

APPLICATION: MA/08/0163 Date: 23 January 2008 Received: 20 May 2009

APPLICANT: Mr J.R. Smith, Morris Hanbury

LOCATION: CONGELOW FARM, BENOVER ROAD, YALDING, MAIDSTONE,
ME186ET

PROPOSAL: Development of existing site including extension to store, creation of new commercial space; creation of new research and development space and creation of new access as shown on drawing numbers 4379-01, 4379-02, 4379-03, 4379-04, 4379-05, 4379-06, 4379-07, 4379-08, 4379-09, 4379-10, 4379-11, 4379-12 and flood risk assessment received on 28/1/08 and as amended by additional documents being revised flood risk assessment received on 8/1/09 and ecological survey received on 20/5/09.

AGENDA DATE: 11th June 2009

CASE OFFICER: Peter Hockney

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

- it is contrary to views expressed by the Parish Council
- Councillor Nelson-Gracie has requested it be reported for the reason set out in the report

POLICIES

Maidstone Borough-Wide Local Plan 2000: ENV6, ENV28, ENV44
Kent and Medway Structure Plan 2006: SS8, EN1, QL1, QL8, EP7, NR6, NR10
South East Plan 2009: RE3
Government Policy: PPS1, PPS7, PPS9, PPS25

RELEVANT HISTORY

MA/06/0131 – Change of use of part of the Congelow Buildings Complex to the processing of hops – WITHDRAWN.

MA/05/1636 – Creation of a vehicular access – APPROVED WITH CONDITIONS.

MA/04/1726 – Erection of an attached storage building together with excavation works to provide associated compensatory flood storage – APPROVED WITH CONDITIONS.

MA/93/1349 – Change of use of existing farm buildings to use as a hop pelletising plant with storage ancillary offices laboratory and workshops and the reinstatement of cowl on existing roundel – APPROVED WITH CONDITIONS.

CONSULTATIONS

Yalding Parish Council OBJECTS to the application on the following summarised grounds:-

- The area suffers considerably from flooding and there would be a loss of flood storage.
- The extension to the kiln is unsympathetic to the character of the Kentish Oast.
- The design of the proposed offices is out of keeping with the countryside.
- Concern regarding highway safety in relation to the new access.
- Insufficient car parking spaces

The Environment Agency originally raised objections to the application on the grounds of loss of flood storage. However, following the submission of a revised Flood Risk Assessment the objection was removed, with a condition requiring the mitigation measures contained within the Flood Risk Assessment being carried out.

Southern Water state that there is currently inadequate capacity in the local sewage network to service the proposed development and recommends a condition requiring the submission of foul drainage. Also there are no public surface water sewers in the area to serve this development and therefore require the submission of surface water drainage details as a condition.

The Upper Medway Internal Drainage Board have stated they prefer to leave all comments to the Environment Agency.

Natural England has no objections to this proposal subject to the imposition of a condition for a detailed drainage strategy to ensure that no contaminated run off enters the SSSI.

EDF Energy has no objection to the application.

Richard Lloyd-Hughes of Rural Planning Ltd. States:-

“As previously advised regarding MA/04/1726 the business here is industrial processing rather than agriculture (albeit involving the industrial processing of an agricultural product). The appropriateness of development on this site, including further new-build on hitherto undeveloped land, is a matter for your judgement within the relevant local policies.” No objections are raised in terms of the loss of agricultural land.

INTERNAL CONSULTATIONS

MBC Conservation Officer raises no objections to the application in terms of the impact on the setting of the nearby listed buildings at Congelow Cottages, Forge Cottage and The Chestnut Tree or the impact on the existing oast.

MBC Environmental Enforcement have assessed the application in terms of noise impact on nearby residential properties and the issue of potential for contaminated land. No objections are raised against the application but conditions are requested regarding land contamination and the restriction on hours of operation.

