

MC/23/2527

Date Received: 13 November 2023

Location: Lingley House Elm Avenue  
Chattenden Rochester

Proposal: Construction of a two- storey detached 3-bedroom dwelling,  
including external works and new vehicular access -  
Resubmission of MC/23/0631

Applicant Mr Jeremy Larkin

Agent DHA Planning  
Mr John Collins Eclipse House Eclipse Park  
Sittingbourne Road  
Maidstone  
ME14 3EN

Ward: Hoo St Werburgh and High Halstow

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 10th April 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 12 November 2023:

1646/11 - Location Plan

1646/15 - Proposed Elevations

1646/16 - Proposed Elevations

Received 23 January 2024:

1646/14 REV B - Proposed Site Plan

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

- 3 All materials used externally shall match those set out in the Planning Application Form received 13 November 2023.

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 and the SSSI; measures to control light spillage; location plan for any proposed compounds; 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 upon the adjoining SSSI with regard to Policy BNE35 of the Local Plan 2003.

- 5 No development shall take place above ground floor slab level until details of the provision of one electric vehicle charging point 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 and timetable for installation. The development shall be implemented in accordance with the approved details prior to first occupation of the proposed dwelling and shall thereafter be maintained in working order.

Reason: In the interests of sustainability in accordance with paragraph 116e of National Planning Policy Framework 2023.

- 6 No dwelling shall be occupied, until the area shown on the submitted layout as vehicle parking space has been provided, surfaced and drained in accordance with details submitted to and approved in writing by the Local Planning Authority. Thereafter it shall be kept available for such use and no permanent development, whether or not permitted by the Town and Country Planning (General Permitted Development) Order 2015 (or any order amending, revoking or re-enacting that Order) shall be carried out on the land so shown or in such a position as to preclude vehicular access to this reserved parking space.

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

- 7 From commencement of works (including site clearance), precautionary mitigation measures for reptiles, breeding birds and bats will be followed in accordance with the Fellgrove: Preliminary Ecological Appraisal V2 received 2 January 2024 until the completion of the development.

Reason: In order to limit the impact of the proposal upon the existing habitats the support protected species with regard to Policy BNE39 of the Medway Local Plan 2003.

- 8 Prior to occupation of the dwelling herein approved, details of the species, location and size of replacement tree(s) and a timetable for delivery shall be submitted to and approved in writing by the Local Planning Authority. The replacement tree(s) shall be planted in accordance with the approved details and any trees which within 5 years of planting are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species.

Reason: Required to ensure the replacement of a tree to mitigate the impact of the approved works on the amenity of the area in accordance with Policy BNE43 of the Medway Local Plan 2003.

- 9 The tree protection measures and recommendations shall be implemented in accordance with the Fellgrove: Tree Survey Report and Impact Assessment and drawing number 2185\_03 REV V01 (Protection Plan) received 13 November 2023 and maintained until the completion of the development.

Reason: Pursuant to section 197 of the Town and Country Planning Act 1990 and to protect and enhance the appearance and character of the site and locality, in accordance with Policies BNE1 and BNE43 of the Medway Local Plan 2003.

- 10 The areas shown on drawing number 1646/14 REV B received 23 January 2024 for soft landscaping shall be kept available as such and no permanent development, whether or not permitted by the Town and Country Planning (General Permitted Development) Order 2015 (or any order amending, revoking or re-enacting that Order) shall be carried out on the land so shown.

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 Policies BNE1 and BNE25 of the Medway Local Plan 2003.

- 11 The development shall be implemented in accordance with the measures to address energy efficiency and climate change contained in the Climate Statement received 13 November 2023 and prior to first occupation of the development a verification report prepared by a suitably qualified professional shall be submitted to the Local Planning Authority confirming that all the agreed measures have been undertaken and will thereafter be maintained.

Reason: In the interests of sustainability and to positively address concerns regarding climate change in accordance with paragraph 159 the National Planning Policy Framework 2023.

