

APPLICATION: MA/10/1906 Date: 1 November 2010 Received: 2 November 2010

APPLICANT: Mr R Schroeder

LOCATION: THE FINCHES, CHARTWAY STREET, SUTTON VALENCE, KENT

PARISH: Broomfield & Kingswood, East Sutton

PROPOSAL: Variation of condition 7 of planning permission MA/08/0333 (increase in number of permitted caravans from 10 to 20, including revised access road and layout) to allow the site to be open for business for 364 days per year (site to be closed on 9th January and 10th January in a leap year) as shown on drawing numbers TF/06/10/3 rev E and TF/06/10/6 supported by a design and access statement, all received 2nd November 2010.

AGENDA DATE: 13th January 2011

CASE OFFICER: Catherine Slade

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, T13, T21

South East Plan 2009: CC1, CC6, T4, C4, BE6, TSR2, TSR5

Village Design Statement: Broomfield and Kingswood Parish Plan 2003

Government Policy: PPS1 Delivering Sustainable Development, PPS3 Housing, PPS5 Planning for the Historic Environment, PPS4 Planning for Sustainable Economic Growth, PPS7 Sustainable Development in Rural Areas, PPS13 Transport, PPG17 Planning for Open Space, Sport and Recreation, Good Practice Guide on Planning for Tourism

2. HISTORY

- MA/10/1907 - THE FINCHES, CHARTWAY STREET, SUTTON VALENCE, KENT Variation of condition 2 of planning permission MA/09/2223 (stationing of a mobile home for a full time warden) to allow the site warden to be resident on site for all days when site is open (closed 9th January and 10th January in a leap year) - CURRENTLY UNDER CONSIDERATION (ON PAPERS)
- MA/10/1904 - THE FINCHES, CHARTWAY STREET, SUTTON VALENCE, KENT Variation of condition 5 of planning permission MA/09/1220 (increase in

number of permitted tents from 10 to 20) to allow the site to be open for business for 364 days per year (site to be closed on 9th January and 10th January in a leap year) – CURRENTLY UNDER CONSIDERATION (ON PAPERS)

- MA/10/1332 - THE FINCHES, CHARTWAY STREET, SUTTON VALENCE, KENT Planning application to vary condition 2 of MA/09/2223 (stationing of 1no. mobile home for a full-time site warden) to allow occupation between 14th December and 31st October – REFUSED, CURRENTLY UNDER APPEAL
- MA/09/2223 - THE FINCHES, CHARTWAY STREET, SUTTON VALENCE, KENT Planning permission for the stationing of 1no. mobile home for a full-time site warden - APPROVED WITH CONDITIONS
- MA/09/1220 - THE FINCHES, CHARTWAY STREET, SUTTON VALENCE, KENT Planning application to increase the number of permitted tents from 10 to 20 including associated works – APPROVED WITH CONDITIONS
- MA/08/0333 - THE FINCHES, CHARTWAY STREET, KINGSWOOD, ME17 3DU To increase the number of permitted caravan pitches from 10 to 20, involving revised access road and layout – APPROVED WITH CONDITIONS
- MA/05/1592 - CHARTWAY STREET NURSERY, CHARTWAY STREET, EAST SUTTON, MAIDSTONE, ME17 3DN Change of use of land and existing barn to touring caravan and camping site with amenity building and new access – APPROVED WITH CONDITIONS.
- MA/04/2419 - CHARTWAY STREET NURSERY, CHARTWAY STREET, EAST SUTTON, MAIDSTONE, ME17 3DN Change of use of land and existing barn to touring caravan and camping site with amenity building – REFUSED, DISMISSED AT APPEAL

3. CONSULTATIONS

- 3.1 **Broomfield and Kingswood Parish Council:** Wish to see the application refused and request that the application be reported to Planning Committee on the following grounds:

“The application exceeds the terms of previous planning permissions relating to the use of the land. The already doubling in number of permitted caravans and tents in addition to any further increase in the length of usage will add to traffic volume on local roads at a time when road conditions are at their worst due to ice, and as experienced in the last two years heavy snow falls. Associated dangerous conditions have often made the local, untreated, rural roads impassable.

The site should not be used as a permanent encampment in the interests of the visual amenities and character of the surrounding countryside. Councillors oppose strongly the prospect of this touring site intentionally or otherwise becoming a residential site.

No pitch shall be occupied by any one individual or group of individuals for any longer than one month. There could be no guarantees that the land would be vacated for one day a year (two in a leap year) especially considering recent weather conditions. Attempted removal of towed vehicles in such conditions will only exacerbate the existing poor conditions on the local road network.

Any extended usage has the potential to adversely affect wildlife.

Over intensive use of the land.

Further development in and use of open countryside, outside the Village Envelope and contrary to the Parish Plan.”

3.2 **East Sutton Parish Council:** Have not yet commented on the application.

3.3 **Sutton Valence Parish Council:** Wish to see the application refused and request that the application be reported to Planning Committee on the following grounds:

“In the original application MA/05/1592 a condition was set that the camping site should not be open for business between 1st November and 31st December to ensure that the site is not used as a permanent encampment and in the interests of the visual amenities and character of the surrounding countryside.

The Parish Council believe that these conditions should remain.

The Parish Council are very doubtful that procedures could be put in place to ensure that users of the site do have another residence and believe that this will become a permanent site if permission is granted.

The applicant claims that the local amenities situated in Sutton Valence could be accessed in a twenty minute walk. That walk would involve negotiating juggernaut lorries which are going to the local packing houses and fruit farms which are all closer to this site than the amenities are.”

