

## REPORT SUMMARY

<b>REFERENCE NO - 15/503223/FULL</b>		
<b>APPLICATION PROPOSAL</b>		
Part retrospective - Change of use and rebuilding of former cattle shed to provide tourist accommodation and construction of flood defence bund		
<b>ADDRESS</b> Bletchenden Manor Farm, Bletchenden Road, Headcorn, Kent, TN27 9JB		
<b>RECOMMENDATION:</b> GRANT PLANNING PERMISSION subject to conditions		
<b>SUMMARY OF REASONS FOR RECOMMENDATION</b>		
The proposed development, subject to imposition of the recommended conditions, is considered to comply with the policies of the Development Plan (Maidstone Borough Wide Local Plan 2000) and there are no overriding material planning considerations justifying the refusal of planning permission.		
<b>REASON FOR REFERRAL TO COMMITTEE</b>		
The recommendation is contrary to the views of Headcorn Parish Council.		
<b>WARD</b> Headcorn	<b>PARISH/TOWN</b> Headcorn	<b>COUNCIL</b> Headcorn <b>APPLICANT</b> Mr J Hart And Mrs F Wright <b>AGENT</b> Savills
<b>DECISION DUE DATE</b> 24/06/15	<b>PUBLICITY EXPIRY DATE</b> 24/06/15	<b>OFFICER SITE VISIT DATE</b> 14/05/2015

### 1.0 MAIN REPORT

- 1.01 This application was deferred for consideration by the Planning Committee on the 2<sup>nd</sup> June 2016 to enable (a) further investigation of the flood evacuation plan, including seeking confirmation from the Environment Agency as to whether the initial warning/informing system is possible as the occupants would be holidaymakers and (b) to seek further information on details of the private flood defence system. The Committee report is attached as **APPENDIX 1**.
- 1.02 In response the applicant has submitted the following additional details to address concerns relating to safe access and egress to the site: The key points are set out below:
- A dedicated landline to be installed just to receive flood warnings from the EA though an additional and more sophisticated, site specific warning system can also be installed.
  - This system is produced by Findlay Irvine, a company used by LA's and airports.
  - System provides cumulative warnings to computers and mobile devices as well as a continual video of the river to a screen in the building, with the river being over 0.5 miles away.
  - Will provide several hours notice of a flood and thus plenty of time for occupants to evacuate the building in accordance with the evacuation plan which will be provided to the occupants.

- The building will be constructed in a water tight fashion to safeguard any occupants that may be within the building.
- A back up generator will provide power enabling occupants to stay in the building until the water subsides.
- There will be no internal damage and no burden on the rescue services as there will no risk to life.
- A sewerage treatment plant will be installed in association with the EA being a sealed system with one way valves discharging potable water.
- All rainwater from the roof will be collected for recycling and a pump installed to discharge any excess water over the bund.
- Several hundred hedging plants and over a hundred trees have been planted which will assist in removal of water from the ground to the air through translocation.

1.03 The detailed flood warning and evacuation plan submitted by the applicants is attached as **APPENDIX 2** to this report.

1.04 A plan of the original bund survey has also been submitted with an additional bund shown. The applicant advises that the objectors FRA show the bund failing to meet the EA height for about one third of its length. By constructing an additional bund to an AOD of 20.50 this will provide the requisite protection. The bund will be constructed from imported clay topped by soil planted with a native species mix.

## **2.0 LOCAL REPRESENTATIONS**

2.01 Further reconsultations were carried out in connection with the details submitted above and 5 objections received which are summarised below:

- Development proposed in an area that has flooded at least 3 times in the last 3 years and proposal continues to be contrary to the NPPF as a result.
- Erection of a 2.5 metre bund is uneconomic and unsustainable while delivery of fill to construct the bund by HGV's would be a source of highway danger while damage the approach road.
- Bund will increase risk of flooding to nearby Listed Building while proposal will decrease capacity of the area to absorb water thereby increasing flood risk in the area.
- The erection of the bund is an acceptance that the existing flood defences are inadequate while increasing flood risk to other properties.
- Flood warning and evacuation plans make no mention of safe refuge while the detailed action list is unlikely to be carried out or read by someone only occupying the building as a holiday let.
- The proposed bund fails to take into account the impact of climate change while requiring planning permission in its own right.
- The bund is contrary to the provisions of policy ENV45 of the adopted local plan.
- The construction of the bund would affect archaeological artefacts while affecting local wildlife.
- An incorrect ownership certificate has been issued.
- The EA response fails to assess the impact of the bund on flood risk generally in the area.

## **3.0 CONSULTATIONS:**

3.01 **EA:** Satisfied the details showing construction of an embankment around the proposed dwelling means it can be protected against internal flooding and is now able to remove its objection subject to full details of the new embankment being provided.