- 12 The dwelling shall not be occupied until a plan indicating the positions, design, materials and type of boundary treatment (including hedgerow planting) to be erected has been 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 dwelling is occupied and shall thereafter be retained.

Reason: In the interests of amenity protection in accordance with Policy BNE2 of the Medway Local Plan 2003.

- 13 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order amending, revoking and reenacting that Order with or without modification) no development shall be carried out within Schedule 2, Part 1, Classes A, B and E of that Order unless planning permission has been granted on an application relating thereto.

Reason: To enable the Local Planning Authority to control such development in the interests of visual and neighbouring amenity in accordance with Policies BNE1, BNE2 and BNE25 of the Medway Local Plan 2003.

- 14 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order amending, revoking and reenacting that Order with or without modification) the dwellings herein approved shall remain in use as a dwellinghouses falling within Class C3 of the Town and Country Planning (Use Classes) Order 1987 (as amended) (or any order amending, revoking and re-enacting that Order with or without modification) and no change of use shall be carried out unless planning permission has been granted on an application relating thereto.

Reason: To enable the Local Planning Authority to control such development in the interests of amenity, in accordance with Policy BNE2 of the Medway Local Plan 2003.

**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 planning permission for the demolition of the existing single storey garage and erection of a part one-and-a-half, part single storey dwellinghouse. The proposed dwelling would have “L”-shape, with the main dwelling measuring approx. 12.2m in length and 6.3m in depth, supporting gabled ended pitched roof measuring 7.5m to the eaves and 3.6m to the ridge; the single storey element would project forward of front elevation by approx. 5.5m in depth and measuring 5.5m in width, supporting a hipped roof measuring 2.6m to the eaves and 4.7m to the ridge.

In addition to this the plot will be subdivided along the separation distance between the existing garage and property clearly delineating the newly proposed boundary treatments. In order to strengthen up this new delimitation the proposed dwelling would also be afforded its own driveway access onto Elm Grove leading up to the proposed dwelling and two off-street car parking spaces, with the existing tarmac to be covered by soft landscaping. Additional landscaping will also be planted along the western boundary between the driveway and existing access driveway off Elm Avenue.

Internally, the proposed dwelling would support an open plan lounge and kitchen, w.c and bedroom/dining room at ground floor level; and ensuite bedroom, and bedroom at first floor level.

## **Relevant Planning History**

MC/23/0631	Construction of two storey detached 3-bedroom dwelling with attached single storey garage including external works and new vehicular access. Decision: Refusal Decided: 3 May 2023
MC/22/1733	Construction of a first-floor extension over existing garage together with dormer windows front and rear and new decked area to rear. Decision: Approval with conditions Decided: 5 September 2022

## **Representations**

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

**Hoo Saint Werburgh and Chattenden Parish Council** have objected on the grounds the proposal would result in harms to the countryside, ALLI, SSSI and Special

Protection Area of the Thames Estuary and Marshes and Medway Estuary and Marshes. Moreover, that the proposal fails to address local ecology and potential impacts of development on a designated SSSI due to a lack of submitted supporting information.

**KCC Ecology** have commented on the on three grounds, firstly the SSSI.

Whereby they have stated that they accept the updated PEA submitted by the applicant, insofar that the development footprint is not contained within the SSSI and that any adverse impacts of the proposal upon the SSSI can be mitigated against via conditions securing a construction management plan. In particular, aiming to mitigate against light spillage, dust and location of any compounds.

Secondly, in regard to bats, KCC Ecology confirms their agreement with the investigatory findings of the bat report: outlining that there is an unlikely chance of bat being present within the garage. They also confirmed that the results of the eDNA reports have produced equally compelling evidence that great crested newts are not present on site.

Lastly, they comment on the biodiversity net gain report, outlining that while for sites statutorily allocated it is unlikely that BNG will be achieved, in this instance they are supportive of the appropriate management proposed. Therefore, raise no objections.

