

APPLICATION: MA/11/0071 Date: 18 January 2011 Received: 4 February 2011

APPLICANT: Hanson UK

LOCATION: TWENTY TWENTY INDUSTRIAL ESTATE, ST LAURENCE AVENUE,
MAIDSTONE, KENT, ME16 0LL

PARISH: Maidstone

PROPOSAL: Change of use from vehicle workshop to builders merchant with
trade counter as shown on existing floor plan and drawing no.
A7r/HCWorkshop received 19/01/11, planning statement received
19/01/11 and amended application form and drawing nos. 10/649/1
& 2 received 04/02/11.

AGENDA DATE: 17th March 2011

CASE OFFICER: Kathryn Altieri

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

- Proposal is a departure from the Maidstone Borough Wide Local Plan 2000 as it involves a non-B1 and non-B2 use in a designated employment area under Policy ED2.

1. POLICIES

- Maidstone Borough-Wide Local Plan 2000: ED2, T13
- South East Plan 2009: CC6, BE1, T4, NRM10, RE3
- Government Policy: PPS1 - Delivering Sustainable Development, PPS4 - Planning for Sustainable Economic Growth, PPG24 - Planning and Noise, Planning Policy Guidance 13 - Transport, PPS23 - Planning and Pollution Control

2. HISTORY (1974+)

- MA/87/1060 - Construction of new workshop facilities and storage compound area - approved/granted with conditions.
- MA/85/1116 - Erection of replacement offices and re-siting of existing stores/workshop - approved/granted with conditions.
- MA/84/0169 - Reinstatement of site from mineral extraction to development of warehouse/factory units with roads & improvements to A20 junction - approved/granted with conditions.

3. CONSULTATIONS

- **KCC Highways Officer raised no objections subject to conditions;**

"I refer to the above planning application and have no objections to the proposals in respect of highway matters subject to the following conditions being attached to any permission granted:-

1. The area shown on the submitted layout as vehicle parking space or garages shall be provided, surfaced and drained to the satisfaction of the Local Planning Authority before the use is commenced or the premises occupied, and shall be retained for the use of the occupiers of, and visitors to, the premises, and no permanent development, whether or not permitted by the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking and re-enacting that Order), shall be carried out on that area of land so shown or in such a position as to preclude vehicular access to this reserved parking space.

2. The area shown on the approved plan as vehicle loading, off-loading and turning space, shall be paved and drained to the satisfaction of the Local Planning Authority before the use is commenced or the premises occupied and shall be retained for the use of the occupiers of, and visitors to, the premises, and no permanent development, whether or not permitted by Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking and re-enacting that Order), shall be carried out on that area of land or in such a position as to preclude its use."

- **MBC Environmental Health Officer raises no objections subject to site contamination condition;**

"The main concern with this site is potential contamination associated with the former use of the site for vehicle repairs. I would therefore recommend that a contaminated land condition is attached to any consent granted.

Recommended condition -

No development shall commence until:

1. The application site has been subjected to a detailed scheme for the investigation and recording of site contamination and a report has been submitted to and approved by the Local planning authority. The investigation strategy shall be based upon relevant information discovered by a desk study. The report shall include a risk assessment and detail how site monitoring during decontamination shall be carried out. The site investigation shall be carried out by a suitably qualified and accredited consultant/contractor in accordance with a Quality Assured sampling and analysis methodology and these details recorded.

2. Detailed proposals in line with current best practice for removal, containment or otherwise rendering harmless such contamination (the 'Contamination Proposals') have been submitted to and approved by the Local Planning Authority. The Contamination Proposals shall detail sources of best practice employed.

3. Approved remediation works shall be carried out in full on site under a Quality Assurance scheme to demonstrate compliance with the proposed methodology. If, during any works, contamination is identified which has not previously been identified additional Contamination Proposals shall be submitted to and approved by, the local planning authority.

4. Upon completion of the works, this condition shall not be discharged until a closure report has been submitted to and approved by the local planning authority. The closure report shall include full details of the works and certification that the works have been carried out in accordance with the approved methodology. The closure report shall include details of any post remediation sampling and analysis together with documentation certifying quantities and source/destination of any material brought onto or taken from the site. Any material brought onto the site shall be certified clean;

Reason: To prevent harm to human health and pollution of the environment. This in accordance with PPS1 and PPS23."