Still have concerns relating to safe access, flood warning and evacuation plans but are unable to comment further advising that the Council should consult its own emergency planning team on these details.

Regarding confirmation as to whether the initial warning/informing system is possible as the occupants would be holidaymakers, advise the building is in the Flood Warning Area for the River Beult so the service is available for registration to River Beult from Bethersden and Pluckley to Stile Bridge.

In connection with flood warning and evacuation measures prefer to have the person in residence registered with the EA flood warning service. However as in the case of caravan parks an owner/warden would need to be fully registered with a backup person to ensure this information is passed on to the 'occupier' without delay.

Concerns were raised separately by objectors regarding the impact of the proposed bund on local flood risk to which the EA responded as follows:

Following review of the submitted details it was noted the proposed new bund will be built very close to the property. In this situation believe any flood displacement will have negligible impact on flood levels in this area.

Further stressed that where it believed a development to be unsafe and/or will cause displacement of flood water do not hesitate in submitting evidence to the LPA. However where EA believes the risk is managed it provides appropriate technical advice which in this case involved recommending a condition to ensure the new bund be constructed in a manner to secure its intended function.

Reiterate the EA is unable to comment on the adequacy of emergency plans.

#### **4.0 APPRAISAL**

- 4.01 To reiterate the outstanding matters requiring to be to be addressed by Members are (a) further investigation of the flood evacuation plan, including seeking confirmation from the Environment Agency as to whether the initial warning/informing system is possible as the occupants would be holidaymakers and (b) to seek further information on details of the private flood defence system.
- 4.02 **Point (a):** The flood evacuation plan submitted by the applicants and attached as **APPENDIX 2** to this report sets out the evacuation measures. It makes the specific point that a copy of the plan will sent to tenant prior to occupation for their signature while a further copy will be maintained at the property.
- 4.03 Regarding whether the proposed warning systems are affected by the property being in holiday use the EA's response makes clear that while it would prefer to have an occupant registered on its flood warning system measures could be put in place to make sure short stay occupants are also aware of flood warning and evacuation procedure.
- 4.04 **Point (b):** Details submitted to address this show a range of measures which have now been extended to include the construction of an internal flood defence bund. This flood defence bund would be in addition to the existing bund. The applicants have advised the new bund will be about 1 metre in height to line through with the height of the existing flood defence bund.

- 4.05 Members are reminded of the existing flood defence measures, both existing and proposed as part of this application and which are set out in detail in the report attached as **APPENDIX 1**.
- 4.06 Specific objection has been raised to the proposed bund, it being contended that it will increase flood risk in the area. However the response of the EA makes clear it does not accept the proposed bund will increase flood risk in the locality in the event of the existing bund being overtopped.
- 4.07 It should be stressed that flooding issues are addressed in detail in the report attached as **APPENDIX 1**. It was concluded that taking into account the site history the current proposal represents a material improvement in addressing flood risk compared to what was previously approved for this site.

**Other matters:**

- 4.08 Concern has been raised regarding the visual impact of the proposed bund which is considered will be contrary to policy ENV45 of the adopted local plan while also adversely affecting local wildlife and archaeology. In addition its construction will require substantial HGV movements which will be unacceptable in environmental terms.
- 4.09 Regarding whether the bund fails the tests of policy ENV45 of the adopted local plan the policy requirement is that no fences, walls or other structures associated with the use of the building or definition of its curtilage will be permitted that would harm the visual amenity of the countryside. The bund will have low height and profile and once planted is unlikely to represent a perceptible feature in the landscape. As such given it is a flood protection measure required in connection with the use of the premises for tourist accommodation it is considered ancillary development falling within the restrictions set out in policy ENV45.
- 4.10 Measures to safeguard wildlife have already been set out in the report attached as **APPENDIX 1**. Given (a) the narrow width and low height of the bund and (b) following planting it will become a wildlife habitat in its own right, subject to a detailed investigation of the bund route before work commences, to identify and to secure the removal of any protected species which may be affected, it is considered the bund will not have any material impact on local wildlife or habitats.
- 4.11 Archaeology is already set out to be addressed by a watching brief condition and any excavation works required to implement the bund will be covered by this condition.
- 4.12 Regarding HGV movements to bring material onto the site to construct the bund, Members are reminded that vehicle movements required to implement a planning is not normally a material planning consideration. It is normally only post development impacts that can be taken into account. Consequently once the bund is constructed traffic generation in connection with its continued presence will be minimal to non-existent. It is nevertheless recommended that an informative be appended to any permission that may be granted reminding the applicants of their duty in carrying out the development.
- 4.13 A more important consideration is the provenance of any imported material, which will have to be clean uncontaminated fill while site access for construction vehicles will also need to be identified to ensure the interests of wildlife is safeguarded. These matters can both be addressed by condition.