**Cllrs Crozer, Pearce and Sands** have written to object to the application on the following grounds:

- Acknowledge that changes to plans improve buffer to western boundary, reduces number of trees to be felled and provides new hedging along western boundary.
- Recommended conditions still needed to submit details re the changes.
- Changes do not outweigh harm.
- Site is adjacent to a SSSI and within an ALLI.
- Site is within transition area between settlement envelope of Chattenden and wider amenity of Tower Hill and Cookham Wood and transition area blends seamlessly with adjacent woodland promoting green backdrop. The proposal harms the ALLI and is contrary to policies BNE1, BNE25 and BNE34 of the Local Plan.
- Report accepts impact on SSSI. This is agreed and a new dwelling will have greater impact than the existing garage.
- Condition of SSSI described as unfavourable, declining and thus needs protection rather than allowing development that will cause further harm.
- Hoo and Chattenden Neighbourhood Plan has passed regulation 16 stage, and its policies should be given material weight. In this respect the proposal is contrary to Policy H008 3.
- Application should at very least be deferred.

**Natural England** raise no objections to the proposal subject to the securing appropriate mitigation for recreational pressure impacts upon habitat sites.

## Development Plan

The Development Plan for the area comprises the Medway Local Plan 2003 (the Local Plan). The policies referred to within this document and used in the processing of this application have been assessed against the National Planning Policy Framework 2023 (NPPF) and are generally considered to conform. Where non-conformity exists, this is addressed in the Planning Appraisal section below.

## Planning Appraisal

### *Background*

The application site has been subject to a previous similar application, under case reference number MC/23/0631, for the demolition of the existing garage and erection of a part single storey, part one and a half storey dwellinghouse. The design of the former proposal and current are largely the same, bar the addition of the attached garage to the front of the proposed dwellinghouse; resulting the dwelling sitting an approx. 4.5m further back from Hoo Common. In addition to this additional planting of a Birch Tree and two Wild Cherries are proposed to be introduced along the western boundary.

The previous application was refused on the following grounds:

1. *“Paragraph 11d) of the Framework is engaged given the lack of five-year housing supply being in place and Policy BNE25 carrying less than full weight. This indicates that planning permission should be granted unless one or other of the two sub-paragraphs relating to paragraph 11d) applies. Sub-paragraph (i). provides that the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed. Given the site forms part of an ALLI valued landscape paragraph 174 of the NPPF provides a clear reason for refusing the proposed development.*

*This, in addition to the other harms identified to the countryside, ALLI, SSSI and impact of the proposal on the Special Protection Areas of the Thames Estuary and Marshes and the Medway Estuary and Marshes, is not outweighed by the contribution to housing land supply or those other social, economic and environmental benefits.*

*The proposal would conflict with the development plan as a whole and for the reasons given the application is recommended for refusal.*



2. *The proposal fails to address local ecology and potential impacts of development on a designated SSSI due to a lack of submitted supporting information. Therefore, the impact of the proposal on the local ecology and SSSI cannot be understood nor if such harm could be mitigated or compensated. Without such sufficient information the proposal is contrary to Policies BNE37 and BNE39 of the Local Plan and paragraphs 170 (d) and 174(b) of the NPPF.”*

Effectively the application was refused on balance, due to the proposals harm to visual amenities of the countryside, ALLI and SSSI, and due to the proposals failure to address local ecology and potential impacts of development upon the designated SSSI due to a lack of submitted supporting information.

In order to demonstrate the application site's relationship with the ALLI, SSSI, and subsequent ecological and biodiversity net gain impacts additional eDNA (Great Crested Newt) and Biodiversity Net Gain (BNG) reports have been submitted supplementary to the initially submitted Preliminary Ecological Assessment (PEA) which has also been updated as of December 2023 to include a robust documentation of the site's constraints and management of said conflicts.

It is important to note that the Local Planning Authority are required to ensure that the decision making process is consistent, which means regard to previous relevant decisions is vital, and that whilst the Council are free to reach a decision that differs from those past, before doing so it is required to have regard to the importance of the duty of consistency and give reasons for any departure from them: *North Wiltshire District Council v Secretary of State for the Environment (1993) 65 P&CR 137*.

