

APPLICATION: MA/09/2004 Date: 2 November 2009 Received: 21 December 2009

APPLICANT: Mr & Mrs H Boswell

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

PARISH: Boughton Monchelsea, Linton

PROPOSAL: Planning permission for change of use of land to holiday caravan site for up to 10no. static caravans including access, hardstanding, cesspool, reception building, boundary treatment and security barrier as shown on drawing number(s) CTC4ABC received on the 17 June 2010; design and access statement; transport and noise statement, cesspool details received on 3 November 2009 and ecological report, received on 15 April 2010 and as amended by additional document(s) being site layout plan no. CTC5 received on 6 July 2010 together with letter dated 5 July 2010.

AGENDA DATE: 2nd September 2010

CASE OFFICER: Amanda Marks

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

- It is contrary to views of Boughton Monchelsea Parish Council
- It is a deferred committee item

1 BACKGROUND

1.1 This application was reported to the Planning Committee on 22 July 2010. A copy of the previous report and Urgent Update Report are attached at Appendix One.

1.1 Members deferred consideration of the application for the following reason;

That consideration of this application be deferred for negotiations to achieve an effective buffer zone (15 metres where practical) to protect the adjacent woodland and also to explore the issue of imposing a condition prohibiting domestic pets on site.

1.2 Subsequent to this decision the agent has submitted an amended site layout which pulls the development back from the northern boundary where it adjoins woodland. Council Officers have investigated the status of the ancient woodland, previous appeal decisions and sought further advice from Natural England, Kent Wildlife Trust and the document 'Standing Advice on Ancient Woodland.'

2. RE-CONSULTATIONS

3.1 Boughton Monchelsea Parish Council: The Parish Council's response to the original application (requesting refusal) still stands. If the Borough Council are mindful to approve the application however, then the Parish Council would want to see the following conditions imposed:

- The caravan park shall be closed down and remain unoccupied between 1 October and 31 March each year
- In the period 31 March and 1 October each year, no caravan/lodge shall be occupied by any one individual or group of individuals for any period longer than one month. There shall be no re-occupation allowed by the same individual or group of individuals within three weeks of the end of the original occupation period.

In addition to the above, Parish Councillors would like the Borough Council to consider the impact of this proposed development on previously approved planning applications on adjacent sites, whether these have been implemented or not. In particular, if planning application MA/02/0255 were implemented there would be a significant cumulative impact from both developments.

3.2 KCC Archaeology: Consider that 15m is probably a bit over-enthusiastic in terms of archaeological protection as they have had a test pit evaluation which indicates that there are no buried remains in front of the earthworks. They would be quite happy with the fencing being within 1m of the foot of the earthworks as the existing trees and shrubs along the earthworks already discourage anything from approaching too close and the fencing would really just make it clear that nothing should be dumped or driven on that boundary of the site.

Officer Comment: subsequent to the committee deferral both Natural England and Kent Wildlife Trust were re-consulted on the amended site layout and then further discussions took place with regard to the appropriate distance that the development should be from the woodland to ensure that the ecological value of the soil is not compromised.

3.3 Natural England: did not wish to comment further. They refer MBC to their Standing Advice Note on Ancient Woodland. **Officer comment:** I have considered the Standing Advice and refer to this in my report.

3.4 Kent Wildlife Trust: Suggest that there is a case for requiring a 15m separation distance from the proposed development to the edge of the woodland on the northern boundary. Their recommendation is based on an appeal decision referred to in the Ancient Woodland Standing Advice.

4. REPRESENTATIONS

4.1 Neighbouring occupiers were re-notified of the amended scheme and 5 further letters of objection have been received. The objections are summarised below:-

- Inadequate closure period, consider the normal period is 1 October – 31 March.
- Church Lane is too narrow and cannot cope with additional traffic.
- Previous comments still apply.

