

APPLICATION: MA/11/0515 Date: 31 March 2011 Received: 1 April 2011

APPLICANT: Mr H Boswell

LOCATION: CHERRY-TREE PARK, CHURCH HILL, BOUGHTON MONCHELSEA,
MAIDSTONE, KENT, ME17 4BU

PARISH: Boughton Monchelsea, Linton

PROPOSAL: Variation of condition 3 of MA/09/2004 (change of use of land to holiday caravan site for up to ten static caravans, including access, hardstanding, cesspool, reception building, boundary treatment and security barrier) to remove the stay limitation of one month and no return within 4 weeks.

AGENDA DATE: 11th August 2011

CASE OFFICER: Amanda Marks

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

- it is contrary to views expressed by the Parish Council

1. POLICIES

- Maidstone Borough-Wide Local Plan 2000: ENV28, ED20
- South East Plan 2009: TSR5, CS12, C4, RE3, CC6
- Government Policy: PPS1, PPS7, PPG13, DCLG: Good Practice Guide on Planning for Tourism

2. HISTORY

MA/11/0330 Cherry Tree Park, Church Hill, Boughton Monchelsea. Installation of underground LPG Tank APPROVED

MA/09/2004 Cherry Tree Park, Church Hill, Boughton Monchelsea. Planning permission for change of use to holiday park APPROVED

MA/96/1611 Land west of vicarage, Church Hill, Boughton Monchelsea. Change of use of land for the stationing of 20 caravans REFUSED Appeal Allowed

3. CONSULTATIONS

BOUGHTON MONCHELSEA PARISH COUNCIL raise objection for the following reasons:

'The Parish Council maintain that condition 3 should remain in order to ensure that the site is not used for permanent or near permanent residential accommodation, pursuant to policy ENV28 of the Maidstone Borough-Wide Local Plan 2000. If the condition were removed then the same occupants could live on the site for the entire forty six week open period each year. This would be completely unacceptable and would be contrary to the permission originally granted which was for the change of use of land to a holiday caravan site. Without condition 3, the site could potentially be used for permanent residential use with occupants only needing to find alternative accommodation for six weeks each year. In this situation, the site would not be a holiday caravan site at all.'

Maidstone Borough Council Tourism Manager:

Previously submitted comments in support of the application. Has verbally stated no objection to the removal of the condition provided the site/operations are still retained for tourism use.

4. REPRESENTATIONS

- 4.1 Neighbours: Two letters of representation have been received raising objection on the following grounds: further intensification should be resisted; one month is ample for people to holiday for; this would lead to permanent occupation; the application would encourage more traffic on the local roads to the detriment of pedestrian safety. Two further letters of representation, duplicates of each other, raise objection but appear to misunderstand the application; they assess it as an application for a retrospective gypsy site with permanent residential occupation.
- 4.2 CPRE: object on the grounds that removal of the condition would allow permanent occupancy for the entire period that the caravan park was open. They are not convinced that a 'register' of holiday residents is sufficient to ensure legitimacy of the authorised use and request MBC undertake 'spot checks' in addition to checking the register to ensure protection of the countryside.

5. CONSIDERATIONS

5.1 Site Description

- 5.1.1 The application site lies on the west side of Church Hill, approximately 350m south of the cross-roads with Heath Road, outside and to the south of the village boundary of Boughton Monchelsea. The site has an area of 0.6 hectares

(including the access track) and lies in the open countryside. There are no site specific designations within the Maidstone Borough-Wide Local 2000; there is however an ancient earthwork which runs along the northern boundary. The site is roughly rectangular in shape although tapers to the rear at the western boundary. It is accessed off Church Hill by a gravelled track which runs parallel to the northern curtilage of the Vicarage. The initial few metres of the track also serves as an access into the curtilage of the Vicarage. There is a gated entrance into the site at the top of the access track.

