



Appeal Decision

Site visit made on 18 August 2025

by **F Wilkinson BSc (Hons), MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 18 September 2025

Appeal Ref: APP/A2280/W/25/3364803

20 Broomhill Road, Strood, Rochester, Medway ME2 3LE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant outline planning permission.
 - The appeal is made by Freshbloom Ltd against the decision of Medway Council.
 - The application reference is MC/23/0685.
 - The development proposed is the demolition of existing buildings and construction of 26 flats set across 3 blocks of flats with associated access, refuse storage and parking.
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Decision

1. The appeal is allowed and planning permission is granted for the demolition of existing buildings and construction of 26 flats set across 3 blocks of flats with associated access, refuse storage and parking at 20 Broomhill Road, Strood, Rochester, Medway, ME2 3LE in accordance with the terms of the application, reference MC/23/0685, subject to the conditions in the attached schedule.

Applications for costs

2. An application for costs was made by Freshbloom Ltd against the Council. This application is the subject of a separate decision.

Preliminary Matters

3. The scheme was amended during the Council's consideration of the application. The description of the development proposed in the banner heading is taken from the Council's decision notice and appeal form rather than the application form as it more accurately describes the proposal. I have determined the appeal on this basis.
4. The proposal is in outline but seeks permission for access, layout and scale. All other matters are reserved for later consideration. The submitted plans show how the site could be landscaped, and illustrative elevations have been provided. However, in reaching my decision, I have considered only the principle of development and matters associated with access, layout and scale.

Main Issue

5. The main issue is the effect of the proposed development on the character and appearance of the area.

Reasons

6. The appeal site is located within a mainly residential area. Insofar as it is located to the rear of existing residential properties on Broomhill Road and Pepys Way and

given the description of backland development in the supporting text to Policy H9 of the 2003 adopted Medway Local Plan (the Local Plan), the proposal could be described as such. Policy H9 permits backland development if the character and amenity of the area as a whole is maintained, amongst other matters. Policy BNE1 of the Local Plan establishes general principles for built development. This includes that the design should be satisfactory in terms of use, scale, mass, proportion, details, materials, layout and siting. In addition, development should respect the scale, appearance and location of buildings, spaces and the visual amenity of the surrounding area.

7. Although there is variety in the architectural forms of the dwellings there remains a regularity to the pattern of the street scene in the vicinity of the site. The area is characterised by detached and semi-detached predominantly two storey dwellings that face directly towards the road. The dwellings are of similar proportions, scale and height and have similarly sized front gardens. The relatively modest scale of many of the dwellings and the width of Broomhill Road and Pepys Way give a domestic scale to the built form.
8. The site is located within a former quarry. Although this is a distinctive feature in the area, the development would nonetheless be seen in the same street scene as the dwellings along Broomhill Road and Pepys Way.
9. The proposal would introduce three sizeable buildings on to the site. However, the space around them means that the development would not appear cramped or squeezed onto the site, including when compared to the physical grain of the locality.
10. The three blocks of flats would be of a greater height than the surrounding dwellings. However, they would be located on land at a notably lower level so that only the upper most floors would be visible above the quarry walls. Views of the lower level of the buildings would likely be restricted to the area in the immediate locality of the site and at the site entrance. Clear views of the entire height and massing of the buildings would therefore be relatively limited. Consequently, the proposed buildings would likely be seen as ranging from two to three storeys from vantage points along Broomhill Road and Pepys Way, which would not be incompatible with the surrounding built form.
11. The height of all three buildings would be lower than the ridge lines of the nearby properties on both roads when viewed from outside the site. The buildings would therefore generally be seen as sitting below the properties on Broomhill Road when viewed from Pepys Way and below those on Pepys Way when viewed from Broomhill Road. The buildings would be stepped down in line with the slope of Broomhill Road and Pepys Way. Consequently, their height and how they would be positioned in the site would relate logically to the properties on either side and would conform to the arrangement of the dwellings along both roads in this respect.
12. The proposed development would not therefore appear out of scale or have an unacceptably dominant relationship with properties on Broomhill Road and Pepys Way with respect to the height and layout of the buildings.
13. The indicative elevations show all three buildings with flat roofs, whereas the surrounding area is predominantly characterised by dwellings with pitched roofs. While scale is a matter for consideration at this stage, this relates to the height,

