matters reserved for the construction of four self-build dwellings with associated parking and amenity space.
Decision: Approval with conditions
Decided: 28 July 2023

MC/20/2840 Outline application with all matters reserved for the construction of four self-build dwellings with associated parking and amenity space.
Decision: Refusal
Decided: 16 April 2021

Adjoining site to the south - Land Adjacent Fenn House Farm Fenn Street St Mary Hoo Rochester Medway ME3 8QT:

MC/19/1044 Demolition of the existing buildings and construction of 2no. semi-detached 3-bed dwellings with vehicle crossover and associated parking, amenity space and landscaping.
Decision: Approved with conditions
Date: 29 July 2019

Representations

The application has been advertised on site and by individual neighbour notification to the owners and occupiers of neighbouring properties. KCC Biodiversity, Natural England, Kent Wildlife Trust, the RSPB, St Mary Hoo Parish Council and Southern Water have also been consulted.

Three letters of representation have been received in objection to the proposal and raising the following matters:

- Impact on local wildlife and habitats
- Impact on neighbouring residential amenity from noise
- Highway safety
- Drainage issues
- Unsustainable location
- Overlooking
- Design is not in the local vernacular

- Backland development

One letter has been received advising that the development appears to be encroaching onto a vehicular track that they have right of way over.

One letter of representation has been received in support of the application raising the following matters:

- Support for self-build plots

The Dickens' Country Protection Society have raised the following objections to the proposed development:

- The development is in the countryside outside the confines of any established settlement
- The proposal would result in an undesirable form of backland development
- Remote location in a rural area and generally poorly serviced and not the most suitable for development

St Mary Hoo Parish Council raised the following objections to the proposed development:

- Impact of additional traffic movements
- Pedestrian and cyclist safety
- Highway safety
- Noise, traffic, air, light and noise pollution to residents during construction of the development

Natural England advises that subject to the appropriate financial contribution being secured, they are satisfied that the proposal will mitigate against the potential recreational impacts of the development on the site.

KCC Biodiversity have advised that sufficient ecological information has been submitted with the application.

Southern Water advise there are no public foul and surface water sewers in the area to serve this development. The applicant is advised to examine alternative means of foul and surface water disposal. The Environment Agency should be consulted directly, by the applicant, regarding the use of a private wastewater treatment works or septic tank drainage which disposes of effluent to sub-soil irrigation. The owner of the premises will need to empty and maintain the works or septic tank to ensure its long-term effectiveness. An informative should be placed on the decision that advises the applicant of the need to contact the Environment Agency directly. They have also advised that a sewer now deemed to be public could be crossing the development site.

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) (December) and are considered to conform. The Medway Landscape Character Assessment 2011 (MLCA) is also relevant.

Planning Appraisal

Background

In July 2023, outline planning permission was granted on the site for the construction of four self-build dwellings with associated parking and amenity space. This application is submitted again as an outline for self-builds, but the application now proposes three dwellings instead of four and the proposed dwellings would be in a row rather than in a courtyard type arrangement.

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 site lies within open countryside, outside the rural settlement boundary and on the boundary of a Special Landscaped Area as designated within the Local Plan. As a site located within the countryside, the principle of the proposed development would fall outside of the development strategy as set out in the Local Plan, which directs development to brownfield sites. Policies S1 and S2 of the Local Plan seek to prioritise development within the existing urban fabric. Policy BNE25 of the Local Plan states development will be strictly controlled and will not be permitted except where it complies with a limited range of specified categories set out in the policy, which do not apply in this case. Consequently, the proposal would conflict with Policy BNE25 of the Local Plan that seeks to restrict inappropriate housing development outside the built confines of settlements. Policy BNE34 is also relevant as the site falls within an area of local landscape importance.

