

REPORT SUMMARY

REFERENCE NUMBER: 24/501629/FULL		
APPLICATION PROPOSAL: Section 73 - Application for removal of condition 8 (Holiday accommodation occupation period) pursuant to 22/504521/FULL for - Use of land for the stationing of holiday log cabins (13 twin unit caravans) and associated bases, roads, lighting, and drainage details, plus use of existing vehicular access on to Pye Corner. Submission of details relating to conditions 3 (site management plan), 4 (ecology) and 5 (lighting) of planning permission 22/504521/FULL (allowed at appeal) for use of land for holiday lodges.		
ADDRESS: Land adjacent to Neverend Farm, Pye Corner, Ulcombe, ME17 1EF		
RECOMMENDATION: GRANT PERMISSION subject to planning conditions.		
SUMMARY OF REASONS FOR RECOMMENDATION: <ul style="list-style-type: none"> • Condition 8 (together with condition 7) does not meet the statutory test as the condition is not necessary or reasonable. • A single amended condition wording to replace condition 7 is suitability robust, meets the relevant tests and will more adequately prevent the issues that were given for the original condition 8. • It is recommended that condition 8 is deleted and condition 7 amended to reflect the standard condition wording given in this report. • The submitted details for conditions 3, 4 and 5 are acceptable and amended conditions are recommended requiring compliance with the submitted details. 		
REASON FOR REFERRAL TO COMMITTEE: Call in by Ulcombe Parish Council for the reasons in section 4 of this report.		
WARD: Headcorn and Sutton Vallence	PARISH COUNCIL: Ulcombe	APPLICANT: Mr J Gilham AGENT: Graham Simpkin Planning Ltd
CASE OFFICER: William Fletcher	VALIDATION DATE: 18/04/24	DECISION DUE DATE: 26/07/24
ADVERTISED AS A DEPARTURE: No		

Relevant planning history

- 20/505988/LAWPRO Lawful Development Certificate (Proposed) for use of agricultural field as a small 5no. pitch caravan and motorhome site. Approved 15.02.2021.
- 21/506746/FULL Erection of a two-storey side extension. Approved 16.02.2022.
- 22/504521/FULL Use of land for the stationing of holiday log cabins (13 twin unit caravans) and associated bases, roads, lighting, and drainage details, plus use of existing vehicular access on to Pye Corner. Refused 03.03.2023 for the following reasons:
 - "...harmfully consolidate sporadic and urbanising development in the countryside, resulting in a development that would cause harm to the character and appearance of the countryside hereabouts and fail to recognise the intrinsic character and beauty of the countryside...contrary to policies SP17, SP21, DM1, DM30, and DM38 of the Maidstone Local Plan (2017) ...".
 - "...proposal fails to demonstrate that the development would not have a harmful impact upon the highway network and as such the development is not in accordance with policy DM1 of the Maidstone Borough Local Plan (2017)...".

- Appeal against refusal of 22/504521/FULL Allowed 02.02.2024 (costs application refused). The appeal Inspector makes the following conclusions:
 - "...would not be unduly harmful, having regard to the enclosed nature of the existing site. The development would not result in harm to the character and appearance of the area, given it would provide a relatively small development between the existing structures..."
 - "...proposed site access would be acceptable in highway safety terms, with particular regard to the adequacy of the proposed visibility splays and adequate turning facilities within the site..."

MAIN REPORT

1.0 DESCRIPTION OF SITE

- 1.01 The application site is in the countryside and in the Low Weald Landscape of Local Value. The site is in the Ulcombe Mixed Farmlands Landscape Character Area, as designated in the Maidstone Landscape Character Assessment. The character assessment concludes that the landscape is in 'Very Good' condition and that it has 'Very High' sensitivity.
- 1.02 The site in the southeast corner of Neverend Farm in Ulcombe and accessed via a gated service route from the south side of Pye Corner. The site is largely enclosed by a tall and well-established hedgerow limiting views from public vantage points.
- 1.03 The surrounding area has a strong rural character, largely comprising agricultural land with some woodland and sporadic agricultural/commercial buildings.