width and length of each building in relation to its surroundings. Appearance, which is reserved for future consideration, would address those aspects which determine the visual impression the buildings would make, including the external built form of the development. However, it is difficult to envisage a design that would not need to incorporate flat roofs, being mindful of the description of development and in order to remain within the parameters that would be set at this outline stage. The combination of the width and flat roofs would give an appearance of notably different proportions not representative of the surrounding properties and would appear inharmonious in the traditional residential street scene.

14. Even if flat roofs were not proposed, all three buildings would be noticeably wider than the prevailing built form. There are factors that would help to soften the visual impact of the contrast in the width of the buildings with the nearby dwellings. Block A would be set back from the nearest dwelling on Broomhill Road and its narrower elevations would face towards Broomhill Road and Pepys Way. The height of block B would be stepped down and block C would sit relatively low in the site. The careful use of architectural detailing and design features, which would be considered at reserved matters stage, would further help to moderate the scale of the buildings. Nonetheless, their overall width would be at odds with the relatively modest built form in the area.
15. I acknowledge that there are flat roofed buildings to the south. However, these are viewed within a different street scene to the site and one which includes the large sports centre building. They do not therefore alter my view on the proposed development, which I have in any event, considered on its own planning merits.
16. I therefore conclude that the proposed development would be harmful to the character and appearance of the area. As such, it would conflict with Policies H9 and BNE1 of the Local Plan as summarised above and the design objectives of the National Planning Policy Framework (the Framework).

Planning Obligation

17. A signed unilateral undertaking (UU) under section 106 of the Town and Country Planning Act 1990 (as amended) was submitted with the appeal. The UU includes obligations by way of financial contributions towards open space provision, education, community facilities, libraries, healthcare premises, youth services, waste and recycling services, sports facilities improvements, heritage, public realm improvements, and mitigation measures for the North Kent Coast Special Protection Areas and Ramsar Sites. There are also obligations in respect of the provision of affordable housing, along with various associated details of implementation and trigger points.
18. Policy S6 of the Local Plan sets out the expectations for developer contributions to ensure that new development meets the reasonable costs of providing the on and off-site infrastructure requirements. The Medway Guide to Developer Contributions and Obligations (May 2018, charges updated April 2025) (the 2025 Guide) sets out the Council's policy relating to developer contributions. The Guide has been adopted by the Council as a supplementary planning document following consultation. The UU was prepared in line with the level of contributions in the 2024 version of the Guide. Nevertheless, the 2025 Guide explains that all section 106 contributions will be index linked. There are clauses in the UU to this effect. I

am therefore satisfied that there is a mechanism to ensure compliance with the 2025 Guide.

19. A contribution towards public realm improvements, in particular towards improved civic space and gateway to Strood Town Centre, is identified. There appears to be no reference in the 2024 or 2025 Guides as to the basis for such a contribution and my attention has not been drawn to any specific policy requirement. In addition, while future residents may visit civic space and Strood town centre, it is not clear that improvements would be directly related to the development as there is no scheme before me to which any funding would contribute. On this basis, I am not persuaded that the need for a contribution towards public realm improvements has been justified. As such, I cannot be satisfied that the contribution is fairly and reasonably related in scale and kind to the development. Accordingly, on the evidence before me, this contribution would not meet all the relevant tests in regulation 122 of the Community Infrastructure Levy (CIL) Regulations 2010 or paragraph 58 of the Framework. The appellant would not therefore be held by this clause.
20. The UU includes a clause relating to the transfer of ownership of a parcel of land or the owner of that land agreeing to be a party to the requirements of the UU. In my view, this clause would not meet the requirements of section 106(1) which establishes what a planning obligation can be used for. The appellant would not therefore be held by this clause.
21. Other than the matters set out above, on the basis of the submitted evidence, there is either an appropriate basis for all contributions or provisions of the UU, or they fulfil the intention of the scheme. There is no dispute between the main parties over the justification or appropriateness of any obligations. Inherent in my reasoning above is that the obligations within the UU, other than those relating to a contribution towards public realm improvements and transfer of ownership, are necessary to make the proposed development acceptable. They would accord with paragraph 58 of the Framework and regulation 122 of the CIL Regulations 2010.

