

APPLICATION: MA/09/0425 Date: 11 March 2009 Received: 24 March 2009

APPLICANT: Richard Barling, MBC - Property Services

LOCATION: MILLENNIUM RIVER BANK AMPITHEATRE, ARCHBISHOPS PALACE,
MILL STREET, MAIDSTONE, KENT

PROPOSAL: Renewal of temporary permission MA/08/0429 for a further 12 months (relating to the hours of use and the issue of amplified sound) as shown on the site location plan received on 12/03/09 and described in the details received on 12/03/09 & 24/03/09.

AGENDA DATE: 30th April 2009

CASE OFFICER: Angela Welsford

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

- The Council is the applicant

POLICIES

Maidstone Borough-Wide Local Plan 2000: ENV7.
Kent and Medway Structure Plan 2006: QL1, QL6, QL8, QL13, NR5.
Village Design Statement: Not applicable.
Government Policy: PPS1, PPG15, PPG24.

HISTORY

- MA/99/0631 Construction of amphitheatre for Maidstone River Park including details of hard/soft surfacing and landscaping, lighting walling, fencing and street furniture – PERMITTED
- MA/01/1612 Variation of condition 04 of planning permission MA/99/0631 to allow for electrically powered sound amplification equipment to be used at times/dates to be the subject of prior written approval by the Local Planning Authority – PERMITTED (Temporary until 31/03/03).
- MA/03/0532 Renewal of temporary permission MA/01/1612 for a further 12 month period, including the variation of condition 3 to read:-

'Notwithstanding condition 3 of MA/99/0631, the amphitheatre may be used for performances on any day of the year between 0900 and 1900 hours, but that a maximum of 12 evening performances may extend beyond 1900 hours to no later

than 2230 hours in the 12 month period of the life of this permission, no more than three of which may be musical.'

and the variation of condition 2 to read:-

'Notwithstanding condition 4 of MA/99/0631, the electrically powered sound amplification of music will be permitted at up to three weekend events (comprising Saturday and Sunday) to include no more than three evening concerts ending not later than 2230 hours, in the 12 month period of the life of this permission. Music Noise Levels (MNL) shall not exceed 65dBA over a 15-minute period measured 1 metre from the facade of any dwellings. At all other times amplification shall be restricted to voice reinforcement. PERMITTED (Temporary until 30/04/04).

- MA/03/0533 Variation of conditions 03 and 04 of planning permission MA/99/0631 to read:-

Condition 3: To permit the use of the Amphitheatre for performances on any day of the year between 0900 and 1900 hours, but that a maximum of twelve evening performances may extend beyond 1900 to no later than 2230 in a rolling 12 month period following the first performance, no more than 3 of which may be musical.

Condition 4: By permitting the use of electrically powered sound amplification equipment on condition that the music levels do not exceed 65 dBA at the nearest property. – WITHDRAWN

- MA/04/0476 Renewal of temporary permission MA/03/0532 for a further 12 month period. Permission MA/03/0532 relating to the hours of use of the amphitheatre and the issue of amplified sound. PERMITTED (temporary until 30/06/2005)
- MA/05/0723 Renewal of temporary permission MA/04/0476 for further 12 month period. (Relating to the hours of the amphitheatre and the issue of amplified sound) PERMITTED (temporary until 30/05/2006).
- MA/06/0284 Renewal of temporary permission MA/05/0723 for further 12 month period. (Relating to the hours of the amphitheatre and the issue of amplified sound) PERMITTED (temporary until 30/04/07).
- MA/07/0288 Renewal of temporary permission MA/06/0284 for further 12 month period. (Relating to the hours of the amphitheatre and the issue of amplified sound) PERMITTED (temporary until 30/04/08).
- MA/08/0429 Renewal of temporary permission MA/07/0288 for a further 12 month period. (Relating to the hours of use and the issue of amplified sound) PERMITTED (temporary until 30/04/09).

CONSULTATIONS

ENVIRONMENT AGENCY –Application would have a low environmental risk.

ENGLISH HERITAGE - The application should be decided in accordance with local specialist conservation advice.

MBC CONSERVATION OFFICER – No objections.

MBC ENVIRONMENTAL HEALTH MANAGER – No objections. There have been no complaints regarding noise nuisance in the last 12 months, therefore again no objections to another permission being granted, with the usual proviso that should complaints be received, this decision may be reversed in the future.

KCC HIGHWAYS MANAGER – No response received to date.

REPRESENTATIONS

COLLEGE AVENUE RESIDENTS' ASSOCIATION – No response received to date.

NEIGHBOURS – One response stating that “provided use of the amphitheatre does not include the thump-thump of amplified sound its use causes no problems”.

CONSIDERATIONS

SITE AND SURROUNDINGS

The application site is located on the east bank of the River Medway upstream from the Lockmeadow Bridge and to the rear (west) of the Cutbush Almshouses. Access to the amphitheatre is obtained principally along the riverside footpath in the vicinity of the Lockmeadow Bridge and All Saints Church/Masters House, but is also possible via a footpath from College Avenue. The site is adjacent to Grade II* and Grade II Listed Buildings and is located within the All Saints Conservation Area and a flood plain. In addition to the almshouses, there are a number of residential properties in the vicinity, notably in College Avenue, Greenhithe and College Road.