The distinctions between the cases will be highlighted throughout the forthcoming report, nonetheless, it is vital to also highlight that the cases are not identical: the plans have seen some minor amendments to the overall footprint and soft landscaping strategy and the body of evidence behind the ecological and BNG appraisals have also increased.

### Neighbourhood Plan

The Hoo and Chattenden Neighbourhood Plan has been subject to consultation at regulation 16 and will shortly be the subject of an Examination.

The Plan has not yet been the subject of an examination and a referendum and is not as yet part of the Development Plan. Full weight cannot therefore be attributed to the Plan.

Guidance on the weight to be attached to an “emerging NP” is within Para. 48 of the NPPF and depends upon:

- a) the stage of preparation of the emerging plan (the more advanced its preparation, the greater the weight that may be given).

- b) the extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and
- c) the degree of consistency of the relevant policies in the emerging plan to the NPPF (the closer to the NPPF the greater the weight that may be given).

As the Neighbourhood Plan has not been adopted following a referendum as part of the Development Plan there is no legal requirement under the Act to have regard to it. However, as it is emerging there is a requirement in the NPPF to take it into consideration as a material consideration.

The Plan is a material consideration and therefore taking into consideration the above.

The Plan has reached Regulation 16 Stage, which is quite an advanced stage but has not been subject to examination or referendum.

There have been a number of comments submitted in respect of the recent consultation on the Plan which the Examiner will carefully consider during the examination. Therefore, the key aspect relates to how consistent is Policy H008.3 with the NPPF.

Policy H008 relates to Landscape and the Environment. Part 3 of the Policy states:

*3. Development should take opportunities to enhance and should not harm:*

- a) Designated site, including Ramsar; SSSI and Special Protection Areas.*
- b) Local Woodlands, including ancient woodland.*
- c) Lakes, chalk streams and other water features.*

Paragraph 180 of the NPPF states:

*Planning policies and decisions should contribute to and enhance the natural and local environment by:*

- a) Protecting and enhancing valued landscape, sites of biodiversity or geological value and soils....*

Paragraph 186 states:

*When determining planning applications, LPAs should apply the following principles:*

- b) Development on land within or outside a SSSI and which is likely to have an adverse effect on it should not normally be permitted. The only exception is where the benefits of the development in the location proposed clearly outweigh both its likely impact on the features of the site that make it of special scientific interest and any broader impacts on the national network of Sites of Special Scientific Interest.*

It is clear therefore that Policy H008.3 of the Neighbourhood Plan is broadly consistent with the NPPF and reflecting the stage of the emerging plan and that consistency with the NPPF, the Policy should be given moderate weight in the determination of this application.

### *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 proposed site falls mainly outside the rural boundary and within the countryside. However, the part of the site where the garage is built appears to be contained within the cusp of the defined rural settlement of Chattenden; subject to Policy H11 confirming that only unless allocated otherwise or exceptional justification can be made housing development in the rural area will be restricted to minor development. It is on the site of the existing garage that the proposed dwelling is to be constructed, thereby within or on the boundary of the settlement. Naturally, the demolition of an existing garage in place for a dwellinghouse (largely within the footprint of the existing garage) and subdivision of the plot would meet the latter criteria.

The remainder of the proposed curtilage does not fall within said settlement. This appears to have been a point of contention between the previous application and applicant's position: which asserts the proposal is contained within the existing residential curtilage of Lingley House.

Some evidence to this effect had previously been submitted within the former application, however, this was previously dismissed by the LPA on the grounds it was not sufficient to prove upon the balance of probability that the application site has been in constant residential use for a period of 10 years. In this application, the applicant has submitted copies of affidavits (appendix b of the planning statement received 13 November) confirming sworn testimony that the application site has been in use as residential garden space since 1970. Consequently, nullifying any previous doubt.

