

APPLICATION: MA/10/0491 Date: 22 March 2010 Received: 20 April 2010

APPLICANT: Lisburne Estates Ltd

LOCATION: 1-11 PHOENIX PARK, PARKWOOD INDUSTRIAL ESTATE, COLDRED ROAD, BOUGHTON MONCHELSEA, MAIDSTONE, KENT, ME15 9XN

PARISH: Boughton Monchelsea

PROPOSAL: Application to remove Condition 3 of MA/06/0675 (Retrospective application for the change of use from B1 to mixed use of B1 & B8) to allow permitted change of use to solely B1 or B8 as set out in a letter received 20th April 2010 (dated 22nd March 2010).

AGENDA DATE: 1st July 2010

CASE OFFICER: Catherine Slade

The recommendation for this application is being reported to Committee for decision because:

- the Council is the owner of the site

### **1. POLICIES**

Maidstone Borough-Wide Local Plan 2000: ED2, ED9, R18

South East Plan 2009: CC1, CC6, RE3, RE5

Village Design Statement: Not applicable

Government Policy: PPS1 Delivering Sustainable Development, PPS4 Planning for Sustainable Economic Growth

### **2. RELEVANT PLANNING HISTORY**

- MA/06/0675: Retrospective application for the change of use from B1 to mixed use of B1 & B8 – APPROVED WITH CONDITIONS
- MA/97/1610: Retrospective planning application for uses falling within use classes B1, B2 and B8 - WITHDRAWN
- MA/79/1686: New small units for light industrial use – APPROVED WITH CONDITIONS

### **3. CONSULTATIONS**

**Boughton Monchelsea Parish Council:** Did not wish to comment/object to the proposal.

**Maidstone Borough Council Environmental Health Manager:** Raise no objection to the proposal.

**Kent County Council Highways:** Raise no objection to the proposal.

#### **4. REPRESENTATIONS**

One objection was raised to the proposal, which raised concern with regard to potential noise disturbance.

#### **5. CONSIDERATIONS**

##### **5.1 Site Description**

- 5.1.1 The proposal site is located within the defined urban boundary of Maidstone in the Parkwood Industrial estate, which is designated in the Local Plan for B1 and B2 uses and car sales rooms under policies ED2(iv) and R18(iii).
- 5.1.2 The site is located to the north of Coldred Road in the south of the industrial estate, and is bounded to the north, south and west by industrial units and to the west by residential properties on Bicknor Road.
- 5.1.3 The site comprises 11 units (identified as 1 to 11 inclusive) of various sizes facing onto a central parking and turning area. The buildings are arranged in 3 blocks of 3 and 4 units along the north west, north east and south west boundaries of the site with a central parking and turning area which has some landscaping. The buildings are single storey structures of conventional design and appearance.
- 5.1.4 Planning permission for the units was granted in 1979 under MA/79/1686 for the erection of the units for "light industrial use" (B1) subject to conditions. Subsequently a planning permission was sought under MA/06/0675 for mixed use of the site. This was granted subject to a condition (3) that restricted the use of units 8, 9, 10 and 11 to B1. These are the smallest units which are located along the north east boundary of the site. The units back on to the large industrial units on Heronden Road.
- 5.1.5 The reasons for imposing this condition were the impact of traffic generation caused by the B8 use of the 4 units on the local highways network and the amenity of local residents. These dwellings are sited approximately 88m to the North West of unit 8 and are located behind units 1, 2, 3 and 4 of Phoenix Park.

##### **5.2 Proposal**

- 5.2.1 This application seeks the removal of condition 3, as detailed above, to allow a mixed B1 and B8 use of units 8, 9, 10 and 11. The condition currently restricts the use of the units to B1.

##### **5.3 Principle of Development**

- 5.3.1 The site is located within an existing industrial estate which is designated in the local plan for B1 and B2 uses. The estate currently supports a range of uses within the scope of B1, B2 and B8.
- 5.3.2 The previous planning permission (MA/06/0675) granted planning permission for the mixed use of units 1, 2, 3, 4, 5, 6 and 7 for B1 and B8, whilst restricting the use of units 8, 9, 10 and 11 to B1. The principle of B8 use on the site is therefore acceptable in principle.
- 5.3.3 As previously stated, the site is within the Parkwood Industrial Estate and is designated as being retained for employment uses falling within Use Classes B1 and B2 within the Local Plan and car sales rooms under planning policies ED2 and R18. Policy ED9 of the Local Plan allows for B8 uses on sites designated for B2 uses subject to the uses being well related to the local highway network.
- 5.3.4 The South East Plan 2009 and PPS4 (Planning for Sustainable Economic Development) which postdate the Local Plan, seek to encourage flexibility in employment provision within the planning system. This is set out in policy RE3 of the South East Plan 2009 which requires Local Planning Authorities to facilitate a flexible supply of land for employment purposes, while policy RE5, which relates to "smart growth", seeks to achieve the most effective and efficient use of land and premises in the context of changing working practices.
- 5.3.5 In addition, policy EC11 (Determining planning applications for economic development (other than main town centre uses) not in accordance with an up to date development plan) of PPS4 (Planning for Sustainable Economic Growth) require that in determining such applications consideration should be given to economic considerations, longer term benefits and whether the proposal would help to meet the wider objectives of the development plan.
- 5.3.6 In the context of the site history and existing mixed use of 7 units for B1 and B8 within the site and surrounding industrial estate, and the policy framework, it is considered that the principle of the removal of the condition is acceptable.