Policy H9 of the Local Plan states that Backland development will be permitted only when it does not constitute piecemeal development that would threaten the comprehensive development of a wider area and when:

- (i) there is no loss of privacy from overlooking adjoining houses and/or their back gardens; and
- (ii) there is acceptable vehicular access; and
- (iii) there is no significant increase in noise or disturbance to adjacent residents from traffic using the access; and

- (iv) existing natural features, such as trees, which contribute to the amenity of the area are retained or conserved; and
- (v) there is adequate private amenity space for the existing and proposed dwellings; and
- (vi) the character and amenity of the area as a whole is maintained.

However, it is acknowledged that the Local Plan is of some age, being adopted in 2003 and the Council does not currently have a five-year land supply. In light of that, paragraph 11 of the NPPF is engaged. In this respect policies which seek to restrict the supply of housing are considered to be out of date and a presumption in favour of sustainable development is applied.

The NPPF seeks to pursue sustainable development, (including countryside sites where appropriate), in a positive way through 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 (paragraph 11). 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. Paragraph 83 of the NPPF also supports the provision of housing in rural areas where it will enhance or maintain the vitality of rural communities. Although only a small development, it will nevertheless contribute to this small rural community.

Paragraph 109 also states that the planning system should actively manage patterns of growth to address transport issues, and that significant development should be focussed on locations which are, or can be made, sustainable. While this emphasises limiting the need to travel and offering genuine travel choices, it recognises that opportunities to maximise sustainable travel will vary between urban and rural areas.

In determining whether the principle of this proposal is acceptable, it will be important to assess the matter of sustainability within the planning balance.

Notwithstanding that, the principle of self-build development on this site has already been established through the recent grant of planning permission in 2023 and that permission is still extant.

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. Paragraph 134 of the NPPF relates to design codes, and their use in providing a framework for creating distinctive places with a consistent and high-quality standard of design. Special attention needs to be paid to the impact on the character and appearance of the countryside. Policy BNE25 of the Local Plan seeks to ensure development is sensitive to these areas and Policy BNE33 seeks to conserve and enhance the natural beauty of the area's landscape.

The surrounding area contains a mix of house types and designs. It is acknowledged that within the immediate vicinity, the existing dwellings predominantly form a linear development. However, across the road is an industrial estate, pub and zoo and the development of Bellwood Court. Members will also recall that, based on the planning balance, approval was granted at the last Committee meeting in October for 44 dwellings on the land on the opposite side of the Ratcliffe Highway on land bounded by the industrial estate and Bellwood Court.

As appearance is a reserved matter, and as this is a self-build application, the development provides a real opportunity for exceptional, innovative and high-quality design.

A design code is considered important for this scheme to ensure there are adequate controls to prevent the proposed architectural style from being 'dumbed down' and to ensure that the scheme adheres to the rural vernacular that it seeks to reflect. Additionally, as a self-build scheme, the self-builder must be able to have control over the design of the house. A design code has been submitted with the application which articulates the design principles and materials, without being too prescriptive about the actual houses to be built, and this is considered acceptable. A condition is recommended for any reserved matters submissions to be in line with the submitted design code.

Subject to the abovementioned condition the application would be in accordance with Policies BNE1, BNE25 and BNE34 of the Local Plan and paragraphs 131, 134 and 135 of the NPPF.

Landscaping

The site is within an Area of Local Landscape Importance where policy BNE34 applies which states that development will only be permitted if it does not materially harm the landscape character and function of the area and any development should be sited and designed and landscaped to minimise harm to the areas landscape character and function.

The ALLI is a very broad allocation and as such not all parts of it have the same landscape value and importance.

To assess the value of the landscape, the Medway Landscape Character Assessment 2011 (MLCA) has been reviewed. The site falls within Section 11 which is the Hoo Peninsula Farmland: the site has moderate sensitivity and poor condition. It recommends resisting 'suburbanisation to villages and small settlements (particularly along roadside edges) and protecting separation, rural character and openness of the countryside between villages'. There has not been a significant material change to the landscape character of the area since the area was described in the MLCA in 2011. Guidelines seek the strengthening of landscape structure and biodiversity through use of new hedgerows, screening of settlement edges and a sensitive harmonisation of built development and countryside. Resistance is to be given to the suburbanisation of villages and small settlements, encouraging planting of native locally found species to reflect and reinforce

character. New development should respect and enhance biodiversity and local distinctiveness.