4. REPRESENTATIONS

- None

5. CONSIDERATIONS

5.1 Site description

- 5.1.1 The application site relates to a plot of land, some 0.3ha in area, that is occupied by a large industrial unit constructed from part brick and part galvanised metal sheeting. In addition to this, there are a couple of smaller metal framed outbuildings on site and a metal container probably once used for storage purposes. The site is largely hard surfaced and is enclosed by 2m high metal palisade fencing and gates.
- 5.1.2 The main building, which has three large roller shutter doors to the front, is set back some 50m from St Laurence Avenue and the site is some 115m to the east of the junction with St Barnabas Close.
- 5.1.3 The building is within the 20/20 Industrial Estate and is surrounded by industrial units of differing scale and design with an aggregate plant bordering the site to the north and east.
- 5.1.4 The site does falls within an 'area of economic activity', as designated under Policy ED2(iii) of the Maidstone Borough-Wide Local Plan 2000, which assigns the site as suitable for uses within Use Classes B1 and B2.

5.2 The Proposal

- 5.2.1 The proposal is for the change of use of this currently vacant building from a vehicle workshop (B2 Use) to a builders' merchant with trade counter (a Sui generis use), employing around fifteen full-time members of staff.
- 5.2.2 The proposed use would provide storage of a broad range of aggregates and decorative aggregates as well as building, recycling and landscaping materials; and provide a trade counter dealing with wholesale trade as well as the general public. The applicant estimates 90% of its sales will relate to trade customers and 10% to members of the general public.
- 5.2.3 The total floor area of the main building is some 450m² and less than 30% of this (some 81m²) is to be used as a display area with trade counter. The remaining footprint will be used as storage and ancillary office accommodation (some 294m²). The other small building on site (some 50m²) will be used for ancillary storage.
- 5.2.4 The proposal involves no external alterations to the building and there would be twenty-four car parking spaces (4 of which are disability spaces) available on the existing front forecourt.

5.3 Planning Issues

Principle of development

- 5.3.1 The application has been advertised as a departure from the Development Plan because the proposed use (a sui generis use) does not fall within either Class B1 or B2 Use, as the site is within an area designated for employment purposes (B1 or B2 Use) under saved Policy ED2 of the Maidstone Borough-Wide Local Plan 2000. The Policy states;

'Planning permission will not be granted to redevelop or use vacant business, industrial, storage or distribution sites or premises for non-employment purposes unless the retention of the site or premises for employment use has been explored fully without success.'

- 5.3.2 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that;

"If regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise."

- 5.3.3 Central government guidance and advice has changed since the Maidstone Borough Wide Local Plan (2000) was adopted. Therefore, when determining this application, it is appropriate to give weight to the more recent central government guidance and assess whether this would override the existing local

policy. So whilst this application is a departure from the Maidstone Borough Wide Local Plan (2000), I consider the later introduction of central government guidance (PPS4) to be a "*material consideration*" in the determination of this application. This is in accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004.

5.3.4 Planning Policy Statement 4 – 'Planning for the Sustainable Economic Growth' (December 2009) is more recent than Policy ED2 of the Development Plan and does set out the government objectives for national sustainable growth whilst broadening the definition of 'economic development' to;

"For the purposes of the policies in this PPS, economic development includes development within the B Use Classes, public and community uses and main town centre uses. The policies also apply to other development which achieves at least one of the following objectives;

- *Providing employment opportunities;*
- *Generates wealth; or*
- *Produces or generates an economic output or product.*

5.3.5 I am satisfied that the proposed change of use would generate employment opportunities and as such, is identified as a form of economic development.

5.3.6 Policy EC11 of PPS4 is of most relevance to this proposal, as it relates to the determination of planning applications for economic development not in accordance with an up to date Development Plan. This policy states;

"In determining planning applications for economic development other than for main town centre uses which are not in accordance with the development plan, local planning authorities should:

a. weigh market and other economic information alongside environmental and social information

b. take full account of any longer term benefits, as well as the costs, of b. development, such as job creation or improved productivity including any wider benefits to national, regional or local economies; and

c. consider whether those proposals help to meet the wider objectives of the development plan"

5.3.7 I also note that under Policy EC2 of PPS4, it outlines that, "*policies should be flexible enough to accommodate sectors not anticipated in the plan and allow a quick response to changes in economic circumstances*". This sentiment is echoed under Policy RE3 of the South East Plan 2009, which states, "*In planning for the location, quantity and nature of employment land and premises, they will (LDF's) facilitate a flexible supply of land to meet the varying needs of the economic sector*".