Other Considerations

22. The Council acknowledges that it cannot demonstrate a five-year supply of deliverable housing sites. Accordingly, paragraph 11. d) of the Framework is engaged.
23. The proposal would create up to 26 dwellings, including a number of affordable homes, in a location that is within a reasonable walking distance of a range of services and facilities. It would therefore support the government's objective of significantly boosting the supply of homes in an area with an acknowledged lack of forward supply. This attracts substantial positive weight.
24. The short-term and long-term economic benefits from the proposal, including facilitating ongoing support for local services and facilities, weigh moderately positively for the proposal.
25. The requirement in paragraph 125 of the Framework to give substantial weight to the value of using suitable brownfield land within settlements would apply to part of the site which falls within the Framework's definition of previously developed land. The proposal would make efficient use of land which attracts positive weight.

26. Given the extent of the buildings that would project above street level and their position within the site, the relationship with nearby dwellings on Broomhill Road and Pepys Way would be similar to that which exists between the existing dwellings. A reasonable separation distance would be provided between the buildings and existing dwellings. While the outlook for some residents would change, the proposal would not have an overbearing effect. The future consideration of appearance would address appropriate mitigation as required such as screening on balconies and window heights. Consequently, I am satisfied that, with appropriate consideration given to appearance at reserved matters stage, the development would not harm the living conditions of neighbouring residents in terms of privacy, outlook and natural light.
27. The proposal would introduce more residents to the immediate vicinity and therefore more comings and goings and general activity. However, given the residential nature of the use, this would not unacceptably affect the overall residential character of the area.
28. The Council identifies that there would be a small shortfall in vehicle parking provision. However, a good number of cycle spaces would be provided, and the site is within a reasonable walking distance of a range of services and facilities. This would adequately mitigate the small shortfall. Based on the evidence in the Transport Statement that accompanied the application, the additional vehicle trips predicted to be generated by the proposal would not result in a significant increase in vehicle traffic. On this basis, the proposal would not result in a severe impact on the road network in the area. The visibility splays would be commensurate with the recorded vehicle speeds. The Transport Statement demonstrates that the proposed layout would provide adequate turning space for vehicles. The Council has not raised any concerns in terms of highway safety or capacity and in the absence of any clear technical evidence to the contrary, I have no reason to take a different view.
29. The site does not lie within a conservation area. Based on the evidence that is before me, there are no listed buildings whose setting would be harmed by the proposal. A condition would secure appropriate archaeological mitigation.
30. There is no evidence to suggest that the vegetation on the site is of a high ecological value. While some vegetation may have to be removed, landscaping is a matter reserved for future consideration and a scheme could require the provision of appropriate mitigation as well as biodiversity net gain. I have considered the tests under regulation 9 of the Habitats Regulations¹. In light of the evidence before me and the proposed mitigation, I have no reason to doubt that a mitigation license would not be issued and that bats would not be safeguarded.
31. The recommendations in the Geo-Environmental Investigation Report and Piling Risk Assessment submitted with the application take account of the ground conditions at the site. There is no clear evidence before me to indicate that the development would contribute to or be adversely affected by land instability.
32. Given the contributions that would be secured through the UU, there is nothing to imply that the proposal would result in unacceptable effects in respect of infrastructure strain.

¹ Conservation of Habitats and Species Regulations 2017 (as amended)

33. The proposal would be supported by parts of the Framework, in particular, policies to increase housing supply, provide affordable homes, direct development to sustainable locations and make efficient use of land. These are key policies for the purposes of paragraph 11 d) ii of the Framework. There would be conflict with the Framework policies to achieve well-designed places, in particular paragraph 135 which is also a key policy with respect to paragraph 11 d) ii.
34. The harm to the character and appearance of the area would be modest. In my view, the adverse impacts of granting permission would not significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. The proposal therefore benefits from the presumption in favour of sustainable development in paragraph 11 d) of the Framework.