Nonetheless, this is not an application for a lawful development certificate and nor has a lawful development certificate been submitted since the refusal of MC/23/0631. Therefore, the application will be assessed upon its planning merits, albeit with this as a material consideration.

Against this context, the remainder of the site would be located within countryside allocation, outside the rural settlement boundary; within an Area of Local Landscape Importance (ALLI) subject to Policy BNE34; and directly adjacent to a Site of Special Scientific Interest/Nature Reserve subject to Policy BNE35.

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. Specifically, through Policies S1 and S2 of the Local Plan which seek to prioritise development within the existing urban fabric whilst

Policy BNE25 of the Local Plan strictly controls development within the countryside; only permitting development where it complies with a limited range of specified categories set out in the policy -- these do not apply in this case. Consequently, the proposal would conflict with Policy BNE25 of the Local Plan.

However, it is acknowledged that the Local Plan is of some age, being adopted in 2003, and the Council does not currently possess a five-year land supply. As such there is non-conformity between the restrictive countryside Policy BNE25 within the Local Plan and the more recent NPPF, last updated in 2023.

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. Further emphasised by Paragraph 83 of the NPPF which specifically supports the provision of housing in rural areas where it will enhance or maintain the vitality of rural communities. Although only a small development, the proposal will nevertheless contribute to this small rural community.

Consequently, it is necessary to consider whether the proposal meets the criteria for sustainable development, and to also consider the impact of the development on the character of the area and the importance of the site in landscape terms. The NPPF definition of sustainability is clearly defined in paragraph 8: referring to sustainable development having an economic, social and an environmental role, with these three overarching objectives being pursued independently in mutually supportive ways.

*Socially*, there are benefits from the scheme through the provision of housing to help meet the 5-year supply. The site is within walking distance of the Chattenden North SPAR convenience centre serving as a 'top-up' for everyday goods; open green spaces such as Hoo Common; within 800m of Chattenden Primary School and the Broadwood Road bus stop allowing for public transport into Rochester and Chatham, supporting wider public transport links and high-speed train services into London and across the south coast.

*Economically*, the site would boost the local economy during construction process providing jobs in the short-term, it would help provide the increased workforce that enables continued economic growth in the longer term. Future occupiers would also contribute to the vitality and viability of the surrounding area.

*Environmentally*, is where previous contentions were raised under case reference number MC/23/0631. The view was taken that the proposals failure to demonstrate its impact upon the existing site's ecology would weight against the proposal in the lens of the tilted balance and specifically Policies BNE37 and BNE39 of the Local Plan and paragraphs 180(d) and 183(b) of the NPPF. That being said, – as confirmed in the background section of this report – supplementary information has been submitted to this effect alongside amended plans increasing the planting to the western elevation. The finer detailed are outlined in the BNG and Ecology section of this report, however,

essentially: the supplementary documents have produced a sufficient evidence base to demonstrate the potential impacts have been accounted for; mitigated said impacts where necessary; providing future enhancements to the site; and conducted investigatory works to ensure no protected species are present.

As such, whilst it is accepted the proposal would result in some further development into the countryside, it is considered that in principle, residential development here would not cause significant 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.

This is subject to the finer details in terms of the impact of the proposal on the basis of design and impact upon the SSSI and ALLI; impacts and retention of amenities; ecology; trees; biodiversity net gain and other matters as set out below.

### Design and Impact upon the SSSI and ALLI

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. Moreover, 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. In addition to this, the site sits on the cusp of the rural area of Chattenden, falling within designated ALLI and SSSI land. Therefore, is subject to Policies BNE25, BNE35 and BNE35 of the Local Plan: with the former seeking to maintain and wherever possible enhance the character, amenity and functioning of the countryside, and the latter two, more specifically outlining that development will not be permitted unless it conserves the site's respective ALLI and SSSI designations.

The site itself acts as a point of transition between the urban area of Chattenden and the wider public amenity of Tower Hill and Cockham Woods. With the site forming the most southern suburban edge of Chattenden prior to its conjunction with the ALLI and SSSI.