The proposal allows for a landscape buffer strip of approximately 4m in depth to all of the boundaries, with a small break in the buffer to allow vehicular access into the site. This landscape buffer would limit the impact of the development on the surrounding countryside and Area of Local Landscape Importance and would enhance biodiversity on the site. The landscape buffer would fall outside the boundaries of any of the residential dwellings and an appropriate condition is recommended to control the species to be planted within this area and the management of this landscape buffer.

Subject to the abovementioned conditions the application would be in accordance with Policies BNE1, BNE25, BNE34 of the Local Plan and paragraphs 131, 134 and 135 of the NPPF.

Amenity

There are two main amenity considerations, firstly the impact of the proposed dwellings on neighbours and secondly the living conditions which would be created for potential occupants of the development itself. Policy BNE2 of the Local Plan and Paragraph 135f of the NPPF relates to the protection of these amenities.

Neighbouring Residential Amenity

The proposed dwellings are considered to be appropriately sited such that the development would not result in an unacceptable impact on neighbouring occupiers in relation to any overbearing impact, loss of light or sense of enclosure to neighbouring properties. The distance from the front elevation of the proposed dwellings to the nearest rear garden would be approx. 15m, which includes a landscape buffer of 5m in depth and therefore it is considered that no unacceptable overlooking would occur to the dwellings to the south.

Amenity of Future Occupiers

Whilst full plans of the dwellings have not been submitted and are reserved for a later date, it is considered that the proposed dwellings could be designed to meet the technical housing standards - nationally described space standard dated March 2015 (the national standard).

With regards to the garden size, in the absence of any technical standards relating to private amenity space within the national standard, the Medway Housing Standards (interim) 2011 (MHDS) as guidance states that gardens should be a minimum of 10m in depth and 7m when constraints exist. The indicative layout shows that the gardens of the proposed dwellings would accord with this.

On the whole, it is considered that the design of three dwellings on this site could be developed to protect the amenities of existing and future occupiers. However, this is a matter that would be assessed in greater detail at reserved matters stage. In principle, it is considered that the impact on neighbouring amenity and future occupier amenity would be acceptable and in accordance with Policy BNE2 of the Local Plan and 135(f) of the NPPF.

Due to the proximity of neighbouring properties the construction of the development itself could lead to noise and nuisance dust emissions to nearby residential properties and therefore, a condition is recommended requiring the submission of a construction environmental management plan. On this basis, the proposal is considered to be in accordance with the provisions of Policy BNE2 of the Local Plan and paragraph 135(f) of the NPPF.

Highways

In terms of the impact to the highways, given that this application is for only three dwellings, no objection is be raised in terms of impact on the capacity of the local road network.

The vehicular access details submitted with the application show the visibility splays and these are considered to be acceptable.

The adopted Interim Residential Parking Standards require the provision of a minimum of two car parking spaces for a 3+ bedroom property. The indicative block plan submitted with the application, shows that sufficient vehicle parking spaces could be provided for each dwelling and therefore the proposal would comply with the requirements of the standards.

The NPPF has put sustainable development as a central core and paragraph 116e outlines that development should provide electric charging facilities and therefore an appropriate condition is recommended to fulfil this objective.

The application is considered to be acceptable in respect of the transport and parking Policies T1, T2 and T13 of the Local Plan and paragraphs 115 and 116e of the NPPF.

Trees

The application has been submitted with an arboricultural survey, constraints, impact assessment and tree protection. The arboricultural report advises that T7 (Douglas Fir) and T8 (mixed boundary planting) are proposed to be removed and T9 (hedging) may need to be reduced in size as part of the development and landscape enhancements.

Part of the proposed access road would be within the root protection area of trees T3 and T4. It is proposed that the access road at the point, within the root protection area would be installed utilising a cellular confinement form of construction allowing the long term.

retention of both trees.