Other Matters – Effect on the North Kent Special Protection Areas and Ramsar Sites (European Sites)

35. The site lies within the zone of influence of the European Sites. The evidence indicates that their qualifying features are at risk of disturbance from recreational activities. New residential development within this zone has the potential to increase recreational visitors. Consequently, when considered in combination with other developments in the area, there would be a likely significant effect on the qualifying features of the European Sites from the proposal through increased disturbance from recreational activity.
36. Considering the conservation objectives, there would be adverse effects on the integrity of the European Sites from the proposed development through increased disturbance to the qualifying features from recreational activity. It is therefore necessary to consider whether any potential effects could be mitigated.
37. A Strategic Access Management and Monitoring Scheme is in place which provides a strategy to mitigate the potential in-combination impacts of new housing development in the vicinity of the European Sites. This includes the application of tariffs on development to fund the identified mitigation measures. As noted above, the UU commits the appellant to provide a financial contribution in line with the tariff to mitigate against the impact of the development on the European Sites.
38. I am satisfied that the measures contained in the UU would adequately mitigate the effects of the proposal such that there would be no adverse effect on the integrity of the European Sites either alone or in combination with other plans and projects. Consequently, there would be no conflict with the biodiversity requirements of Policies S6 and BNE35 of the Local Plan or the Framework.

Planning Balance and Conclusion

39. In respect of the effect on the character and appearance of the area, I find that the proposal would not accord with the development plan. However, planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise.
40. When judged overall, this is a case where the presumption in favour of sustainable development is a matter that is sufficiently weighty, as a material planning consideration, to outweigh the identified conflict with the development plan. I therefore conclude that the appeal should be allowed.

Conditions

41. I have considered the conditions suggested by the Council, having regard to the six tests set out in the Framework. For clarity, precision and to avoid duplication, I have amended the wording of certain conditions without altering their fundamental aims.
42. In the interests of certainty, the relevant conditions concerning the timescales for the commencement of development and the submission of the reserved matters are necessary. A condition identifying the approved plans insofar as they relate to matters of access, layout and scale and set parameters for future submissions is also necessary for certainty. I have amended the list of drawings to reflect that appearance and landscaping are reserved for future consideration.
43. Conditions are necessary to specify matters that should be submitted at reserved matters stage to ensure the appearance and landscaping of the development is acceptable. I have amended the Council's suggested landscaping condition being mindful of the definition of the reserved matters in the Town and Country Planning (Development Management Procedure) (England) Order 2015.
44. To avoid irreversible detrimental impact on any archaeological interest, it is necessary to secure a programme of archaeological work. In the interests of biodiversity, an update to the bat mitigation strategy is necessary. Conditions controlling activities during the construction phase are necessary to ensure that the impacts on the living conditions of existing residents and biodiversity interests are minimised and to minimise flood risk. It is necessary to secure a scheme based on sustainable drainage principles to minimise flood risk. These conditions are required pre-commencement as they are necessary to ensure that any potential risks are known, and mitigation measures properly planned in, prior to the commencement of development.
45. A condition relating to the protection of existing trees during construction is necessary in the interests of tree health. To minimise the risk of water pollution, conditions are necessary to prevent the infiltration of surface water drainage into the ground and to limit when piling can occur. Conditions relating to the submission of a travel plan and parking management plan, the provision of cycle storage facilities, junction works, and the provision and retention of vehicle parking areas are necessary to support sustainable transport objectives and to ensure the safe and efficient use of the highway.
46. In the interests of biodiversity, conditions are necessary to secure details of enhancement measures and to control external lighting. To ensure a satisfactory external appearance of the development, it is necessary to secure details of the boundary treatments and a landscape management plan. In the interests of public health and safety and minimising the risk of water pollution, a condition addressing risks from land contamination is necessary. A requirement to incorporate measures to address energy efficiency and climate change is necessary in the interests of sustainable design. To ensure that the development is served by an adequate drainage system, it is necessary to obtain verification of the surface water system that has been constructed.
47. The appellant has suggested a Grampian condition requiring the purchase of a parcel of land which lies outside their control. However, I am not persuaded by the enforceability of such a condition. I have instead included a condition requiring the

implementation of the access road prior to the construction of the three blocks of flats.