As of current the application site supports an expanse of mature vegetation that assists in the seamless transition between the rural settlement into rural countryside, particularly of note when traversing along the public right of way off Elm Avenue and from easterly vistas from Hoo Common.

The building types along Elm Avenue are varied in terms of architectural design, with the northern end of the road mostly comprising of detached bungalows with some two storey properties intermittently located throughout and the southern end being comprised of two large two storey dwellings within generous curtilages.

Notwithstanding, the building itself would largely conform to the character of the two larger dwellings along Elm Avenue, mimicking some of the design characteristics of Lingley House. Likewise, its proposed material palette would blend into and confirm with this established building typology. Consequently, raising no objections in this regard.

The massing and bulk, and whilst largely reflective of the existing garage would be an enlargement of what is currently onsite. In addition to this, the proposed delineated boundary treatments and front driveway solidify the buildings clearly delineated separate dwellinghouse.

In order to soften the appearance of the dwelling upon the ALLI, SSSI and from views afforded along Elm Avenue the proposal has inset the dwelling away from Hoo common by approx. 5.3m alongside detailing the introduction of three trees along the southern border of the property – adjoining the public right of way.

The inset in conjunction with the soft landscaping enable the proposal to more seamlessly blend into and conform with the character of the area, relative to the former application which would have projected significantly beyond the existing building line.

That being said, it is understood the single storey ground floor element does project beyond the building line, nonetheless, its “L” demarcates a natural end point to the built confines of development along Elm Avenue. Something that had previously been alluded to in the former officer’s report, albeit under different circumstances due to the larger scale of the development.

Lastly, while it is understood that the proposal will result in the removal of existing trees onsite in order to facilitate the dwelling, these trees are either relatively unhealthy specimens or are not native to the ALLI/SSSI therefore make little contribution to its establishment. Moreover, in the applications arboricultural report confirms the replacement of said trees on a two to one basis – these details are further outlined in the ‘Tree’ section of this report – thereby enabling the proposal to maintain the established buffer between the built and rural environment and ensuring the development remains relatively obscured.

No objections have been received from either Natural England or Kent County Council Ecology advisors.

Consequently, with view of the above, no objections are raised in regard to Policies BNE1, BNE25, and BNE34 of the Local Plan, and Paragraphs 131, 135, and 180 of the NPPF 2023. The proposal would also not be in conflict with Policy H008.3 of the emerging Neighbourhood Plan.

### Residential 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, 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.

### *Adjoining Neighbours*

Due to the siting of the proposed dwelling, it is not considered that there would be a detrimental impact to neighbouring properties amenity in terms of loss of daylight, sunlight, outlook and privacy. The proposed development has been designed to ensure all habitable windows do not face on to the flank of Lingley House not increasing any mutual overlooking that is already present.

The proposed dwelling extends further forward beyond the existing building line of Lingley House and where the detached garage was located. There would be no significant loss of sunlight or daylight due to the location and orientation of the property.

### *Future Occupants*

The proposed dwelling has been considered against Technical Housing Standards – Nationally Described Space Standard 2015. Whereby, a two-storey, three-bedroom, five-person dwelling would be required to meet a gross internal floor area (GIA) of 93m<sup>2</sup>. The proposal would measure approx. 147m<sup>2</sup>, thereby, exceeding these requirements. The space standards also dictate minimum width and floor space requirements for bedrooms, which, again would be met. In addition to this, all habitable rooms would be served by adequate degrees of natural light and afforded suitable levels of outlook.

Also of relevance is the proposed level of private amenity space to allow for the provisions of recreation, drying of clothes and associated leisure activities relative to residential usage. The Medway Housing Standards (interim) November 2011 (MHS), require that gardens measure 10m in depth and 7m where constraints exist. In this instance, the retained rear garden space for both the existing and proposed property would significantly exceed these requirements.

### *Highways and Parking*

The existing and proposed dwellings would require a minimum of two parking spaces each to be provided when the Medway Council Parking Standards are applied.