THE PROPOSAL

This application seeks permission to renew the temporary permission granted under MA/08/0429 for a further 12 months. The previous permission was for a temporary period until 30 April 2009 and is subject to the following conditions restricting hours of use and the use of amplified music:

- 1. The permission hereby granted shall cease to have effect on 30 April 2009 and from that time control upon the use of the site shall revert to the terms of the original consent (MA/99/0631).*

Reason: To enable the Local Planning Authority to review the effect of the limited use of amplification on the amenity of local residents and in accordance with Policies NR5 and QL1 of the Kent & Medway Structure Plan 2006 and the advice given in PPG24.

- 2. Notwithstanding condition 4 of MA/99/0631, the electrically powered sound amplification of music will be permitted at up to three weekend events (comprising Saturday and Sunday) to include no more than three evening concerts ending not later than 2230 hours, in the 12 month period of the life of this permission. Music Noise Levels (MNL) shall not exceed 65dBA over a 15-minute period measured 1 metre from the facade of any dwellings. At all other time amplification shall be restricted to voice reinforcement.*

Reason: In the interests of protecting the amenity of local residents and in accordance with Policies NR5 and QL1 of the Kent & Medway Structure Plan 2006 and the advice given in PPG24.

- 3. Notwithstanding condition 3 of MA/99/0631, the amphitheatre may be used for performances on any day of the year between 0900 and 1900 hours, but that a maximum of 12 evening performances may extend beyond 1900 hours to no later than 2230 hours in the 12 month period of the life of this permission, no more than three of which may be musical.*

Reason: To enable the impact of evening performances to be assessed in accordance with Policies NR5 and QL1 of the Kent & Medway Structure Plan 2006 and the advice given in PPG24.

ISSUES

The main issue to be considered is the impact of the proposed potential uses of the amphitheatre on the amenities and continued reasonable enjoyment of their properties by nearby residents, particularly in College Avenue and at the Cutbush Almshouses. The closeness of the site to residential properties and the potential for disturbance to local residents from late night and amplified events taking place at the amphitheatre require very careful consideration.

For background reference, the Environmental Health Manager has monitored events at the site and specific tests were undertaken in October 2003. These tests showed that provided that the sound source is kept to around 80dB at the front of the audience there should not be a problem of maintaining a level of 65dB or less 1m from the façade of the nearest noise sensitive property.

No objections were raised by the Environmental Health department on applications MA/05/0723, MA/06/0284, MA/07/0288 or MA/08/0429, and the Environmental Health Manager has confirmed that no complaints have been received since the previous permission. He therefore raises no objection to the current application. Given that conditions may be imposed to limit the times and frequency of noise events, it is

considered that the proposal would result in a satisfactory level of residential amenity for nearby occupiers.

The Conservation Officer has not objected to the renewal of this temporary permission in terms of the impact on the setting of the nearby listed buildings or the character of the Conservation Area, and, indeed, no built development is proposed which would affect these areas.

Similarly, I do not consider there to be any new flooding issues, as no new built development is proposed. The Environment Agency has not objected.

CONCLUSION

The Environmental Health Manager has not objected to this application and considers that an acceptable level of amenity may be maintained through the imposition of planning conditions. Approval on a temporary basis is therefore recommended, subject to conditions as attached to previous consents, to ensure that the situation may continue to be monitored, to ensure a satisfactory level of amenity.

RECOMMENDATION

GRANT PLANNING PERMISSION subject to the following conditions:

1. The permission hereby granted shall cease to have effect on 30 April 2010 and from that time control upon the use of the site shall revert to the terms of the original consent (MA/99/0631).

Reason: To enable the Local Planning Authority to review the effect of the limited use of amplification on the amenity of local residents and in accordance with Policies NR5 and QL1 of the Kent & Medway Structure Plan 2006 and the advice given in PPG24.

2. Notwithstanding condition 4 of MA/99/0631, the electrically powered sound amplification of music will be permitted at up to three weekend events (comprising Saturday and Sunday) to include no more than three evening concerts ending not later than 2230 hours, in the 12 month period of the life of this permission. Music Noise Levels (MNL) shall not exceed 65dBA over a 15-minute period measured 1 metre from the facade of any dwellings. At all other times amplification shall be restricted to voice reinforcement.

Reason: In the interests of protecting the amenity of local residents and in accordance with Policies NR5 and QL1 of the Kent & Medway Structure Plan 2006 and the advice given in PPG24.

3. Notwithstanding condition 3 of MA/99/0631, the amphitheatre may be used for performances on any day of the year between 0900 and 1900 hours, but that a maximum of 12 evening performances may extend beyond 1900 hours to no later than 2230 hours in the 12 month period of the life of this permission, no more than three of which may be musical.

Reason: To enable the impact of evening performances to be assessed in accordance with Policies NR5 and QL1 of the Kent & Medway Structure Plan 2006 and the advice given in PPG24.

Informatives set out below

You are advised to apply for permanent planning permission next year upon renewal of this permission.

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 Kent and Medway Structure Plan 2006) and there are no overriding material considerations to indicate a refusal of planning consent.