5.3.8 The application site is also within an area designated to allow vehicle sales and showrooms under saved Policy R18 of the Maidstone Borough Wide Local Plan 2000. However, this is not relevant in the determination of this application.

5.3.9 Whilst the proposed use does not accord with Policy ED2 of the Local Plan, the more recent PPS4 emphasises the need for adaptability and flexibility in the allocation of employment land. Furthermore, the use is now defined by PPS4 as falling within the scope of economic development and will provide continued employment within a designated employment area where several buildings are vacant. I therefore consider the principle of this proposal to be acceptable.

Employment Land Supply

5.3.10 The latest employment land review update from September 2009 concludes that given the current permission and allocation, the Council would need to identify an additional 5ha up to 2026 of employment land above and beyond the amount set by current allocations and commitments. Clearly there is still a need for additional land to meet employment needs and therefore logically a need to maintain the existing employment land supply.

Assessment of supporting evidence

5.3.11 As mentioned previously, the applicant estimates 90% of its sales will relate to trade customers and 10% to members of the general public. Furthermore, the total floor area of the main building is some 450m² and less than 30% of this (some 81m²) will be used as a display area with trade counter. The remaining footprint will be used as storage and ancillary office accommodation (some 294m²). The other small building on site will also be used for ancillary storage (some 50m²).

5.3.12 Based on this submitted information, I have no concern with this unit being used as a retail outlet (A1 Use) which would not be suitable at this location. I am therefore happy that the level of trade to general members of the public will be ancillary to the building's main use.

5.3.13 Another important consideration to my mind is the fact that this specific use requires this type of building which is more typically found within an industrial or trading estate rather than a town centre. Indeed, this type of use usually requires a relatively large, tall and open building space for the storage and manoeuvring of heavy, bulky goods. I therefore have no concerns with the proposed use having a significant detrimental impact upon the viability and vitality of Maidstone town centre.

5.3.14 There has been no marketing of the site (for sale or lease) whilst it has been vacant, but the agent has given a valid reason for this;

"The services (BT, electricity and drainage etc.) that run to the building are linked with the remainder of the Hanson landholdings adjacent. Therefore any future occupier of the building needs to be known to Hanson. Accordingly there has been no marketing of the building and the proposed use for a builders' merchant is considered to be an appropriate use for the building".

5.3.15 Furthermore, the application site has been vacant since 2009, the Council is aware of some 2085m² of vacant industrial space within the 20/20 industrial Estate itself; and although not in the Maidstone Borough, there is a further 200m² of vacant general industrial space less than a mile to the north of the site on the 2m Trade Park in Aylesford. Information held by the Council's Regeneration and Economic Development Manager (from the independent Focus website) also shows that within the Borough, there is some 8466m² of vacant general/light industrial space available that the Council is aware of.

5.3.16 To my mind the main aim of Policy ED2 of the Local Plan and PPS4, is to designate and maintain areas for employment use. Clearly, a builders' merchant would still maintain the building for employment use, employing some 15 full time staff. Furthermore, due to the relatively limited size of the building (some 450m²), I do not consider this change of use would significantly increase pressure for additional allocations on fresh land, especially bearing in mind that several buildings within the 20/20 Industrial Estate and the wider borough are currently vacant.

5.3.17 Therefore, whilst the application is technically a departure from the Development Plan, in that it would not provide B1 or B2 employment accommodation within the application site, it would, nonetheless provide employment which is suited to its industrial estate location, whilst falling within the broadened employment definition set out in PPS4. Therefore, on considering the supporting evidence, I consider this proposed change of use would be in accordance with policies set out within PPS4, which points towards the acceptability of alternative uses on this allocated site.

Impact upon the neighbours

5.3.18 The application site is within a large industrial estate, surrounded by existing industrial buildings and an aggregate depot, with no residential property within 250m of it. The industrial estate, given its nature, already generates a certain level of noise and traffic movements. I do not consider this proposed change of use would significantly create further noise, enough to have a detrimental impact upon dwellings neighbouring this estate. In addition to this, the access road (St Laurence Avenue) into the 20/20 estate is next to Junction 5 of the M20 and there are no residential properties along this stretch of road to be significantly disturbed by additional vehicle movements over a 24 hour period.

5.3.19 I therefore believe that this proposal would not have an adverse impact upon the amenity of neighbouring residential properties and have no concern with twenty-four hour vehicle movements to and from the site.