The proposal seeks to remove the existing double garage that is associated with Lingley House. The Design and Access Statement states that the detached garage is not currently used for parking as Lingley House has another garage linked to the house as well as a large driveway suitable for four cars.

The proposal creates a new access road/ driveway to the new dwelling off Elm Avenue with two car parking spaces provided adjacent to the dwelling.

A condition to ensure that the parking spaces are provided and retained for the existing and future occupants is recommended in addition to provision of electric charging points to meet with the sustainable transport and the Council's Climate Change

Statement. No details in relation to bin storage and cycle storage have been submitted and as such these elements would need to be addressed by condition.

Consequently, subject to conditions, the proposal would comply with Policies T1, T4 and T13 of the Local Plan and paragraphs 111 and 112E of the NPPF.

### *Impact on Trees*

The site is largely covered by trees and is in close proximity to the deciduous woodland, listed under the Priority Habitat Inventory. The redline boundary does include an area of the Tower Hill to Cockham Wood SSSI with the condition of this SSSI being described as “Unfavourable Declining”. By intensifying use of this land with an additional house in a smaller garden area it is hard to imagine that there wouldn’t be some additional impact on this SSSI and the trees that grow in it.

An Arboricultural Impact Assessment has been submitted alongside the application, of which the assessment sets out the proposal will result in the loss of T02, 03, 04, 05, 06 and G10, G11, G12 (partial) to facilitate the proposal and T08 for Arboricultural grounds. The trees identified for removal are not high-quality specimens with some ornamental species rather than native to the encompassing woodland, therefore, should not be considered a significant constraint to development. However, there is an absence of firm details for the replacement planting of trees to mitigate the anticipated loss, albeit plans submitted that indicate potential areas for replanting.

The requirements for the loss of the trees are understood by the LPA, specifically according with the LPAs statutory duty as set out in paragraph 197(a) of the Town and Country Planning Act 1990: *“to ensure, whenever it is appropriate, that in granting planning permission for any development adequate provision is made, by the imposition of conditions, for the preservation or planting of trees”*. Therefore, subject to a suitably worded condition securing the replanting of the trees removed in order to facilitate the proposal no objections would be raised to their loss.

Additionally, the assessment includes a Tree Protection Plan, securing the amenity of the higher value specimens onsite, this has also been reviewed and considered acceptable in ensuring the remaining trees of significant value are sufficiently and adequately protected throughout the proposed works. This is also considered acceptable subject to the relevant conditions.

As such, subject to the relevant conditions, noted above, no objections are raised in terms of Policy BNE43 of the Local Plan and paragraph 180 of the NPPF.

### *Ecology*

Paragraphs 180 and 183 of the NPPF outlines that planning decisions should contribute to and enhance the natural and local environment in terms of, and amongst other matters, minimising impacts on and providing net gains for biodiversity; and paragraph 181 of the NPPF provides guidance regarding habitats and biodiversity when determining planning applications. Policy BNE38 of the Local Plan is concerned with the provision of wildlife habitats in new developments that link into wider wildlife



networks and Policy BNE39 of the Local Plan outlines that development will not be permitted if statutorily protected species and/or their habitat will be harmed and that conditions will be attached to ensure that protected species and/or their habitats are safeguarded and maintained.

### *SSSI*

The applications site's redline boundary includes an area of the Tower Hill to Cockham Wood SSSI. Its citation contains the following: this site is of both biological and geological interest, containing a woodland representative of that on Tertiary deposits in Kent and supports a rich insect fauna.

Against this backdrop, the applicant's submitted Preliminary Ecological Assessment outlines in table 5 a list of the relevance protected species and subsequent mitigation measures during the construction phase of the development and enhancements that can be afforded, with further detailing in chapter 7 as to the extent of these enhancements.

Subsequently, it is considered that the potential impacts have been accounted for and mitigated where necessary alongside the future enhancement of the site. It is accepted that the proposed measures can be implemented to avoid an impact upon the SSSI and subject to a condition requiring the proposed enhancements and a construction management plan, no objections would be raised.