REPRESENTATIONS

CLlr Rodd Nelson-Gracie has called the application to committee stating:-

“It would be in the public interest to hear this at committee as there are concerns regarding

- Increased development in the flood plain
- A new building is to be sited on an existing flood bund.
- Insufficient flood mitigation measures are proposed to ensure no increased flood risk to neighbouring properties.
- Pollution from noise, smell, fumes, airborne particles, etc.
- Encroachment of new build development onto agricultural land.
- Possible removal of an important hedge.”

21 letters of objection have been received on the following grounds:-

- Overdevelopment of the site.
- The site is not helping local hop growers but is a commercial use importing hops.
- Encroachment into the open countryside.
- Impact on the residential amenity of neighbouring occupiers.
- Increased risk of flooding.
- Adverse impact on the listed buildings.
- Concern regarding additional lights on site, causing light pollution.
- Loss of hedgerow.
- Increase in traffic and impact on highway safety.
- Increased smells from the premises.

2 letters of support has been received from hop growers stating:-

The applicants are a key link between the hop growers and the brewing industry.

CPRE Maidstone wishes to see the application refused on the grounds that the proposed additional buildings on site would be excessive and would harm the character and appearance of the countryside and that there would be additional impact on flood risk from the development.

SITE LOCATION

The application site is located on the eastern side of Benover Road approximately 220 metres south of the village of Yalding. The site is within the open countryside but does not fall within any area of special landscape designation. The majority of the site is set back from Benover Road behind residential properties, two points of the site extend up to Benover Road, one in the northern area where a new access is proposed and one in the southern part serving an existing access to the site.

The site is a former farm but now a hop processing and storage site with ancillary offices, laboratory and workshops following permission given under MA/93/1349. It comprises a number of buildings including two large agricultural style buildings to the east of the site used for hop processing and storage. There is a smaller building to the west of the site used for hop extract processing and research, a long single storey office building in the southwest. There is a metal clad store to the eastern boundary. There is a historic oast roundel located in the centre of the complex of buildings.

The northern part of the site is grassland and is located adjacent to the boundary with Benover Road and opposite to the access to Congelow House.

To the west of the complex of buildings, between the site and Benover Road, are 1-3 Congelow Cottages, a Grade II Listed Building. The wider context of the eastern side of Benover Road is open in nature with fields surrounding the application site.

PROPOSED DEVELOPMENT

The application is for additional facilities in the form of new buildings and extensions to existing buildings involved in the current use of the site for the processing of hops to pellets, extracts and derivatives for the brewing industry. The proposed development can be split into five separate elements:-

- 1) A new two storey office building would be erected in the north part of the site approximately 6 metres to the eaves and 9 metres to the ridge. The building would be constructed with a combination of red brick, timber cladding, render and a glazed atrium.
- 1) There would be a proposed dual pitched extension to the north of the existing store building. This would be approximately 48 metres by 21.23 metres with an eaves height of approximately 5 metres, the highest ridge would be approximately 9.4 metres in height following the ridge line of the existing store building with the lower ridge approximately 7.1 metres.
- 2) A low rise single storey extension is proposed to the northern side of the existing oast roundel to provide a meeting room. The extension would be approximately 2.8 metres high with a flat roof.

- 3) There would be a proposed extension to the existing research workshop that would be used as a research and development brewery. This extension would be wedge shaped and would follow the western boundary of the site and extend approximately 19.5 metres from the existing workshop and would be 3.7 metres in height.
- 4) There would be the creation of a new vehicular access onto Benover Road at the northern end part of the site between the complex of existing buildings and the proposed office building.

PRINCIPLE OF DEVELOPMENT

The site is run as an existing business for the processing of hops to pellets, extracts and derivatives for the brewing industry. This has been the use of the site since the implementation of permission MA/93/1349. It is an existing commercial use in the countryside and not an agricultural venture.

Policy EP7 of the Kent and Medway Structure Plan (2006) allows for the expansion of existing businesses in rural areas where good access can be provided to Primary Road Network. This is clearly an existing business in a rural part of the Borough and the Primary Road Network is accessible from the site on A and B classified roads.