Conditions are recommended for an up-to-date tree protection measure (as the indicative layout has changed since the report was carried out) and details of the cellular confinement for the access road to be submitted.

With the above-mentioned condition imposed, it is considered that the development would accord with Policy BNE43 of the Local Plan and paragraph 180 of the NPPF.

Ecology

Sufficient ecological information has been submitted in support of this application.

Badgers

The surveys submitted with the application conclude that an active outlier badger sett is present within the northwestern corner of the site. The badger report has detailed that currently the badger sett could be retained within the site if there were additional landscaping to that already proposed within the landscape buffer, which would reduce the impact of disturbance on the badger sett.

As Badgers are extremely active there would be a need for an updated badger survey to be submitted with the reserved matters applications.

Within the Badger report it states that “In terms of the impact of the proposed development upon the sett, this will be minimal if appropriate mitigation is provided. The nearest part of the proposed development, as shown in Gill Sterling (2023) will be approximately six to eight metres from the nearest part of the hedgerow and hence of the badger sett.” “There is likely to be minimal disruption or damage to the sett as a result of the proposed development, but a licence from Natural England will still be required”.

This conclusion is agreed with and based on the following mitigation proposals, it would be expected that a licence would be granted to facilitate works:

- The sett must be securely fenced off with Heras fencing above ground throughout its length whilst any works take place. This fencing must be as far as possible from the sett.
- A badger protection fence consisting of heavy-duty chain link or steel mesh of an appropriate size, must be inserted to a depth of one to two metres below ground to protect the foundations. This can be incorporated into the excavation of the footings, but its length must exceed the length of the nearest proposed dwelling, ideally by up to ten metres.
- The trench and foundations must only be dug by a competent person who is supervised by an experienced badger worker.
- Throughout excavation the trench must be inspected at frequent intervals.
- If a tunnel is penetrated, then mitigation of an appropriate sort must be carried out.

- Once completed the excavation must be provided with an underground chain link or steel mesh barrier to prevent badgers from undermining the proposed dwelling. This should ideally be two metres or more deep.
- During the remainder of the development process the rules followed in Appendix 2 should be followed in order to minimise the impact upon the sett.

It is considered that as long as the proposed measures are adhered to (subject to variation from Natural England in full consideration of a licence application), the status of badgers can be maintained.

It is considered that impacts on other protected/notable species can be avoided through a precautionary mitigation strategy and a condition is recommended to secure this. It is recommended that the current management of the site is maintained to ensure that no suitable habitat will establish prior to works commencing.

Lighting and Biodiversity

To mitigate against potential adverse effects on badgers, bats and other nocturnal species and in accordance with the NPPF, the Bat Conservation Trust's 'Guidance Note 08/23 Bats and Artificial Lighting' is consulted in the lighting design of the development. A condition is recommended for the development to incorporate a sensitive lighting design for biodiversity.

Biodiversity and Ecological Enhancements

In alignment with paragraph 180 of the NPPF, the implementation of enhancements for biodiversity should be maintained and enhanced. The information submitted does not confirm what enhancements would be implemented on the site and therefore a condition is recommended for an enhancement plan to be submitted.

Subject to the recommended conditions above, no objection is raised regarding Policy BNE37 of the Local Plan and paragraph 180 of the NPPF.

Flood Risk and Drainage

No drainage details have been submitted with the application. Based on the historic flooding within the surrounding area conditions are recommended to ensure sufficient drainage is provided to the dwellings.

Overall, no objection is raised subject to conditions and the development is considered to be in accordance with paragraph 174 of the NPPF.

Climate Change and Energy Efficiency

A climate change and energy efficiency statement has not been submitted with the application, however, as these dwellings would be self-build and would be individually

designed it is considered that a condition be recommended for a climate change and energy efficiency statement and verification report to be submitted for each plot. With the abovementioned condition imposed the proposal is in accordance with paragraph 159 of the NPPF.