#### **5.4 Residential Amenity**

- 5.4.1 The condition was imposed on MA/06/0675 in response to comments from the Environmental Health Manager raising concerns with regard to the amenity of local residents.
- 5.4.2 This application seeks the removal of condition 3 attached to MA/06/0675, which restricts the use of units 8, 9, 10 and 11. These units back onto the industrial premises to the south of Heronden Road, as set out above, and are located a minimum of 88m from the nearest residential properties, which are on Bicknor Road. Given the existing uses in Phoenix Park, including the B1 and B8 use of units 1, 2, 3 and 4, which back onto the gardens of the dwellinghouses, and elsewhere within the industrial estate, it is not considered that the removal of the condition would result in harm to the amenity of the occupiers of the nearby dwellinghouses by virtue of the sheer distance involved between the units and the residential properties.

- 5.4.3 This is supported by the comments of the Maidstone Borough Council Environmental Health Officer who raises no objection to the removal of the condition, and does not consider that the use of the units for B8 use would result in any additional detrimental impact upon local residential amenity.
- 5.4.4 Members will be aware that the application does not seek to secure a B2 use for the site, that is a general industrial use which would by definition potentially be "un-neighbourly" with regard to issues such as noise, vibration or dust.
- 5.4.5 Notwithstanding the above, it is noted that the previous permission (MA/06/0675) imposed a condition restricting the hours in which deliveries can be made and taken to 0800 to 1800 weekdays, 0900 to 1600 Saturdays and at no time on Sundays, Public and Bank Holidays. This condition is still in force and therefore it is not necessary to impose such a condition under this permission. There are no existing restrictions on the hours of operation of the units under either MA/79/1686 or MA/06/0675, and it is considered unreasonable to restrict such hours by way of condition given the context of the site and the surrounding uses and given this and the lack of restraint over other units within the estate it is not considered reasonable to attach such a condition to the permission.

## **5.5 Highways**

- 5.5.1 The removal of the condition could potentially result in larger numbers of vehicle movements, however these would be restricted with regard to times as per the condition set out in paragraph 5.4.5 above. Any increase is unlikely to be significant in the context of the existing uses permitted within Phoenix Park and the estate as a whole, and the size of the four units to which the current application applies would limit the level of activity within to some degree.
- 5.5.2 The Kent County Council Highways Manager has raised no objection to the proposal, stating that the removal of the condition would not significantly intensify traffic generation or affect the existing parking arrangements.
- 5.5.3 Given this, and the existing vehicular access to the site and its good relationship to the primary road network, it is not considered that the proposal would result in harm to highway safety, and to be in accordance with policy ED9 of the Local Plan.

## **5.6 Visual Impact**

- 5.6.1 The removal of the condition would not result in any operational development and there would therefore be no visual impact.

## **5.7 Other matters**

- 5.7.1 As has been stated in the application, if the condition had not been imposed, the units would benefit from permitted development rights to change use from B1 to B8 by virtue of their existing use and the scale of the units (having an area of less than 235m<sup>2</sup>) under the provisions of Class B, Part 3, Schedule 2 of the Town

and Country Planning General Permitted Development Order 1995 (as amended).

## **6. CONCLUSION**

- 6.1 In the context of the existing uses permitted under MA/06/0675 and elsewhere within the industrial estate, as defined in the Local Plan, and the policy support for increased flexibility in planning for economic growth as set out in the South East Plan 2009 and PPS4, it is considered that the principle of the removal of the condition is acceptable. The proposal would not result in harm to the amenity of the occupiers of neighbouring dwellings, or result in an unacceptable impact upon the local highway network. For the reasons set out above, it is considered that the proposal to remove condition 3 of MA/06/0675 is in accordance with policies RE3 and RE5 of the South East Plan 2009 and EC11 of PPS4 Planning for Sustainable Economic Growth, and I therefore recommend it for approval, subject to the following conditions.

## **7. RECOMMENDATION**

GRANT PLANNING PERMISSION

### **Informatives set out below**

For the avoidance of doubt, conditions 1 and 2 of MA/06/0675 remain in force and applicable to the site in its entirety.

The proposed development, subject to the conditions stated, is considered to comply with the policies of the Development Plan (Maidstone Borough-Wide Local Plan 2000 and South East Plan 2009) and there are no overriding material considerations to indicate a refusal of planning consent.