4.14 The validity of the ownership certificate accompanying the application has also been challenged. This matter has already been looked into where it was concluded that the red outline defining the application site should extend to the public highway. In so doing this involved land not in the applicant's direct ownership or control. However an appropriate certificate has been served along with evidence that the necessary publicity procedures were undertaken.

## **5.0 CONCLUSIONS**

5.01 It is considered the additional information and clarification provided addresses Members outstanding concerns. In the circumstances it is considered the balance of issues continue to fall in favour of the proposal and that planning permission should be granted as a consequence.

**6.0 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) Before the development hereby approved commences joinery details of the proposed windows and doors shall be submitted for prior approval in writing by the Local Planning Authority. The details shall specify materials and finishes and include large scale plans at a scale of either 1:20 or 1:50 showing long and cross profiles of the mullions, transoms and cills. Work shall only be carried out in accordance with the approved details and retained as such at all times thereafter.

Reason: In the interests of visual amenity.

(3) The development shall not commence until written details and samples of all external materials to be used for permeable surface materials, access ways, parking and turning areas have been submitted to and approved in writing by the Local Planning Authority. The development shall be constructed using the approved materials.

Reason: In the interests of visual amenity.

(4) Details of fencing, walling and other boundary treatments shall be submitted for prior approval in writing by the Local Planning Authority. The approved details shall be in place before first occupation of the development hereby permitted and retained as such at all times thereafter.

Reason: In the interests of visual amenity.

(5) Following (a) occupation of the building and (b) construction of the flood attenuation bund hereby approved native species landscaping schemes shall be submitted for prior approval in by the Local Planning Authority. The approved schemes which shall be implemented in the first available planting season. The approved scheme shall show existing trees and hedgerows to be retained, and specify the areas of new planting, the type, size and density of any planting along with long term management details of the landscaping scheme. Any planting becoming dead, dying or diseased within 5 years of planting shall be

replaced with a similar species of a size to be agreed in writing beforehand with the Local Planning Authority.

Reason: In the interests of visual amenity.

(6) Any trees/hedgerows to be retained within the application site and affected by the proposed development must be protected by barriers and/or ground protection in accordance with BS 5837 (2005) 'Trees in Relation to Construction-Recommendations' before work commences on site. Any barriers and/or ground protection must be in place before any equipment, machinery or materials are brought onto the site and shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed, nor fires lit, within any of the areas protected in accordance with this condition. The siting of barriers/ground protection shall not be altered, nor ground levels changed, nor excavations made within these areas without the written consent of the Local Planning Authority.

Reason: In the interests of visual amenity.

(7) No external lighting whatsoever shall be installed without first obtaining the prior approval in writing of the Local Planning Authority. Lighting shall only be installed in accordance with the approved details and retained as such at all times thereafter.

Reason: To safeguard the nighttime rural environment and in the interests of wildlife protection.

(8) Bat mitigation measures shall be carried out in accordance with the details set out in the Bat Survey dated October 2009.

Reason: In the interests of wildlife.

(9) Prior to first occupation of the development hereby approved, details of the provision of bat boxes shall be submitted for prior approval in writing by the Local Planning Authority. The approved bat boxes shall be installed within 1 month of first occupation of the building and retained as such at all times thereafter.

Reason: In the interests of wildlife.

(10) Prior to first occupation of the development hereby approved or construction of the flood attenuation bund including on-site routing of HGVs to construct the bund, the proposed mitigation measures relating to great crested newts and reptiles set out in the extended phase 1 ecology report and method statement for vegetation removal and management for reptiles by Hone Ecology dated the 29th September 2015 shall be implemented and maintained in accordance with the submitted details.

Reason: In the interests of wildlife.

(11) The building hereby permitted shall only be used for holiday accommodation and shall not be occupied for this purpose for more than 28 days as a single letting. There shall be no consecutive lettings beyond 28 days to the same person(s), family or group and a written record of all lettings shall be kept and made available for inspection by the Local Planning Authority on 5 working days notice being given.

Reason: To prevent the creation of a permanent residential use in the countryside in the interests of amenity.

(12) The development hereby permitted shall not commence until the following details to deal with the risks associated with contamination of the site have first been submitted to and approved in writing by the Local Planning Authority:

1) A preliminary risk assessment which has identified:

- all previous uses
- potential contaminants associated with those uses
- a conceptual model of the site indicating sources, pathways and receptors
- potentially unacceptable risks arising from contamination at the site.

2) A site investigation, based on (1) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.