2.0 PROPOSAL

- 2.01 The application is for the removal of a condition (8). Condition 8 was attached by the planning inspectorate as part of the decision to allow the appeal against Council's refusal of application 22/504521/FULL.
- 2.02 Application 22/504521/FULL was for holiday log cabins (13 twin unit caravans) and associated bases, roads, lighting, and drainage details, plus use of existing vehicular access on to Pye Corner.
- 2.03 Condition 8 restricted the occupation of the accommodation to "...a period not in excess of 28 days and not for more than 112 days in any calendar year".
- 2.04 In addition to the removal of condition 8, the application also includes submission of details relating to conditions 3 (site management plan), 4 (ecology) and 5 (lighting) of planning permission 22/504521/FULL (allowed at appeal) for use of land for holiday lodges.
- 2.05 The applicant has submitted the following documents in support of the conditions discharge:
- 4053-01 Site Management Plan [condition 3]
 - 4053-02 Lighting Scheme Plan [condition 5]
 - Ecological Enhancement and Mitigation Plan (Native) [condition 4]
 - Ecology District Level Licence Form [condition 4]
 - Lighting Horizontal Illuminance [condition 5]
 - Lighting Report [condition 5]
 - Lighting Strategy [condition 5]
 - Planning Statement

3.0 POLICY AND OTHER CONSIDERATIONS

Maidstone Borough Local Plan Review (2024)

The Maidstone Borough Local Plan Review (LPR) was adopted by the Council on the 20 March 2024. Strategic level legal challenges were made to adoption that relate to specific strategic development sites within the LPR and do not affect the full weight that should be applied to the LPR2024 itself. Maidstone Borough Local Plan 2017 policies are therefore now superseded. The relevant LPR policies are as follows:

Policy LPRSS1- Maidstone Borough Spatial Strategy
Policy LPRSP9- Development in the Countryside
Policy LPRSP15- Principles of Good Design
Policy LPRSP11 - Economic Development
Policy LPRSP14(A) - Natural Environment
Policy LPRQD4 - Design principles in the Countryside
Policy LPRQD 2 - External lighting
Policy LPRTRA4 – Parking
Policy LPRTRA2 - Assessing the Transport Impacts of Development
Policy LPRTLR2: Holiday Lets, Caravan and Camp Sites

The National Planning Policy Framework (2023):

Section 2 – Achieving Sustainable Development
Section 4 – Decision Making
Section 6 - Building a strong, competitive economy.
Section 12 – Achieving well Designed Places

National Planning Practice Guidance (NPPG):

Supplementary Planning Documents:

Maidstone Landscape Character Assessment

4.0 LOCAL REPRESENTATIONS

Local residents

4.01 2 representations received objecting to the application for the following (summarised) reasons:

- Lack of physical infrastructure (drainage)
- Matters raised in the appeal decision.
- Impact upon neighbouring occupants.

In response to the above, the application has already been 'approved' by the appeal decision. The applicant has submitted the same drainage and flood risk assessment which the inspectorate has previously accepted.

Ulcombe Parish Council

4.02 Objection, committee call and recommend refusal for the following reasons:

- not an isolated condition but fundamental reason why the Inspector agreed the Appeal.
- If Condition 8 is removed, then the whole Appeal is surely negated.
- The Inspector states that the condition is necessary to restrict the occupation of the units to support the tourism industry and prevent their occupation as permanent dwellings.
- Condition 7, by itself, has no specific measures to restrict occupation and prevent permanent dwellings.

5.0 CONSULTATIONS

(Please note that summaries of consultation responses are set out below. Comments are discussed in more detail in the appraisal section where necessary)

Forestry Commission

5.1 No objection

KCC Highways

5.2 No objection

KCC Ecology

5.3 No objection

Kent Police

5.4 No objection

6.0 APPRAISAL

6.01 The key issues are:

- Impact of removing condition 8 on preventing permanent occupation.
- Condition 3 attached to 22/504521/FULL – Construction Management Plan.
- Condition 4 attached to 22/504521/FULL - wildlife management plan.
- Condition 5 attached to 22/504521/FULL – external lighting.

Impact of removing condition 8

6.02 Condition 8 attached to the allowed appeal reads *"The holiday accommodation hereby permitted shall only be occupied continuously by any persons for a period not in excess of 28 days and not for more than 112 days in any calendar year"*.

6.03 Condition 7 attached to the allowed appeal reads *"The development hereby permitted shall be occupied for holiday purposes only and no such accommodation shall be occupied as a person's sole or main place of residence. The operators of the site shall maintain an up-to-date register of the names, main home addresses and the duration of stay of all future occupants, and this information shall be made available at all reasonable times upon request to the Local Planning Authority"*.

6.04 All planning conditions need to meet 6 tests set out in the NPPF. These tests state that planning conditions should be:

- 1) Necessary
- 2) Relevant to planning
- 3) Relevant to development permitted.
- 4) Enforceable
- 5) Precise, and
- 6) Reasonable in all other respects.