5. AMENDED PROPOSAL

5.1 Following the deferral the applicant has submitted an amended layout plan retaining the 10 lodges, parking, the reception building and bin store. A buffer zone with a minimum distance of 16m from the base of the trees on the northern boundary has been provided. The purpose of the buffer is to provide protection to the ecological value of the woodland floor in this location.

5.2 The layout shows the 10 holiday lodges located to the southern and central part of the site. The previously proposed central 'green' is now on the northern boundary. There is a distance of 15.5 – 16m from the nearest lodge to the belgic earthwork and some 16-18m to the base of the closest trees. These details are shown on the amended plan.

5.3 The main concern expressed from Members, was whether the development would cause harm to the ecological value of the woodland floor, it is the soil which is likely to be of ecological importance considering the age of the woodland and the suggestion that it is indeed 'Ancient Woodland'. The trees themselves are adequately protected by the distance from the development; the relatively shallow concrete base the lodges require, and with the understanding that services would be channelled away from the earthwork, so that existing root systems will be little disturbed.

5.4 On the amended scheme the driveway will not be set as far back within the site and there will now be just one central parking area. The bin store and reception building have been relocated to the southern side of the road away from the earthwork. Again, the drive and parking areas will have a shallow base construction, and gravelled to allow rainwater to penetrate the root systems of trees.

5.5 The previously proposed security barrier has been removed from the scheme, although the applicant has indicated that this can be reinstated if requested by Members.

5.6 Detail has also been provided of the landscape buffer between the rear boundary of the Vicarage and the site. A double staggered hedge and native trees are proposed in accordance with the Council's Landscape and Character Assessment Guidelines. The buffer zone has been reduced by approximately 1m in depth to accommodate the relocation of lodges.

5.7 The second concern raised by Members was whether it would be possible to apply a condition preventing domestic pets to be brought onto the site. The concern being that such animal may roam into the woodland disturbing important habitats. The applicant has advised that as part of the site occupancy conditions, there will no domestic pets allowed in the holiday park.

6 CONSIDERATIONS

Amended Layout

6.1.1 The revised layout takes into account concerns expressed over the proximity of the lodges to the woodland soil on the northern boundary. Having considered relevant appeal decisions and the Standing Advice on Ancient Woodlands, it appears that a suggested buffer zone of 15m from the edge of Ancient Woodland is the ideal protection zone. However, this distance is

advisory only and its appropriateness depends on the scale of the development proposed. In this instance, the woodland whilst 'old' does not appear to be designated 'Ancient'. It is however, considered an important link to Ancient Woodland to the east and south of the site and the ecological value is considered to be high in the applicant's ecological survey. The age of the soil is likely to have generated significant species of flora and fauna to develop over many years and the fact that it may not be designated as 'Ancient' should not devalue its importance.

I understand that work is commencing on an updated 'Inventory of Ancient Woodland' as the current document referred to dates back to 1994 and was provisional. The maps which accompany the provisional inventory are misleading as one set identifies woodland to the west as Ancient Woodland' and the other set doesn't. However, having sought further advice from Natural England and KWT it appears that this in itself does not affect their advice. On the basis of the information available, KWT consider that 15m is an appropriate buffer for the northern boundary and that the entire of the development should be enclosed by suitable fencing.

6.1.2 The appeal decision referred to relates to a substantially different proposal of permanent residential use on a larger scale; therefore with potential for a far greater impact on the local soil than this scheme. The ecological survey undertaken by 'Wildthing Wildlife Consultants' acknowledges the presence of Ancient Woodland and recommends the attendance of an Ecological Clerk of Works when the utilities, services and bases for lodges are being undertaken. The survey considers that the proposed development is of the type least likely to impact on the flora/fauna within the locality. The report acknowledges that the site itself is of low ecological value it is the adjoining land which has the potential for important species. The amended scheme has a distance of between 9 -12 m from the lodges to the canopy line as drawn on the plans; with a distance of 15.5m – 18m to the base of the trees. The main issue is therefore whether there is sufficient distance between the woodland and the planning unit to ensure protection of the soil in ecological terms. I consider that with the physical separation of a fence between the lodges and woodland; the minor nature of works required to install the lodges; a no pets policy on site; and the recommendations in the ecological report, that the proposal would have minimal impact on the ecological value of the woodland soil. For the reasons stated above, I consider that the amended layout allows more than adequate protection of the woodland.

