

Decision Notice

MC/20/1478



Mr Andrew Wilford
Esquire Developments
Studio 3 The Old Laundry
Green Street Green Road
Longfield
DA2 8EB

Applicant Name:
Mr Andrew Wilford

Planning Service
Physical & Cultural Regeneration
Regeneration, Culture, Environment &
Transformation
Gun Wharf
Dock Road
Chatham
Kent
ME4 4TR
01634 331700
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Planning.representations@medway.gov.uk

Town and Country Planning Act 1990

Location: Land At Upnor Road, , Upper Upnor, Medway, ,

Proposal: Erection of 72No. residential dwellings including 18 x affordable housing and erection of Childrens Nursery (Use Class E(f)) associated car parking and infrastructure; new landscaping and public open spaces including new public rights of way and new bus stop; sustainable urban drainage system and associated earthworks and a new vehicular access from Upnor Road.

Notification of Refusal of Planning Permission to Develop Land.

Take Notice that the Medway Council in pursuance of its powers under the above Act HAVE REFUSED PERMISSION for the development of land as described above in accordance with your application for planning permission received complete on 25 June 2020.

FOR THE FOLLOWING REASONS:

- 1 The proposal would establish development and reinforce the presence of built form in open space that crosses to the east slopes of the Hogmarsh Valley, whilst also introducing another new feature in the form of a building and a stack of approx. 6m high as mitigation measures to address the odour arising from the

nearby waste water treatment works. The proposals would erode the attractive rural backdrop that currently forms a green buffer separating Frindsbury, Wainscott and Upper Upnor contributing to the threat of coalescence between Upper Upnor and the urban areas, devaluing a currently rural image and as well as weakening the currently attractive setting for a major gateway within the borough - the A289. Overall, it is considered that the impact of this proposal is an intrusion into the countryside which results in harm to the character, appearance and function of this important landscape area that would significantly and demonstrably outweigh the benefits of the 72 dwellings and the provision of a children's nursery. The proposal conflicts with Policies BNE25 and BNE34 of the Medway Local Plan 2003 and paragraph 170(a)&(b) of the National Planning Policy Framework 2019.

Your attention is drawn to the following informative(s) :-

- 1 You are advised to contact Natural England in relation to the need to enter into a licence with regard to protected species before carrying out any work including clearance works.
- 2 In accordance with paragraph 38 of the NPPF Medway Council takes a positive, proactive and creative approach to development proposals focused on solutions. Medway Council works with applicants/agents in a positive, proactive and creative and manner by:

Offering a pre-application advice service;

Updating applicants/agents of any issues that may arise in the processing of their application;

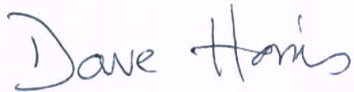
Where possible suggesting solutions; and

Informing applicants/agents of any likely recommendation of refusal prior to a decision.

In this instance the applicant/agent was advised the application was unlikely to be acceptable and asked how they wished to proceed.

- 3 This decision relates to the application form, Design and Access Statement (dated June 2020), Archaeological Desk-Based Assessment (dated June 2020), Built Heritage Statement reference JCH01059 V2 (dated 3 June 2020), Ecological Appraisal reference 5808 EcoAp vf/MD/DM (dated June 2020), Flood Risk Assessment and Drainage Strategy reference AMA786 DRAFT (dated June 2020), Odour Constraints Assessment v4 (dated June 2020), Phase I Desk Study, Site Reconnaissance & Phase II Site Investigation Report reference LP2063 (dated 21 November 2019) and Statement of Community Involvement (dated 19 June 2020) received 22 June 2020, Planning Statement (dated June 2020), Design and Access Statement Part 2 and Transport Statement reference PL/HB/14109 (dated June 2020) received 25 June 2020; Technical Briefing Note: Biodiversity Impact Assessment (dated August 2020) and Phase II Survey