Within the South East Plan (2009) Policy RE3 deals with employment land provision and identifies that the particular economic needs of rural communities be addressed in LDD's, although offers no criteria based policy for rural employment.

Government guidance contained in PPS7 encourages business development in rural areas including the expansion of existing business premises.

The principle of the expansion of an existing business in this rural location is acceptable and supported in terms of national and local planning policies. Therefore I consider the main determining issues to be the visual impact of the development on the countryside, the impact on residential amenity and the

VISUAL IMPACT

The proposed extensions to the store building to the east and the research building to the west of the site would be functional in their design and would be in keeping in terms of their scale with the existing buildings on site. These proposed extensions would not dominate views of the site from public vantage points and would be seen as part of the Congelow Farm complex and set against the backdrop of existing buildings.

The proposed extension to the oast roundel would be a subordinate extension offering a modern interpretation of the projection that forms part of the historic character of

oasts. The materials of the proposed extension, predominantly timber cladding and glazing, would ensure a lightweight appearance to the extension that would not detract from the dominant aspect of the historic roundel. The Conservation Officer raises no objections to the proposed extension to the existing oast roundel.

The proposed office building would be a detached two storey building located in the northern part of the site approximately 10 metres from Benover Road. This part of the site is currently undeveloped and is grassland, however, it is adjacent to the developed portion of the site. The eaves would be approximately 6.15 metres from ground level with the ridge 8.95 metres. The form of the building would be similar to a traditional barn but the detailing of glazing to both flanks covered by timber louvres would provide natural ventilation without a prominent reflective finish. This proposed building would be readily visible from Benover Road, particularly when approaching from the north. However, it would be seen against the backdrop of the other buildings within the Congelow Farm complex. There would be additional landscaping planted between the office building and Benover Road, which would assist in softening the appearance of the proposed building. The building would not appear unduly prominent in the landscape that would justify a reason for refusal.

The proposed vehicular access would result in new hardstanding being laid from the access point at Benover Road leading to the existing complex of buildings. The majority this hardstanding would be screened by proposed landscaping along the boundary with Benover Road and would not be dominant in the landscape.

IMPACT ON RESIDENTIAL AMENITY

The nearest residential properties are row of Grade II listed cottages known as '1-3 Congelow Cottages' located adjacent to the boundary of the application site. The only aspect of the development in a position to affect the residential amenity of the occupiers is the extension to the workshop for a research facility. This would extend the existing building northwards along the boundary with the residential property, however, it would be extending away from the dwelling itself and would begin approximately 15 metres away from the dwelling. The extension would be single storey. The distance of 15 metres and the single storey nature of the extension is sufficient to prevent any loss of light to the occupiers or an overwhelming impact.

The other proposed developments on the site are such a distance from the neighbouring properties that there would be no significant impact on amenity.

The original permission (MA/93/1349) included conditions restricting operating times of machinery and vehicle deliveries. I consider that it be appropriate to re-impose these conditions to ensure the new aspects of the development are covered by the same limiting conditions. The extensions and new buildings would lead to an intensification of the use of the site. However, by limiting the working hours of the site and the delivery

hours by way of the re-imposed conditions the level of amenity enjoyed by occupiers would be maintained.

Some objectors have raised issue of increased odours from the site. The commercial enterprise has been in existence for a number of years since permission was granted under MA/93/1349. Since that time there have been no complaints to the Environmental Enforcement Team from odour in that time. I do not consider that the likelihood of complaint would significantly increase due to this application and in any case this can be dealt with under Environmental Health legislation.

FLOODING ISSUES

The site is located within an identified Flood Zone 3 and is therefore at risk from flooding. The Parish Council have raised the issue of flooding within their objections to the development.

The applicant has commissioned a Flood Risk Assessment (FRA) that has been examined by the Environment Agency. Following revisions to this FRA in relation to the loss of flood storage and proposed mitigation measures the Environment Agency has removed its original objection.

In the light of the work carried out by the applicant in terms of the revised FRA and the proposed mitigation now satisfying the requirements of the Environment Agency I consider that a reason for refusal on flooding grounds or the loss of flood water storage could not be justified.