Biodiversity Net Gain

This application was submitted on the 8 December 2023 and therefore pre dates any requirements for Biodiversity Net Gain under the Environment Act 2021, where all planning applications for major development (unless exempt³) (submitted on or after 12th February 2024) and small sites on or after the 2nd April 2024, will have to deliver at least a 10% biodiversity net gain. As self-build it is also exempt from the requirements.

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. The strategic measures are in the process of being developed but are likely to be in accordance with 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. The interim tariff stated above should be collected for new dwellings, either as new builds or conversions (which includes HMOs and student accommodation), in anticipation of:

- An administrative body being identified to manage the strategic tariff collected by the local authorities.
- A memorandum of understanding or legal agreement between the local authorities and administrative body to underpin the strategic approach.
- Ensure that a delivery mechanism for the agreed SAMM measures is secured and the SAMM strategy is being implemented from the first occupation of the dwellings, proportionate to the level of the housing development.

The applicants have submitted a SAMMs mitigation contribution agreement and paid the tariff under planning application reference MC/22/1317. No objection is therefore raised under Policies S6 and BNE35 of the Local Plan and paragraphs 186 and 187 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.

S106 Matters

The Community Infrastructure Levy Regulations 2010 provide that in relation to any decision on whether or not to grant planning permission to be made after 6 April 2010, a planning obligation (a s106 agreement) may only be taken into account if the obligation is:

- (a) necessary to make the development acceptable in planning terms.
- (b) directly related to the development; and
- (c) fairly and reasonably related in scale and kind to the development.

The obligations proposed comply with these tests for the reasons explained in the previous section.

The only matter concerning s106 relates to an obligation for the development to be self-build. The applicant has agreed to the inclusion of such an obligation to ensure the development is delivered in this manner.

Presumption in Favour of Sustainable development and the Overall Planning Balance (Having Regard to the Council's Position on its Five-Year Land Supply)

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 Council accepts that the current Local Plan is of age, being adopted in 2003. However, the assessment above refers to Local Plan policies where they are still considered relevant and applicable.

The Council cannot demonstrate a five-year supply of housing land sought by paragraph 74 of the NPPF. There is therefore a significant need for new housing in the Medway area, including affordable housing and as the development proposed would create new housing, the presumption in favour of sustainable development as set out in Paragraph 11(d) of the Framework is engaged. Paragraph 11(d)(ii) applies which states that:

- d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date⁷, granting permission unless:
 - ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

Footnote 8 of the NPPF states that 11(d) also includes for applications involving the provision of housing, situations where the local planning authority cannot demonstrate a five-year supply of deliverable housing sites (with the appropriate buffer, as set out in paragraph 74).

In assessing the proposed development against the policies in the NPPF as a whole, as well as relevant Local Plan policies, the NPPF indicates that there are three dimensions to sustainable development: economic, social and environmental. It is, therefore, appropriate to balance the assessment of the development as set out above, against the Local Plan policies and policies in the NPPF in these terms and unless there are any adverse impacts that would significantly and demonstrably outweigh the benefits, of doing so, planning permission should be granted.

In respect of the proposal:

Social,

There are benefits from the scheme through the provision of housing to help meet the 5-year supply. This should be given **moderate weight** reflecting the fact the proposal is for only 3 units. The site is within walking distance of the Fenn Bell Public House and Bradfield's Garage, which is primarily a vehicle repair establishment (to which people would drive anyway), although it also serves as a 'top up' for everyday goods. It is acknowledged that local shops would be outside of the accepted 800m recommended walking distance, however, local shops are within a short trip by car. The site is located in close proximity to the Fenn Bell bus stop which would allow for access for commuting, although due to the rural location the service would be at more irregular intervals than a site located in the urban area.

Economic

The site would boost the local economy during construction process providing jobs in the short-term. Once completed it will bring local spend in the area. This should be given **moderate weight**.