Impact upon the property and the streetscene

5.3.20 This proposal is for a change of use only and would not involve any external alterations to the building.

Impact upon parking and highway

5.3.21 Given the application site's industrial estate location, existing vehicle access and large area of hardstanding to the front for parking and turning, I consider there to be no significant highway safety issues. The KCC Highways Officer is in agreement with this recommendation.

Other considerations

5.3.22 Given the former use of the site as a vehicle repair workshop, I am in agreement with the Council's Environmental Health Officer and consider it justified to impose a condition for a land contamination investigation to be undertaken. This is to prevent harm to human health and pollution of the environment.

6. CONCLUSION

6.1 With everything considered, I therefore conclude that it is appropriate and justified to depart from the existing Development Plan and to give greater weight to the more up to date guidance provided by Central Government (PPS4). I therefore recommend conditional approval of the application on this basis.

7. RECOMMENDATION

GRANT PLANNING PERMISSION subject to the following conditions:

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission;

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 approved details of the parking/turning areas shall be completed before the commencement of the use of the land or buildings hereby permitted and shall thereafter be kept available for such use. No development, whether permitted by

the Town and Country Planning (General Permitted Development) Order 1995 as amended by the Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2008 and the Town and Country Planning (General Permitted Development) (Amendment) (No.2) (England) Order 2008 (or any order revoking and re-enacting that Order, with or without modification) or not, shall be carried out on the areas indicated or in such a position as to preclude vehicular access to them;

Reason: Development without adequate parking/turning provision is likely to lead to parking inconvenient to other road users and in the interests of road safety in accordance with PPS1.

3. The development shall not commence until details of how and what is to be stored outside and where it is to be stored within the site have been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be undertaken in accordance with the subsequently approved details;

Reason: No such details have been submitted and in the interest of amenity in accordance with PPS1.

4. The development shall not commence until details of satisfactory facilities for the storage of refuse on the site have been submitted to and approved in writing by the Local Planning Authority and the approved facilities shall be provided before the first occupation of the building(s) or land and maintained thereafter.

Reason: No such details have been submitted and in the interest of amenity in accordance with PPS1.

5. No development shall commence until:

1. The application site has been subjected to a detailed scheme for the investigation and recording of site contamination and a report has been submitted to and approved by the Local planning authority. The investigation strategy shall be based upon relevant information discovered by a desk study. The report shall include a risk assessment and detail how site monitoring during decontamination shall be carried out. The site investigation shall be carried out by a suitably qualified and accredited consultant/contractor in accordance with a Quality Assured sampling and analysis methodology and these details recorded.

2. Detailed proposals in line with current best practice for removal, containment or otherwise rendering harmless such contamination (the 'Contamination Proposals') have been submitted to and approved by the Local Planning Authority. The Contamination Proposals shall detail sources of best practice employed.

3. Approved remediation works shall be carried out in full on site under a Quality

Assurance scheme to demonstrate compliance with the proposed methodology. If, during any works, contamination is identified which has not previously been identified additional Contamination Proposals shall be submitted to and approved by, the local planning authority.

4. Upon completion of the works, this condition shall not be discharged until a closure report has been submitted to and approved by the local planning authority. The closure report shall include full details of the works and certification that the works have been carried out in accordance with the approved methodology. The closure report shall include details of any post remediation sampling and analysis together with documentation certifying quantities and source/destination of any material brought onto or taken from the site. Any material brought onto the site shall be certified clean;

Reason: To prevent harm to human health and pollution of the environment in accordance with PPS1 and PPS23.

6. The development hereby permitted shall be carried out in accordance with the following approved plans: 10/649/1 & 2 received 04/02/11;

Reason: To ensure the quality of the development is maintained. This is in accordance with policy T13 of the Maidstone Borough-Wide Local Plan 2000, polices CC6, BE1, T4, NRM10 and RE3 of the South East Plan 2009 and PPS1.

Informatives set out below

Any redundant materials removed from the site should be transported by a registered waste carrier and disposed of at an appropriate legal tipping site.

The applicant should contact the Environmental Health Department, in order to fully comply with Health and Safety legislation on (01622) 602184.

The proposed development would be a departure from the Development Plan, in that it would not provide B1 or B2 Use employment accommodation within the application site in accordance with Policy ED2 of the Maidstone Borough-Wide Local Plan 2000. However, the proposed change of use would not be prejudicial to its designation and is in accordance with the advice in central government policy PPS4 which is more recent than policy ED2 of the Maidstone Borough-Wide Local Plan 2000, in that it is considered to be an acceptable form of economic development and that subject to the conditions stated there are no overriding material considerations to indicate a refusal of planning consent.