6.1.3 With regard to the issue of not permitting domestic pets on sites, this is a straight forward issue in this case: it can be subject to a planning condition for environmental reasons. The presence of ancient woodland with its potential for wildlife diversity and associated high ecological value soil, it is considered justifiable to apply a condition.

6.1.4 The bin store is shielded when considered from the location of the Vicarage by the reception building, which together with the abundant landscaping and distance still affords adequate protection to the amenities of the Vicarage.

6.1.5 The applicant does not consider the security barrier necessary due to the distance from the site entrance to the road. I do not have an issue with its removal, but this can be re-instated if required.

6.2 Other issues

6.2.1 Neighbours have raised the issue of the closure period being inadequate. It would be both unreasonable and unjustifiable in planning terms to condition a closure period of 6 months for a caravan park. Government Guidance in the form of 'Planning for Tourism: a Best Practice Guide 2006' recommends the use of planning conditions to ensure holiday accommodation is maintained as such. However, this it states can be achieved in a number of ways and not necessarily by having a closure period at all. The Government advice stresses fairness and reasonableness if applying any condition. In conclusion, the suggestion by the Parish Council and residents for a lengthy closure period is unacceptable and could leave the Council in a vulnerable position in an appeal situation. I do however, consider there to be merit in the suggestion by the Parish to restrict re-occupation within a specified period and have therefore amended the relevant condition accordingly.

6.2.2 The suitability of Church Hill in highway terms was considered in my earlier report.

6.2.3 The significance of planning permissions on adjoining land has been raised by the Parish Council. It appears that the owner of a significant amount of adjoining land has been selling off parcels of land at different times. Some of which have been the subject of planning applications for gypsy sites. This has caused concern and confusion, particularly with regard to the planning status of Cherry Tree Caravan Park. Planning permission MA/02/0255 allowed for the

open storage of 50 caravans on an area of land; the Council questions whether this permission was ever fully implemented. This being said, at a recent auction, a significantly smaller part of the former application site was sold off. If planning approval MA/02/0255 was proved to be implemented within the required time frame, the entire of the site area would need to be available to continue that use. With the piecemeal selling of parcels of land all the relevant owners would need to be onboard to facilitate the use of land for open storage of caravans. With regard to this application, it is of a different nature, well screened and unrelated to the land to the north; I do not consider there to be any bearing on its acceptability with regard to MA/02/0255.

7. Conclusion

In light of the above considerations, the amended scheme has taken into account the reasons for deferral at the committee held on 22 July 2010. I therefore recommend planning permission be granted.

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 of 51 of the Planning and Compulsory Purchase Act 2004.

2. 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.

3. In the period between 1 March and 13 January (inclusive) in any 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.

4. No more than 10 caravan/lodges shall be provided on site, details of which must be submitted to and approved in writing by the Local Planning Authority before the development commences. The details shall include external dimensions and materials.

Reason: To ensure a satisfactory setting and external appearance to the development in accordance with Policies ENV28 and ED20 of the Maidstone Borough Wide Local Plan 2000.

5. The development shall not commence until details of all fencing, and boundary treatment to be placed within the site have been submitted to and approved in writing by the Local Planning Authority and the development shall be carried out in accordance with the approved details before the first occupation of the building or land and maintained thereafter;

Reason: To ensure a satisfactory appearance to the development and to safeguard the enjoyment of their properties by nearby residents in accordance with policy ENV28 of the Maidstone Borough Wide Local Plan.