### *Bats*

The PEA submitted has demonstrated that the building has a limited potential for roosting bats, alongside detailed photographs included within the BNG report. The submitted information is sufficient to satisfy the LPA that it is unlikely that bats are roosting in the garage.

### *Great Crested Newts*

The eDNA report submitted has demonstrated the results and methodology of the environmental DNA sample tests undertaken to assess for the presence of Great Crested Newts on one pond as identified in the aforementioned PEA.

After review of this document, the submitted information is sufficient to satisfy the LPA that it is unlikely that Great Crested Newts are present onsite and within proximity to the pond.

### *Biodiversity Net Gain*

The NPPF paragraph 180(d) states that planning decisions should minimise impacts on and provide net gains for biodiversity and paragraph 183(b) states that plans should secure measurable net gains for biodiversity. Further, the Government set out its commitment to achieve Biodiversity Net Gain (BNG) within its 25 Year Environment Plan, which will be mandated within the upcoming Environment Bill. The Environment Bill has gone live on 12<sup>th</sup> February 2024 but for smaller sites there is an extended transition period until 2<sup>nd</sup> April 2024, requiring a minimum net gain of 10%.

A BNG assessment has been undertaken, detailing that an anticipated 31.35% habitat unit net gain and 267.79% hedgerow unit net gain will be achieved onsite. Whereby it confirms that most of the gain will be achieved by enhancing retained habitat within the wider area however no plans have confirmed where the enhancement works will be carried out. These details will be secured via suitably worded condition.

Nonetheless, it should be noted that BNG assessments cannot include areas of statutory designated sites and as the site boundary includes the SSSI it highlights that it is probably unlikely (under the terms of BNG) that a BNG can be achieved. As the site is within the SSSI we would have expect the BNG assessment to have addressed this point. That being said, outlined above – in the ‘ecology’ section of this report – the applicant has clearly demonstrated an avoidance of harm to the SSSI.

Consequently, while the BNG may not as incremental as set out in the assessment the LPA as supportive of an appropriate management being implemented across the site. These details we be secured by a forthcoming condition must meet the requirements of the management plan for the wider SSSI without any potentially damaging operations implemented as part of the works.

### *Climate Change and Energy Efficiency*

A Climate Change Statement has been submitted by the applicant. Any forthcoming permission would include a condition requiring the implementation of the above energy efficiencies and the submission and approval in writing by the LPA of a signed verification report. No objections would therefore be raised regarding paragraph 159 of the NPPF.

### *Bird Mitigation*

As the application site is within 6km of the North Kent Marshes SPA/Ramsar Sites, the proposed development is likely to have a significant effect, either alone or in-combination, on the coastal North Kent Special Protection Areas (SPAs)/Ramsar sites from recreational disturbance on the over-wintering bird interest. Natural England has advised that an appropriate tariff of £314.05 per dwelling (excluding legal and monitoring officer's costs, which separately total £550) should be collected to fund strategic measures across the Thames, Medway and Swale Estuaries. This tariff should be collected for new dwellings, either as new builds or conversions (which includes HMOs and student accommodation).

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

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

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

## **CONCLUSIONS AND REASONS FOR RECOMMENDATION**

The additional reports, surveys and information submitted as well as the alterations to the proposals have overcome the previous reasons for refusal. The proposal now complies with the provisions set out in paragraphs 8, 11, 60, 79, 111, 112(e), 159, 180, 181, 183 of the NPPF and Policies BNE1, BNE2, BNE25, BNE34, BNE35, BNE37, BNE39, BNE43, H11, S6, T1, T4 and T13 of the Medway Local Plan 2003. Therefore, the application is recommended for approval.

In this instance the application is being referred to Planning Committee on the basis of an objection received by Hoo Saint Werburgh and Chattenden Parish Council requesting the application is refused.

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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 on Medway Council's Website <https://publicaccess1.medway.gov.uk/online-applications/>