48. I have not imposed a condition requiring electric vehicle charging points as this would duplicate a requirement of Building Regulations. Nor have I imposed a condition to place a restriction on the use of the flats, as no exceptional circumstances are presented.

F Wilkinson

INSPECTOR

Richborough

SCHEDULE OF CONDITIONS

- 1) Approval of the details of the appearance of the buildings and the landscaping (hereinafter called "the reserved matters") shall be obtained from the Local Planning Authority in writing before any development is commenced and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the Local Planning Authority not later than three years from the date of this permission and the reserved matters shall be carried out in accordance with the approved details.
- 3) The development hereby permitted must be begun no later than two years from the date of approval of the last of the reserved matters to be approved.
- 4) The development hereby permitted in terms of access, layout and scale shall be carried out in accordance with the following drawing nos:

PL-10 Rev P6 - Proposed Site Plan - First Floor
PL-11 Rev P6 - Proposed Site Plan - Ground Floor
PL-16 Rev P7 - Location and Block Plan, Site Sections
PL-17 Rev P3 - Block A - Proposed Elevations
PL-18 Rev P3 - Block B - Proposed Elevations
PL-19 Rev P3 - Block C - Proposed Elevations

- 5) Applications for the approval of reserved matters in relation to landscaping for a phase or sub-phase shall include full details of both hard and soft landscape works, any artefacts to be located within the public space of that phase or sub-phase and a timetable for implementation. These details shall include existing and proposed finished ground levels; means of enclosure; all paving and external hard surfacing; decking; minor artefacts and structures (play equipment, seating, refuse receptacles, planters, tree grilles, any other decorative feature(s)). Soft landscape works shall include details of planting plans, written specifications (including cultivation and other operations associated with grass and plant establishment, aftercare and maintenance); schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate; and how the development will enhance biodiversity to include green roof habitat and native species planting.

The development shall be implemented in accordance with the approved details and timetable.

Any trees or plants 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.

- 6) Applications for the approval of reserved matters in relation to appearance shall include details and samples of all materials to be used externally, and details of the following architectural elements: ridge, eaves, verge, dormers, brick bonding and joint types, mortar colours, scheme colourways, entrance recess soffits, solar panels & brackets, balcony structures, window and door cills/jamb/headings, visible flashings, roof vents, electricity cupboards, waste enclosures, boiler and other flume

placements. The development shall be implemented in accordance with the approved details.

- 7) No development shall commence until the implementation of a programme of archaeological work has been secured in accordance with a written specification and timetable which has been submitted to and approved in writing by the Local Planning Authority. The archaeological works shall thereafter be carried out in accordance with the approved specification.
- 8) No development shall commence until a review and update of the bat mitigation strategy informed by updated bat surveys has been submitted to and approved in writing by the Local Planning Authority. The updated mitigation strategy must be based on the information within the Ecological Appraisal (Bioscan; March 2023) and include a timetable for implementation. The mitigation must be implemented in accordance with the approved details and timetable. The bat mitigation zone identified in the approved strategy shall be kept available for such use and no permanent development, whether or not permitted by the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any order amending, revoking or re-enacting that Order with or without modification) shall be carried out within the bat mitigation zone so shown or in such a position as to have a detrimental effect on the approved mitigation zone. The final landscaping is to be confirmed within the landscaping reserved matters condition and retained thereafter in accordance with the approved details.
- 9) No development shall commence until a Construction Environmental Management Plan that describes measures to control, amongst other matters, hours of working, parking of operatives vehicles, deliveries to the site, noise, dust and lighting the effect on wildlife and habitats arising from the construction phase of the development has been submitted to and approved in writing by the Local Planning Authority. The construction works shall thereafter be undertaken in accordance with this approved plan.
- 10) No development shall commence 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 thereafter be undertaken in accordance with the approved scheme.
- 11) 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 approved in writing by the Local Planning Authority. 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.

Construction of the development shall thereafter be undertaken in accordance with the approved details.