6. The site shall not be occupied until stock-proof fencing has been erected, together with the planting of a hawthorn hedge on the inside of the said fence, between the development and the adjacent woodland to the north and west. The precise siting of this to be agreed with the Local Planning Authority. No works shall take place within the area outside the fence perimeter without the consent of the Local Planning Authority.

Reason: To ensure that important archaeological remains are not adversely affected by construction works, to ensure protection of the woodland, and to ensure minimal risk of disturbance to wildlife and in accordance with policy ENV6 of the Maidstone Borough Wide Local Plan 2000 and PPS9.

7. The approved details of the parking/turning areas shall be completed before the commencement of the use of the land 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 (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 to policy T13 of the Maidstone Borough Wide Local Plan 2000.

8. The development shall not commence until landscaping, planting and management scheme has been submitted to and approved in writing by the Local Planning Authority. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following completion of the development. 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 pursuant to policy ENV28 of the Maidstone Borough Wide Local Plan 2000.

9. The development shall not commence until an Arboricultural Method Statement (AMS) has been submitted to and approved by the Local Planning Authority. The AMS shall accord with the recommendations of BS5837:2005 'Trees in relation to construction – recommendations' and should include details of foundation design and methods of construction, details and methods of installation of services within and to the site and details of the design, location and installation of tree protection measures. The AMS should also demonstrate how caravans will be transported to and from the site and installed on their foundations, without damage to retained trees. The approved barriers and/or ground protection shall be erected before any equipment, machinery or materials are brought on to 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 by this condition. The siting of barriers and/or 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: To safeguard existing trees to be retained and to ensure a satisfactory appearance to the development pursuant to NRM7 of the South East Plan 2009.

10. The reception building hereby approved shall be built in accordance with the approved materials as shown on the submitted drawings.

Reason: To ensure a satisfactory appearance to the development and in accordance with policy ENV28 of the Maidstone Borough Wide Local Plan 2000.

11. The development shall not commence until details of a properly consolidated and surfaced access (not loose stone or gravel) shall be submitted to and approved in writing by the local planning authority. The approved scheme shall be fully implemented prior to first occupation and retained thereafter.

Reason: In the interests of highway safety and in accordance with policy T23 of the Maidstone Borough Wide Local Plan 2000.

12. The development shall not commence until details of any lighting to be placed, erected or provided within the site including any lighting to be attached to the proposed reception building, shall be submitted to and approved in writing by the local planning authority. The development shall thereafter be undertaken in accordance with the subsequently approved details and no additional lighting to that approved shall be placed, erected or provided within the site at any time without the prior approval of the local planning authority.

Reason: In the interests of the character and amenity of the surrounding countryside and to prevent light pollution pursuant to policy ENV28 of the Maidstone Borough Wide Local Plan 2000.

13. During the installation of the utilities and undertaking of pitch works an Ecological Clerk of Works shall be present to provide a watching brief. A report summarising any findings and proposed remedial action required shall be provided to the Borough Council on completion of the development.

Reason: To reduce the risk of disturbance to wildlife in accordance with PPS9.

14. There shall be no domestic pets brought onto the site by occupiers of the lodges at any time.

Reason: In the interests of nature conservation and ecology and in accordance with the aspirations of PPS9.

Informatives set out below

Attention is drawn to Sections 60 & 61 of the COPA 1974 and to the Associated British Standard Code of Practice BS 5228:2009 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.

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, load or unload within the general site outside the hours of 0800 hours and 1900 Mondays to Fridays and 0800 to 1300 hours on Saturdays and at no time on Sundays and Bank Holidays.

The applicant is advised that it will be necessary to make an application for a Caravan Site Licence under the Caravan Sites and the Control of Development Act 1960 within 21 days of planning consent having been granted. Failure to do so could result in action by the Council under the Act as caravan sites cannot operate without a licence. The applicant is advised to contact the Environmental Health Project Manager on 01622 602145 in respect of a licence.

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 there are no overriding material considerations to indicate a refusal of planning consent.