Results (Bats and Dormouse) reference 5808 Phll dv4/MD/DM (dated July 2020) received 11 August 2020; A Report on the Pleistocene and Palaeolithic Evaluation v1 (dated 30 October 2020) received 4 November 2020; Road Safety Audit Stage 1 reference RSA287 (dated 04/09/2020) received 10 November 2020; Arboricultural Method Statement reference GRS/143/20 (dated 26 November 2020), Intent to occupy Letter (dated 24 November 2020), Pharola DS lighting specification, Landscape and Visual Impact Assessment reference 30160/A5 V3.1 (dated November 2020) and Landscape Strategy Issue 12 (dated December 2020) received 4 December 2020; and Drawing numbers 14254-H-08 Rev P8, 29414A/01, 29414A/02, 29414A/03, 29414A/04, 29414A/10 Rev A, 29414A/11 Rev A, 29414A/12 Rev A, 29414A/13 Rev A, 29414A/14 Rev A, 29414A/15 Rev A, 29414A/30, 29414A/31, 29414A/32, 29414A/33, 29414A/34, 29414A/35, 29414A/36 Rev B, 29414A/37, 29414A/38 Rev A, 29414A/39, 29414A/40 Rev A, 29414A/41 Rev A, 29414A/42 Rev A, 29414A/43 Rev B, 29414A/44 Rev A, 29414A/45 Rev A, 29414A/46 Rev A, 29414A/47 Rev A, 29414A/48 Rev A, 29414A/49 Rev B, 29414A/50 Rev A, 29414A/51 Rev A, 29414A/52 Rev A, 29414A/53, 29414A/54, 29414A/60, 29414A/61 and LN-LP-09 Rev C received 9 February 2021.

A handwritten signature in blue ink that reads "Dave Harris". The signature is written in a cursive, slightly slanted style.

David Harris
Head of Planning
Date of Notice 26 February 2021

TOWN & COUNTRY PLANNING (APPEALS) (WRITTEN REPRESENTATIONS) (ENGLAND) (AMENDMENT) (REGULATIONS 2013)

TOWN AND COUNTRY PLANNING ACT 1990

Appeals to the Secretary of State

- If you are aggrieved by the decision of your Local Planning Authority to refuse permission for the proposed development or to grant it subject to conditions, then you can appeal to the Secretary of State under section 78 of the Town and Country Planning Act 1990.
- If you want to appeal against your Local Planning Authority's decision then you must do so within **12 weeks** from the date of this notice for appeals being decided under the **Commercial Appeals Service** and **6 months** from the date of this notice for all other **minor and major applications**.
- However, if an enforcement notice has been served for the same or very similar development within the previous 2 years, the time limit is:
 - **28 days** from the date of the LPA decision if the enforcement notice was served before the decision was made yet not longer than 2 years before the application was made.
 - **28 days** from the date the enforcement notice was served if served on or after the date the decision was made (unless this extends the appeal period beyond 6 months).
- Appeals can be made online at: <https://www.gov.uk/planning-inspectorate>. If you are unable to access the online appeal form, please contact the Planning Inspectorate to obtain a paper copy of the appeal form on telephone number: 0303 444 5000.

Commercial Appeals Service

- This type of appeal proceeds by way of written representations, known as the "Commercial Appeals Service". Third parties will not have the opportunity to make further representations to the Planning Inspectorate on these.

All other Minor and Major Applications

- The Secretary of State can allow a longer period for giving notice of an appeal, but he will not normally be prepared to use this power unless there are special circumstances which excuse the delay in giving notice of appeal.
- The Secretary of State need not consider an appeal if it seems to him that the Local Planning Authority could not have granted planning permission for the

proposed development or could not have granted it without the conditions they imposed, having regard to the statutory requirements, to the provisions of any development order and to any directions given under a development order.

- In practice, the Secretary of State does not refuse to consider appeals solely because the Local Planning Authority based on their decision on a direction given by him.
- If you intend to submit an appeal that you would like examined by inquiry then you must notify the Local Planning Authority and Planning Inspectorate (inquiryappeals@planninginspectorate.gov.uk) at least 10 days before submitting the appeal. [Further details are on GOV.UK.](#)

Purchase Notes

- If either the Local Planning Authority or the Secretary of State refuses permission to development land or grants it subject to conditions, the owner may claim that he can neither put the land to a reasonably beneficial use in its existing state nor render the land capable of a reasonably beneficial use by the carrying out of any development which has been or would be permitted.
- In these circumstances, the owner may serve a purchase notice on the Council (District Council, London Borough Council or Common Council of the City of London) in whose area the land is situated. This notice will require the Council to purchase his interest in the land in accordance with the provisions of Part VI of the Town and Country Planning Act 1990.