- 12) No development shall commence (including site clearance works and any other preparatory works on site) until the tree protection measures set out in section 8 of the Tree Survey, Arboricultural Impact Assessment and Tree Protection Plan Rev 2 prepared by MJC Tree Services Ltd, dated 29 September 2023 have been implemented. The protective measures shall be maintained during the site clearance and construction period.
- 13) No infiltration of surface water drainage into the ground is permitted other than with the prior written consent of the Local Planning Authority.
- 14) No piling or any other foundation designs using penetrative methods shall be permitted other than with the written consent of the Local Planning Authority, which may be given for those parts of the site where it has been demonstrated by a piling risk assessment that there is no resultant unacceptable risk to groundwater. The development shall be carried out in accordance with the approved details.
- 15) No construction of the three blocks of flats shall commence until the site access as shown on drawing no. PL-11 Rev P6 has been provided other than its topmost layer.
- 16) No part of the development shall be first occupied until the final details of the Travel Plan have been submitted to and approved in writing by the Local Planning Authority. The Travel Plan shall set out proposals to promote travel by sustainable modes including the use of car clubs, and a timetable for implementation. The Travel Plan shall be implemented in accordance with the timetable set out in the approved plan.
- 17) No part of the development shall be first occupied until a Parking Management Plan has been submitted to and approved in writing by the Local Planning Authority. The Parking Management Plan shall contain details of how the onsite parking provision is to be managed for residents and their visitors. The Parking Management Plan shall be implemented in accordance with the approved details prior to the first occupation of any residential unit and shall thereafter be retained.
- 18) No part of the development shall be first occupied until a Landscape Management Plan has been 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 all landscape areas (except for small, privately owned, domestic gardens) for a minimum period of five years and arrangements for implementation. The development shall thereafter be implemented in accordance with the approved details. Prior to any handover of the

maintenance of the public landscape areas to a management company, there must be a site visit involving the Local Planning Authority, the proposed landscape management company and the developer. The site visit will include a review of the site area proposed to be transferred to the management company and will assess whether the approved landscape plans have been implemented as approved, the condition and maintenance of all planting and what measures are necessary prior to a handover to the management company. The results of the site visit/walk over shall be submitted to and approved in writing by the Local Planning Authority and the agreed requirements in terms of replanting/maintenance shall be undertaken prior to any hand over to the management company.

- 19) No part of the development shall be first occupied until a plan indicating the positions, design, materials and type of boundary treatment 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 any dwellings are occupied and shall thereafter be retained.
- 20) No part of the development shall be first occupied until (or within an agreed implementation schedule) a signed verification report carried out by a qualified drainage engineer (or equivalent) has been submitted to and approved in writing by the Local Planning Authority to confirm that the agreed surface water systems have 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
- 21) The development shall incorporate the measures to address energy efficiency and climate change as set out within the sustainable design section of the Design and Access Statement. The development shall not be first occupied until a verification report prepared by a suitably qualified professional has been submitted to and approved in writing by the Local Planning Authority confirming that all the approved measures have been implemented.
- 22) No part of the development shall be first occupied until the s278 works regarding the junction and tactile paving have been completed.
- 23) No part of the development shall be first occupied until the final details of the cycle storage facilities and a timetable for implementation have been submitted to and approved in writing by the Local Planning Authority. The cycle storage shall be implemented in accordance with the approved details and timetable.
- 24) No part of the development shall be first occupied until the area shown on the submitted drawing PL-11 Rev P6 as vehicle parking spaces has been provided, surfaced and drained. Thereafter the vehicle parking spaces shall be kept available for such use and no permanent development, whether or not permitted by the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any order amending, revoking or re-enacting that Order with or without modification) shall be carried out on the land so shown or in such a position as to preclude vehicular access to this reserved parking space/garaging.