6.05 In the consideration of planning applications for holiday lets, the correct approach is found to be the imposition of the following single planning condition:

"The accommodation hereby permitted shall not be occupied as a person's sole or main place of residence, the accommodation shall be occupied for bona fide holiday purposes only and shall accord with the following:

- (i) The operators of the site shall maintain an up-to-date register of the names, main home addresses and the duration of stay of all future occupants of the approved accommodation.*
- (ii) Relevant contact details (name, position, telephone number, email address and postal address) of the operators of the site, who will keep the register (referred to at (i)) and make it available for inspection, shall also be submitted to the local planning authority (planningenforcement@maidstone.gov.uk) prior to the first occupation of the approved accommodation with the relevant contact details subsequently kept up to date at all times.*
- (iv) The register information required by point (ii) shall be made available at all reasonable times upon request from the local planning authority and additionally at the end of each calendar year following first occupation of the approved accommodation, the operators of the site (set out at (iii)) shall submit the up-to-date register of the occupants (over the last calendar year) to the Local Planning Authority (planningenforcement@maidstone.gov.uk) for review. Reason: To ensure proper control of the use of the holiday let and to prevent the establishment of permanent residency"*.

6.06 It is concluded that condition 8 (together with condition 7) does not meet the statutory test as the condition is not necessary or reasonable. It is advised that the above single condition wording is suitability robust, meets the relevant tests and will more adequately prevent the issues that were given for the original condition 8. It is recommended that condition 7 be amended to reflect the standard condition wording given above in this report.

Details of Condition 3 Construction Management Plan.

6.07 In addition to the removal of Condition 8 the applicant has requested the discharge of condition 3 attached to the allowed appeal. The condition requires the submission and approval of a Construction Management Plan.

6.08 The submitted construction management plan (4053 – 01 Site Management Plan) indicates that each caravan will be delivered in two parts in two deliveries on a low loader lorry. Max

2 deliveries per day. The caravans will be delivered Monday to Friday: 9:30am to 4:30pm, Saturday: 8am to 1pm with no deliveries on Sundays and bank holidays. The site 'construction' will take place Monday to Friday: 8am to 6pm, Saturday: 8am to 1pm with no operations on Sunday and bank holidays.

- 6.09 The construction management plan shows the method of access and egress and routeing of vehicles during construction, the parking of vehicles by site operatives and visitors, the loading and unloading of plant, materials and waste and the storage of plant and materials used in construction of the development as requested by the condition.
- 6.10 It is found that the details submitted are acceptable and KCC Highways have no objection. An amended condition is recommended to ensure compliance with the approved construction management plan.

Details of Condition 3 wildlife management plan.

- 6.11 In addition to the removal of Condition 8 the applicant has requested the discharge of condition 3 attached to the allowed appeal. The condition requires the submission and approval of a wildlife management plan.
- 6.12 The applicant has submitted a preliminary ecological appraisal, an ecological enhancement and mitigation plan and a Great Crested Newt district level licensing impact assessment & conservation payment certificate.
- 6.13 KCC Ecology have been consulted and have raised no issues with the submitted information. The ecological enhancement and mitigation plan details enhancements which would be placed around the site as well as supplementary planting which will take place. Bird boxes and log piles will also be placed around the site boundaries. The applicant has submitted a revised GCN licensing payment certificate which has been signed by Natural England.
- 6.14 It is found that the details submitted are acceptable. An amended condition is recommended to ensure compliance with the approved wildlife management plan.

Details of Condition 5

- 6.15 The applicant has requested the discharge of condition 5 attached to the allowed appeal. The condition requires the submission and approval of an external lighting scheme.
- 6.16 KCC Ecology have confirmed that the proposed lighting has been designed to have minimal light spill and is largely limited to the access road. The submitted illuminance assessment does not indicate any significant increase in lux levels in these locations. The 'spill' from lighting would be restricted to the application site.
- 6.17 It is found that the details submitted are acceptable. An amended condition is recommended to ensure compliance with the approved lighting scheme.

Biodiversity net gain

- 6.18 Unless in the list of specified exemptions, biodiversity net gain is required for all non-major planning applications made after the 2 April 2024 (and for major applications made after 12 February 2024). Government advice is also that section 73 applications are also exempt "...where the original permission which the section 73 relates to was either granted before 12 February 2024 or the application for the original permission was made before 12 February 2024".
- 6.19 Whilst the current section 73 application was made after the 2 April 2024, the original permission (22/504521/FULL) which the section 73 relates to was granted before 12 February 2024. In this context the current application is BNG exempt.

PUBLIC SECTOR EQUALITY DUTY

- 6.20 Due regard has been had to the Public Sector Equality Duty, as set out in Section 149 of the Equality Act 2010. It is considered that the application proposals would not undermine objectives of the Duty.

7.0 CONCLUSION

- 7.01 Condition 8 (together with condition 7) does not meet the statutory test as the condition is not necessary or reasonable. A single amended condition wording to replace condition 7 is suitability robust, meets the relevant tests and will more adequately prevent the issues that were given for the original condition 8. It is recommended that condition 7 be amended to reflect the standard condition wording given in this report.
- 7.02 The submitted details for conditions 3, 4 and 5 are acceptable and amended conditions are recommended requiring compliance with the submitted details.