3) A remediation method statement (RMS) based on the site investigation results and the detailed risk assessment (2). This should give full details of the remediation measures required and how they are to be undertaken. The RMS should also include a verification plan to detail the data that will be collected in order to demonstrate that the works set out in the RMS are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

4) A Closure Report is submitted upon completion of the works. The closure report shall include full verification details as set out in 3. This should 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;

Any changes to these components require the express consent of the local planning authority. The scheme shall thereafter be implemented as approved.

Reason: In the interests of amenity and public safety.

(13) Prior to first occupation of the development hereby approved the flood risk management methods shall be implemented in accordance with the details set out in paragraphs 7.01-7.16 (inc) of the flood risk assessment carried out by Monson dated the 5th November 2015, with these measures maintained as such at all times thereafter. In addition the building shall only be occupied in accordance with the flood warning and evacuation plan received on the 6th July 2016.

Reason: In the interests of flood protection.

(14) No sleeping accommodation shall be provided on the ground floor of the building hereby permitted.

Reason: In the interests of flood protection .

(15) The slab level of the building hereby permitted shall be 400mm above the existing ground level and there shall be no changes to existing ground levels within any part of the site.

Reason: In the interests of flood protection and to maintain flood storage capacity.

(16) No development shall take place until the applicant, or their agents or successors in title, has secured the implementation of a watching brief to be undertaken by an archaeologist approved by the Local Planning Authority so that the excavation is observed and items of interest and finds are recorded. The watching brief shall be in accordance with

a written programme and specification which has been submitted to and approved by the Local Planning Authority.

Reason: To ensure features of archaeological interest are properly examined and recorded.

(17) Before the development hereby approved commences details of surface and waste water disposal shall be submitted for the prior approval in writing of the local planning authority. The development shall only be carried out in accordance with the approved details which shall be maintained as such at all times thereafter.

Reason: In the interests of flood and pollution prevention.

(19) Prior to first occupation of the development hereby approved a void shall be provided at the base of the new building, with the void in accordance with details that have previously been submitted to and approved in writing by the Local Planning Authority. The void shall be retained in accordance with the approved details for the lifetime of the development.

Reason: In the interests of flood protection .

(20) The building hereby approved shall not be occupied full details of the new flood attenuation bund shown on drawing received on the 6th July 2016 have been submitted for prior approval in writing and shall include details of the embankment material, crest height and drainage arrangements for the area within the bunded area. The embankment shall be constructed in accordance with approved details before first occupation of the building hereby approved and shall be retained as such at all times thereafter.

Reason: In the interests of flood protection.

(21) The development hereby permitted shall be carried out in accordance with the following approved plans being drawing nos: 0-08/92/001 A being the existing cattle shed layout and appearance plans, block plan at a scale of 1:1000 and proposed elevation plan received on the 29th April 2015, proposed layout plan received the 10th April 2015 and 1:1250 block plan received the 10th April 2015 and plan received on the 6th July 2016 showing bund position and levels.

Reason: To ensure the quality of the development is maintained in the interests of visual amenity.

## **INFORMATIVES:**

### **Construction**

As the development involves demolition and / or construction the development should be carried out in accordance with the Mid Kent Environmental Code of Development Practice.

### **Asbestos**

The applicant is advised that 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. Any

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

### **Fuel, Oil and Chemical Storage**

All precautions must be taken to avoid discharges and spills to the ground both during and after construction.

### **Waste**

Please note that the CLAIRE Definition of Waste: Development Industry Code of Practice (version 2) provides operators with a framework for determining whether or not excavated material arising from site during remediation and/or land development works are waste or have ceased to be waste.

Please also note that contaminated soil that is excavated, recovered or disposed of, is controlled waste. Therefore its handling, transport, treatment and disposal is subject to waste management legislation which includes:

- i. The Waste (England and Wales) Regulations 2011
- ii. Hazardous Waste (England and Wales) Regulations 2005
- iii. Pollution Prevention and Control Regulations (England and Wales) 2000
- iv. Environmental Permitting (England and Wales) Regulations 2010

### **Duty of care:**

You are reminded of the duty of care in carrying out this development in particular when gaining HGV access to the site.

### **Note to Applicant**

In accordance with paragraphs 186 and 187 of the NPPF, Maidstone Borough Council (MBC) takes a positive and proactive approach to development proposals focused on solutions. MBC works with applicants/agents in a positive and proactive manner by:

Offering a pre-application advice

Where possible, suggesting solutions to secure a successful outcome.

As appropriate, updating applicants/agents of any issues that may arise in the processing of their application.

In this instance:

Following clarification and amendment of the submitted details the application was acceptable.

Case Officer: Graham Parkinson

NB: For full details of all papers submitted with this application please refer to the relevant Public Access pages on the Council's website.