- 5.1.2 The site comprises a grassed open area (approximately 0.3 hectares with substantial tree planting and hedge planting on all boundaries with some sections of fencing. The trees along the northern boundary are protected by Tree Preservation Order 8 of 1992. There is a further TPO on land adjacent to the north-west corner of the site – TPO 3 of 1994. The trees are approximately 12m in height and vary in condition and species. The site is relatively level. There is also a coniferous hedge aligning the southern boundary of the access track which is planted behind a wooden picket fence of approximately 1m in height. The northern boundary of the access track contains wire mesh fencing with trees behind on adjacent land.
- 5.1.3 Work has commenced on site in terms of services and infrastructure being installed on site in accordance with the planning permission that has been granted.
- 5.1.4 The closest residential boundary is that of the Vicarage which also serves as a community use for business relating to the function of the Church. The rearmost part of the dwellinghouse is between 25-30m from the western boundary which abuts the application site. To the north of the site lie sporadic development, some of which is unauthorised gypsy development, and Boughton Monchelsea Primary School is approximately 200m north of the application site.

5.2 Proposal

- 5.2.1 Planning Permission was granted in September 2010 for the change of use of the land to a caravan park for 10 timber style lodges together with ancillary development and parking. The consent was subject to a number of conditions of which one stated the following:

In the period between 1 March and 13 January (inclusive) in one calendar year (the open period), no caravan/lodge shall be occupied by any one individual or group of individuals for any period longer than one month. The lodges shall not be occupied as permanent accommodation and there shall be no return by an individual or group of individuals within 4 weeks of leaving occupation of the site/lodge.

Reason: To ensure that the site is not used for permanent residential accommodation pursuant to policy ENV28 of the Maidstone Borough-Wide Local Plan 2000.

The application seeks consent to remove this condition on the basis that it is neither necessary nor lawful in terms of ensuring that the site does not become used for permanent residential use.

5.3 Purpose of the Condition

- 5.3.1 At the time of the original application, concern had been expressed over how the caravan park could be retained for such a purpose. Historically in planning when such applications have been considered it has been felt both reasonable and justifiable to impose conditions to ensure there is no risk of permanent occupancy being able to take place. As such with Cherry Tree Caravan park the usual procedure was followed, and in addition to condition 3 set out above, there was also a condition (2) which states:

The Caravan Park hereby permitted shall not be open for business between 14 January to the 1 March in any calendar year (the closure period).

Reason: To ensure that the site is not used for permanent residential accommodation pursuant to policy ENV28 of the Maidstone Borough-Wide Local Plan 2000.

This application does not seek to remove condition 2 which sets out a closure period of the park.

5.4 Relevant Policy

- 5.4.1 Since the deletion of PPG21 Tourism, Central Government published 'The Good Practice Guide on Planning for Tourism' 2006. Annex B of the guide makes it clear that maximum stay limitations should not be used as a means to control the use of the site; instead it suggests that a condition to control occupancy to holiday use only, with a 30 day break in use during a calendar year and a register of occupancy is sufficient.
- 5.4.2 Policy ED20 of the Maidstone Borough-Wide Local Plan 2000 supports holiday parks such as Cherry Tree subject to a number of criteria. The development was considered against the criteria at the time of the original application and found to be acceptable. The preamble to the policy considers how the Council will protect the use of sites from permanent occupancy and states that conditions are likely to be imposed. It suggests conditions which include a limitation of 10months opening per year and a stay of no more than one month at a time for an individual or group.

5.4.3 The terms of the 5 criterion in the policy relate to the visual and amenity impact of such a site and its ability to provide adequate parking, meet highway safety and be adequately screened. These are features will not change by the loss of condition 3. Therefore, if condition 3 is removed then the terms of Policy ED20 will still be met. The last paragraph of the policy states

' A HOLIDAY OCCUPANCY CONDITION WILL USUALLY BE ATTACHED, PREVENTING USE OF THE SITE AS A PERMANENT ENCAMPMENT. THE CONDITION WILL LIMIT OCCUPATION TO A SPECIFIED TEN MONTH PERIOD IN ANY CALENDAR YEAR.'

5.4.4 Currently the agreed closure period is 6 weeks – as set out in condition 2 earlier in this report. This was considered acceptable at the time of the original application and this is not proposed to change. With regard to an occupancy condition this is dealt with through condition 3 at present by virtue of the 'no return' limitation put on the site. However, the applicant has indicated that he is quite happy to accept the standard conditions as suggested by the 'Good Practice Guide for Planning for Tourism'. We the Council to impose the suggested conditions then this would still meet the intentions of Policy ED20.