Environment

The applicant has submitted surveys and reports to cover ecological matters, and these are considered in detail below, but they are generally acceptable. Conditions are recommended for further assessments and details of ecological enhancements to be submitted. Once secured via condition the ecological enhancements, would be beneficial in terms of environmental gains from the development. The site is located within an area of local landscape importance, however, considering the existing setting of the site (rear of existing housing, wooded area to the east and vegetation to the west), with the boundary landscaping proposed for the development it is considered that the development would conserve and enhance the natural beauty of the area's landscape.

Overall, it is considered that there would be no negative impact on the environment or the special landscape area.

There would therefore be an impact on landscape, but its impact would be limited, and that impact should be given moderate weight.

Whilst the proposed development would result in further development into the countryside, it is considered that in principle, residential development here would not cause sufficient harm to the wider character and functioning of the countryside due to the natural confines of the site, to outweigh the presumption in favour of this sustainable development.

Self-Build

In addition, the nature of the proposed scheme as a self-build project must also be considered. Self-build is defined as when someone gets involved in or manages the construction of their new home (definition from National Custom and Self Build Association (NaCSBA)). The Department for Communities and Local Government (DCLG) published the Housing White Paper, Fixing Our Broken Housing Market in February 2017, which asserts it 'will make it easier for people who want to build their own homes' (p.14). The White Paper makes it clear that custom and self-build is an important part of the Government's strategy to solve the housing crisis. As a result, Local Planning Authorities will be expected to have policies that support the development of small 'windfall' sites that are not allocated in policy plans, and they will be expected to identify opportunities for villages to thrive, especially where this would support local services and meet the need for local homes for local people. The White Paper also commits to promoting the Right to Build portal from NaCSBA, so that anyone wanting to build their own home can easily find the Local Authority register in their area.

In terms of Medway's Self Build Register, the level of demand is monitored via annual base years. To date, there have been 8 base years, and the following demand has been established:

- Base Period 1 - 15 individuals
- Base Period 2 - 39 individuals
- Base Period 3 - 14 individuals and 1 association
- Base Period 4 - 14 individuals and 1 association
- Base Period 5 - 17 individuals
- Base Period 6 - 12 individuals
- Base Period 7 - 12 individuals
- Base Period 8 - 9 individuals

These figures indicate there is a clear demand for self-build plots in Medway and together with the impetus from the Government for the type of self-build development that is proposed under this application, this is a development that should be encouraged. The applicant is committed to ensuring the self-build nature of the scheme and has agreed to

secure the dwellings are delivered as self-builds by a Unilateral Undertaking. The delivery of self-build plots should be given **moderate weight**.

The proposed development would provide social and economic benefits with limited landscape harm while providing importantly for 3 self-build dwellings to meet the recognised and unmet demand in Medway.

Taking all of the above into consideration and applying the tilted balance pursuant to paragraph 11d of the NPPF, the adverse impacts of granting permission would not significantly and demonstrably outweigh the benefits.

Conclusions and Reasons for Approval

It is considered that the proposed development is acceptable in principle, in that, whilst it is outside the urban area and is within the countryside, the impact of the development in landscape quality terms is limited and the scheme is supported by the NPPF in terms of its sustainability, and in terms of the Housing White Paper and the need for self-build developments. Whilst matters relating to scale, appearance, layout and landscaping are reserved for consideration at a later date, overall, it is considered that in relation to access, amenities, parking and highway safety, the scheme is acceptable and will provide a high-quality, self-build housing development that will help meet a need in the area. As such the proposal is considered to be in accordance with the provisions set out in Paragraphs 11, 60, 83, 115, 116, 131, 134, 135, 159, 174, 180, 186 and 187 of the NPPF and Policies BNE1, BNE2, BNE25, BNE33, BNE35, BNE37, BNE43, H9, S6, T1, T2 and T13 of the Local Plan.

The application would normally fall under delegated powers for determination but is being reported to Committee due to the number of representations received expressing a view contrary to officer recommendation.

Background Papers

The relevant background papers relating to the individual applications comprise: the applications and all supporting documentation submitted therewith; and items identified in any Relevant History and Representations section within the report.

Any information referred to is available for inspection on Medway Council's Website <https://publicaccess1.medway.gov.uk/online-applications/>