8.0 RECOMMENDATION – GRANT PLANNING PERMISSION Subject to the following conditions with delegated powers to the Head of Development Management to be able to settle or amend any necessary Heads of Terms, planning conditions and/or informatives in line with the matters set out in the recommendation and as resolved by the Planning Committee.

- 1) The development hereby permitted shall begin no later than 02.02 2027.
Reason: In accordance with the provisions of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans:
3635 01 Site Location Plan
3635 02 Existing Block Plan
3635 03D Proposed Block Plan
3635 04B Floor Plan and Elevations
3635 05B Floor Plan and Elevations Pitches 2 to 13
3635 06 Rev A.
Drainage Strategy and Flood Risk Assessment
Drainage Strategy and Maintenance Appendices
Preliminary Ecological Appraisal Plan
Planning Statement 22/504521/FULL
4053-01 Site Management Plan [condition 3]
4053-02 Lighting Scheme Plan [condition 5]
Ecological Enhancement and Mitigation Plan (Native) [condition 4]
Ecology District Level Licence Form [condition 4]
Lighting Horizontal Illuminance [condition 5]
Lighting Report [condition 5]
Lighting Strategy [condition 5]
Planning Statement
Reason: To ensure that the development is carried out to an acceptable visual standard.
- 3) The development hereby approved shall be carried out in full accordance with the approved Site Construction Management Plan (4053 – 01 Site Management Plan).
Reason: To safeguard the amenity of the area in general during the construction phase.
- 4) The development shall be carried out in full accordance with the submitted details (Ecological Enhancement and Mitigation Plan received 15 Apr 2024), the approved holiday accommodation shall not be occupied until the enhancements detailed within the Ecological Enhancement and Mitigation Plan have been provided. Enhancements shall be maintained and retained thereafter.
Reason: In the interests of ecology.
- 5) External lighting on the site shall be in accordance with the following details Lighting hereby approved as shown in 4053-02 Lighting Scheme Plan, Lighting Horizontal Illuminance, Lighting Report and Lighting Strategy and shall be subsequently retained and maintained as such.
Reason: To prevent light pollution and in the interests of residential amenity.
- 6) No unit shall be occupied until the implementation of a Secured By Design scheme that shall first have been submitted to and approved in writing by the Local Planning Authority. Thereafter the approved scheme shall be adhered to in full throughout the life of the development.
Reason: To ensure the development has adequate security arrangements and to safeguard the amenity of future occupants.

- 7) The accommodation hereby permitted shall not be occupied as a person's sole or main place of residence, the accommodation shall be occupied for bona fide holiday purposes only and shall accord with the following:
- (i) The operators of the site shall maintain an up-to-date register of the names, main home addresses and the duration of stay of all future occupants of the approved accommodation.
 - (ii) Relevant contact details (name, position, telephone number, email address and postal address) of the operators of the site, who will keep the register (referred to at (i)) and make it available for inspection, shall also be submitted to the local planning authority (planningenforcement@maidstone.gov.uk) prior to the first occupation of the approved accommodation with the relevant contact details subsequently kept up to date at all times.
 - (iv) The register information required by point (ii) shall be made available at all reasonable times upon request from the local planning authority and additionally at the end of each calendar year following first occupation of the approved accommodation, the operators of the site (set out at (iii)) shall submit the up-to-date register of the occupants (over the last calendar year) to the Local Planning Authority (planningenforcement@maidstone.gov.uk) for review.
- Reason: To ensure proper control of the use of the holiday let and to prevent the establishment of permanent residency.
- 8) No trees and/or hedgerows on the site, unless dead or dangerous, shall be felled, reduced, pruned or destroyed without the consent in writing of the Local Planning Authority. Furthermore, the following work shall not be carried out within the root protection area (RPA) of any tree or hedgerow, except with the consent of the Local Planning Authority:-
- Levels shall not be raised or lowered in relation to the existing ground level within the RPA of the tree or hedgerow.
 - No roots shall be cut, trenches dug or soil removed within the RPA of the tree or hedgerow.
 - No buildings, roads or other engineering operations shall be constructed or carried out within the RPA of the tree or hedgerow.
 - No fires shall be lit within the RPA or in a position where the flames could extend to within 5 metres of the foliage, branches or trunk of the tree or hedgerow as per the requirements of BS5837:2012 Trees in relation to design, demolition & construction - Recommendations.
 - No vehicles shall be driven over the area within the RPA of the tree or hedgerow.
 - No materials or equipment shall be stored within the RPA of the tree or hedgerow as per the requirements of British Standard 5837:2009 'Trees in Relation to Construction'.
- Reason: To safeguard the existing mature vegetation on site.
- NB: For full details of all papers submitted with this application please refer to the relevant Public Access pages on the council's website.