5.4.5 The MBWLP is a dated document in terms of its references to the holiday operation period of 10 months of the year. I am aware from speaking with colleagues in other Authorities in Kent and generally from appeal decisions that good practice is to encourage the tourism industry in order to boost the economic situation through planning and not be over restrictive or dictate how a holiday park should operate. I have considered the supporting information that has been submitted by the applicant and it is clear that Inspectors do not generally support the approach of being overly restrictive on holiday parks. If condition 3 is removed it will allow the applicant to vary his market and allow families to purchase a holiday unit for use throughout the 46 weeks of the year that the park is open. Whilst I note the comments of objectors that one month should be sufficient for anyone to holiday; I also accept that some people are in a position to purchase a lease on holiday parks and undertake visits at the key holiday times throughout a year i.e. there are 6 periods throughout a year when schools are on holiday. This being said the condition does not prohibit return visits throughout the year it requires a break of one month between visits of no more than one month. What is therefore prevents is people who may wish to have a retreat for longer than a month.

5.4.6 Turning to the appeal decisions I have considered those submitted with the application and also researched others. In some instances Authorities have had costs awarded against them for being unreasonable and heavy handed by applying too restrictive conditions on holiday parks. The general theme of the various appeal decisions is that the LPA's are trying to safeguard the site from being used for permanent residence. In each of the appeal decisions I have looked at where the key issues can be applied to this case and it seems that

Inspectors turn to the 'Good Practice Guide' for the best means to control sites. For example in a 2006 appeal decision on a Holiday Park in Tenterden the visiting period was restricted to 8 weeks in one year, there was no reference to return visits within any given period in the year. This being said on allowing the appeal it was done by allowing no limits to the number of visits or length of stay per year other than to restrict the site for holiday use.

5.4.7 In the more recent appeal decisions (featured in Planning Resource Magazine recently) the Inspectors have started to use the following condition:

The caravans shall be occupied for holiday purposes only. No caravan shall be occupied as a person's sole or main place of residence. The operators of the caravan park shall maintain an up-to-date register of the names of all owners/occupiers of individual caravans on the site, and of their main home addresses, and shall make this information available at all reasonable time to the local planning authority.

5.4.8 I concur with the views of the Inspector in the appeal on a Caravan Park in the green belt in Preston (APP/P2365/A/11/2146532) whereby he concluded that limiting occupation of the caravans would 'not change the character of the use of the site ... would not put additional pressure on services or damage the tourism economy .' He concludes that 'a condition limiting the use of the caravans to holiday use only, is needed to prevent the use of the site for permanent housing'.

5.4.9 The key issue of this application is whether it is appropriate to remove condition 3 of planning permission MA/09/2004. From the policy framework and an assessment of modern practice it is my opinion that it would be unreasonable not to remove this condition and not to do so would be contrary to the advice in Circular 11/95: Use of Planning Conditions and also Circular /2005 Costs. The condition outlined above would still prevent the site from permanent occupancy which would in itself be contrary to policy ENV28 of the MBWLP 2000.

5.8 Other Matters

5.8.1 The nature of this application does not give rise to additional impacts in terms of highways; residential amenity; visual impact; ecology and landscaping. These matters were considered in full at the time of the original application and it is therefore not justified to revisit these issues.

6. CONCLUSION

6.1 Whilst I acknowledge the concerns of the Parish Council and others regarding the occupancy and management of Cherry Tree Caravan Park, having considered recent guidance and appeal decisions, it is my view that the site can be

adequately controlled through condition 2 and the additional condition outlined below and that condition 3 should be removed.

7. RECOMMENDATION

GRANT PLANNING PERMISSION subject to the following additional condition:

1. The caravans shall be occupied for holiday purposes only. No caravan shall be occupied as a person's sole or main place of residence. The operators of the caravan park shall maintain an up-to-date register of the names of all owners/occupiers of individual caravans on the site, and of their main home addresses, and shall make this information available at all reasonable time to the local planning authority.

Reason: In order to ensure proper control of the use of the holiday units and to prevent the establishment of permanent residency, which would be contrary to National and Local Plan Policy discouraging the proliferation of new dwellings in the countryside and in accordance with policy ENV28 of the MBWLP.

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 the South East Plan 2009) and there are no overriding material considerations to indicate a refusal of planning consent.