ECOLOGICAL ISSUES

The site is not within a designated SSSI or SNCI, however, site is approximately 250 metres from the River Beult SSSI, a pond is within 190 metres and the proposals do include the extension of buildings that could provide habitats for bats and owls.

The applicant has undertaken a walkover ecological study for protected species. The results were that the site had potential for bats and slow worms but no other protected species. Mitigation measures were proposed to ensure that any bats that are present during works are protected including a watching brief. A reptile survey was recommended to check for a slow worm population. As the survey identified the grassland area of the site as being less likely to support a slow worm population due to its regular mowing I consider that this survey could be carried out and any mitigation required by way of a condition.

Natural England have considered the proposal and the submitted ecological survey and are happy with the survey and its methodologies and raise no objections to the application. They recommend a detailed drainage strategy be submitted via a condition

to prevent contaminated run off entering the SSSI and I consider this appropriate for imposition.

HIGHWAY CONSIDERATIONS

The proposed vehicular access would enter Benover Road at a point where the road is straight and obstruction free. The applicant has demonstrated that visibility splays of 40m can be achieved in both directions across land within the application site and/or across the edge of the highway itself. The access point and the visibility splays would be acceptable. The proposed access would be located in a similar position to that approved under MA/05/1636, but not implemented, which remains extant until November 2010.

Benover Road is a B Class road and is capable of taking HGV traffic. Furthermore the existing commercial use has been in operation since permission was granted under MA/93/1349 for the change of use of the farm buildings.

The proposed development includes a total of 30 car parking spaces with four cycle spaces. This level of provision would be adequate for the use of the site.

OTHER CONSIDERATIONS

There are listed buildings adjacent to the site, at 1-3 Congelow Cottages, Forge Cottage and The Chestnut Tree all are Grade II listed. Congelow Cottages immediately adjoins the application site whereas Fore Cottage and The Chestnut Tree are on the opposite side of Benover Road. The proposed extensions and new buildings would not result in any development closer than existing development to the Listed buildings. There would be no significant impact on the setting of the Listed buildings and the Conservation Officer agrees with this assessment and raises no objections to the application.

Some of the proposed development would encroach onto existing agricultural land. However, this is not in productive use and in any case the Council's agricultural advisor has no objections to the application in respect of loss of agricultural land.

CONCLUSION

The principle of the expansion of an existing commercial business in a rural area such as this is acceptable in terms of national and local policies particularly PPS7 and EP7 of the Kent and Medway Structure Plan 2006. The determining issues therefore are the visual impact of the development, impact on residential amenity and flooding issues.

Whilst the increase in the amount of built development on the site and the proposed access would have a visual impact it is not considered that this impact is so harmful to justify refusal.

There would be no significant impact on the residential amenity of the neighbouring occupiers from the development.

A flood risk assessment has been produced following negotiations with the Environment Agency and the mitigation has overcome the original objections of the EA. There would be adequate flood storage provided to compensate for the loss from the additional built development.

Any increase in traffic could be accommodated on the existing B class road and the proposed visibility splays would provide adequate visibility for a safe access.

Overall I consider that the application is acceptable and recommend approval with conditions.

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 development shall not commence until written details and samples of the materials to be used in the construction of the external surfaces of the building(s) hereby permitted shall be submitted to and approved in writing by the Local Planning Authority and the development shall be constructed using the approved materials;

Reason: To ensure a satisfactory appearance to the development in accordance with policy QL1 of the Kent and Medway Structure Plan (2006).

3. The development shall not commence until there has been submitted to and approved in writing by the Local Planning Authority a scheme of landscaping including a double staggered hedgerow to the Benover Road frontage, using indigenous species which shall include indications of all existing trees and hedgerows on the land, and details of any to be retained including detailed tree protection plans, together with measures for their protection in the course of development and a programme for the approved scheme's implementation and long

term management. The scheme shall be designed using the principles established in the Council's adopted Landscape Character Assessment and Landscape Guidelines;

Reason: No such details have been submitted and to ensure a satisfactory appearance to the development in accordance with policies ENV6 of the Maidstone Borough-Wide Local Plan (2000) and QL1 of the Kent & Medway Structure Plan 2006.

4. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the building(s) or the completion of the development, whichever is the sooner; and any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation;

Reason: To ensure a satisfactory setting and external appearance to the development in accordance with policies ENV6 of the Maidstone Borough-Wide Local Plan (2000) and QL1 of the Kent & Medway Structure Plan 2006.

5. The recommendations contained within the Ecological Scoping Survey dated 18 May 2009 shall be full adhered to throughout the development from site clearance through to completion of the development;

Reason: To ensure no protected species are harmed in accordance with PPS9.

6. No development shall commence until a reptile survey and report has been carried out to identify whether there is a reptile population on site. This survey and report shall include a mitigation strategy in the event of the survey identifying protected species;

Reason: To ensure no protected species are harmed in accordance with PPS9.

7. No development shall commence until details of a scheme of foul and surface water drainage for the site have been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved details.

Reason: To ensure satisfactory drainage arrangements and prevent flooding pursuant to policy NR10 of the Kent & Medway Structure Plan 2006 and PPS25

Planning and Flood Risk.

8. No development shall commence until a detailed drainage strategy for the development site should be submitted to and approved by the local authority. All works should then proceed in accordance with the agreed drainage strategy.

Reason: In order to avoid contaminated runoff entering the nearby SSSI which may be detrimental to its interests in accordance with PPS9.

9. No plant and machinery shall be operated and no work shall take place on the site on Sundays and Bank Holidays and only between the hours of 0700 to 1800 on weekdays and 0800 to 1300 on Saturdays;

Reason: To safeguard the amenities of the area in accordance with policy QL1 of the Kent and Medway Structure Plan (2006).

10. No vehicle may arrive, depart, be loaded or unloaded within the general site except between the hours of 0700 to 1800 Mondays to Fridays and 0800 to 1300 hours on Saturdays (and at no time on Sundays or Bank Holidays);

Reason: In the interest of preventing noise nuisance from the unloading and loading of vehicles, and from the manoeuvring of vehicles to adjoining occupiers in accordance with policy QL1 of the Kent and Medway Structure Plan (2006).

11. Before any part of the development hereby permitted is first occupied the visibility splays shown on the approved plans shall be provided and maintained free of all obstruction to visibility above 0.9 metres thereafter;

Reason: In the interests of highway safety in accordance with policies QL1 and EP7 of the Kent and Medway Structure Plan (2006).

12. 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 pursuant to policy NR6 of the Kent and Medway Structure Plan (2006).

Informatives set out below

Attention is drawn to Sections 60 and 61 of the Control of Pollution Act 1974 and to the Associated British Standard Code of practice BS5228:1997 for noise control on construction sites. Statutory requirements are laid down for control of noise during works of construction and demolition and you are advised to contact the Environmental Health Manager regarding noise control requirements.

Clearance and subsequent burning of existing woodland or rubbish must be carried out without nuisance from smoke, etc. to nearby residential properties. Advice on minimising any potential nuisance is available from the Environmental Health Manager.

Plant and machinery used for demolition and construction shall only be operated within the application site between 0800 hours and 1900 hours on Mondays to Fridays and between 0800 hours and 1300 hours on Saturdays and at no time on Sunday and Bank Holidays.

No vehicles may arrive, depart, be loaded or unloaded within the general site except between the hours of 0800 and 1900 Mondays to Fridays and 0800 and 1300 hours on Saturdays and at no time on Sundays or Bank Holidays.

Adequate and suitable provision in the form of water sprays should be used to reduce dust from demolition work.

Adequate and suitable measures should be carried out for the minimisation of asbestos fibres during demolition, so as to prevent airborne fibres from affecting workers carrying out the work, and nearby properties. Only contractors licensed by the Health and Safety Executive should be employed.

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.