- 25) No part of the development shall be first occupied until details of how the development will enhance biodiversity have been submitted to and approved in writing by the Local Planning Authority. This should include integrated and/or wall-mounted bird and/or bat boxes and native species planting and a timetable for implementation. Wall mounted boxes will be made of woodcrete to secure a suitably long-term and low maintenance biodiversity enhancement for the site. Any boxes for birds will be targeted at red or amber listed species (as per the latest British Trust for Ornithology Birds of Conservation Concern list). The approved measures will be implemented in accordance with the approved timetable and retained thereafter.
- 26) Prior to the installation of any external lighting on the site, details of such lighting shall be submitted to and approved in writing by the Local Planning Authority. Details shall include height, position, external appearance, any shielding, light intensity, colour, spillage (such as light contour or lux level plans showing the existing and proposed levels) and hours of use together with a report to demonstrate its effect on the landscaping of the site (including an overlay of the proposed lighting onto the site landscaping plans), nearby residential properties, bats (including reference to the recommendations of the Bat Conservation Trust) and of how this effect has been minimised. Any external lighting shall be implemented in accordance with the approved details.
- 27) If, during development, contamination not previously identified is found to be present at the site, no further development shall take place until a method statement has been submitted to and approved in writing by the Local Planning Authority. The Method Statement must detail how this unsuspected contamination shall be dealt with. The development shall thereafter be implemented in accordance with the approved Method Statement.



Costs Decision

Site visit made on 18 August 2025

by **F Wilkinson BSc (Hons), MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 18 September 2025

Costs application in relation to Appeal Ref: APP/A2280/W/25/3364803

20 Broom Hill Road, Strood, Rochester, Medway ME2 3LE

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Freshbloom Ltd for a full award of costs against Medway Council.
 - The appeal was against the refusal of planning permission for demolition of existing buildings and construction of 26 flats set across 3 blocks of flats with associated access, refuse storage and parking.
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Decision

1. The application for an award of costs is refused.

Reasons

2. Parties in planning appeals normally meet their own expenses. However, the Planning Practice Guidance (PPG) advises that costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process. Unreasonable behaviour can be procedural or substantive.
3. In summary, the applicant contends that the Council has acted unreasonably by failing to identify the harm that would be caused by the proposal and why the proposal should be refused having regard to national and local planning policy. In addition, it is contended that the Council did not review its case following the publication of the revised National Planning Policy Framework in December 2024 (the 2024 Framework). The Council disputes that it has acted unreasonably.
4. The Council's reason for refusal relates to a matter of judgement. The Planning Committee Members were entitled not to accept the professional advice of Officers so long as a case could be made for the contrary view. Although brief, the Council's appeal statement identifies the main characteristics of the local built environment and why the proposal would cause significant harm to that local character. The Council has adequately substantiated its reason for refusal against development plan policy and other material considerations.
5. The PPG states that where a local planning authority has refused a planning application for a proposal that is not in accordance with the development plan policy, and no material considerations including national policy indicate that planning permission should have been granted, there should generally be no grounds for an award of costs against the local planning authority for unreasonable refusal of an application. I find this to be the case here.

6. There is no clear evidence that the Council's case has not had regard to the 2024 Framework. Indeed, section 4 of the Council's appeal statement identifies that the 2024 Framework is the relevant national policy and that the Framework paragraphs referred to in the reason for refusal, which relate to securing well-designed places, have not significantly changed. Consequently, there is nothing to suggest that the Council failed to review its case following the publication of the 2024 Framework.
7. The acknowledgement that paragraph 11 d) is triggered is restated in the Council's appeal statement. Its appeal statement also identifies benefits of the scheme but concludes that the weight given to them would not outweigh the weight given to the harm. The triggering of paragraph 11 d) does not mean that permission has to be granted. The planning balance still needs to be undertaken, which is what the Council has done.
8. Parts of the appeal site could be classified as previously developed within the 2024 Framework's definition. Nonetheless, the requirement for decisions to give substantial weight to the value of using suitable brownfield land within settlements for homes has not changed in the 2024 Framework. While it now also states that '*proposals for which should be approved*', this is unless substantial harm would be caused. The Council considered that significant harm would be caused to the character and appearance of the area, and as set out above, although brief, it is clear from the reason for refusal and the Council's appeal statement why this was considered to be the case.

Conclusion

9. For the above reasons, I conclude that unreasonable behaviour resulting in unnecessary or wasted expense has not been demonstrated.

F Wilkinson

INSPECTOR