3.4 **English Heritage:** Recommended that the application “be determined in accordance with national and local policy guidance and the on the basis of...specialist conservation advice.”

3.5 **Kent County Council Highway Services:** Raise no objection to the proposal.

- 3.6 **Maidstone Borough Council Environmental Health Manager:** Raises no objection to the proposal.
- 3.7 **Maidstone Borough Council Conservation Officer:** Raises no objection to the proposal.
- 3.8 **Maidstone Borough Council Economic Development Officer:** Supports the application on the following grounds:

"We would support this application for the campsite. Demand for campsites is continuing to outstrip supply especially during the summer season and indeed as the season extends either side of the main holiday period. The current economic climate continues to encourage people to stay in England as does the fashion for camping and the enjoyment of fresh air and freedom that seem to be a key motivator.

Tourism as part of the Economic Development Strategy is keen to encourage this type of accommodation as it helps sustain the rural economy through visitor spend in village shops, attractions, pubs, restaurants and indeed the town centre of Maidstone itself."

4. REPRESENTATIONS

- 4.1 Campaign to Protect Rural England objects to the proposal on the grounds that it represents an over-intensification of the use resulting in a detrimental impact upon local highway safety and the character and appearance of the open countryside. Particular concern was raised with regard to the potential for the site to be used for permanent residential occupation.
- 4.2 Four objections were received with regard to the application, one of which was anonymous. The three objections that were not anonymous raised the following concerns:
- Conditions restricting the opening season and operation have been imposed on the previous planning permissions.
 - There is no justification for increasing the opening season as there is limited demand for the facility.
 - Allowing the opening season requested would result in an "irreversible long-term change of use" leading to "unplanned commercial/industrial creep to the surrounding areas".
 - Highway safety issues as a result of increased traffic.
 - Concerns about a permanent residential use being established on the site.
 - Impact on neighbouring listed buildings.

5. CONSIDERATIONS

5.1 Site Description

- 5.1.1 The site is located within the open countryside with no specific environmental or economic designations in the Local Plan. Although the site has a Sutton Valence postal address it is located within the parish of Broomfield and Kingswood.
- 5.1.2 The site is a rectangular piece of land with a site area of approximately 2 hectares located to the north of Chartway Street which is roughly level. The site access is located centrally to the site's boundary with the C83, Chartway Street, and there is substantial coniferous screening to the front of the site and mature hedging to the other site boundaries.
- 5.1.3 The site is laid out as a series of camping and caravan pitches, together with associated development including a substantial detached amenity building to the north of the main parking area. A mobile home is stationed to the north of this building, which is occupied by a site warden. The use of the land as a camping and caravanning site as permitted under MA/09/1220, MA/08/0333 and MA/05/1592 has commenced.
- 5.1.4 The Grade II* listed building, The Blue House, is located approximately 25m from the southern boundary of the site. This is the closest residential building.

5.2 Planning History

- 5.2.1 Planning permission was granted under MA/05/1592 for the use of the land as a caravan and camping site subject to conditions. This application overcame the highway safety reason for the refusal and dismissal at appeal of a previous application (MA/04/2419). The Planning Inspector found that the principle of the development was acceptable and broadly in accordance with policy ED20 (holiday caravan and camping sites) of the Maidstone Borough-Wide Plan 2000 (which is a saved Local Plan policy). The dismissal of the appeal was on grounds solely relating to highway safety, specifically the visibility splays that could be achieved. The proposal was found to be acceptable following resubmission under MA/05/1592 which included improvements to the vehicular access and was supported by a unilateral undertaking which secured the visibility splays. Conditions were attached to MA/05/1592 restricting the number of caravan pitches (10) and camping pitches (10) (condition 6) and imposing a closure period between 1st November and 31st December inclusive (condition 7), amongst others.
- 5.2.2 Planning permission was subsequently granted for an increase in the numbers of caravan and camping pitches from 10 to 20 (20 caravans and 20 tents) under separate permissions MA/08/0333 and MA/09/1220 respectively, as

detailed above. Conditions restricting the use of the site and imposing a closure period between 1st November and 31st December inclusive were attached to both permissions (condition 7 of MA/08/0333 and condition 5 of MA/09/1220).

5.2.3 Planning permission was subsequently granted for the stationing of a mobile home for the purposes of accommodating a warden under MA/09/2223. At the time that the application was considered it was accepted by the Local Planning Authority that "it is reasonable for a warden to be on-site throughout the day and night to manage the site, enforce site rules, checking hooking up, ensure separation distances, control noise, and take control in emergencies and allow vehicles to enter the site potentially at night...issues with customers potentially arriving at night and other safety and security issues at this time could not reasonably be provided from another residence outside the site. Clearly, such management would also help reduce potential noise and disturbance. On this basis, I consider there is a reasonable functional need for full-time, on-site presence whilst the site is open." Condition 2 attached to the permission restricted occupation of the mobile to the period 1st February to 31st October (inclusive) per calendar year, which chimed with the conditions attached to the previous permissions. A copy of the delegated report and decision notice are attached as Appendix 1.

5.2.4 An application (MA/10/1332) was subsequently refused for the variation of condition 2 attached to MA/09/2223 on the following grounds:

The proposal to vary condition 2 attached to planning permission MA/09/2223 would result in an unsustainable development that would exceed the terms of the previous planning permissions relating to the use of the land (MA/05/1592, MA/08/0333, and MA/09/1220), and in the absence of any over-riding need or justification relating to the caravan and camping site use would be harmful to policies of restraint of such development in the open countryside and be contrary to policy ENV28 of the Maidstone Borough-Wide Local Plan 2000 and national planning policy as set out in PPS1 Delivering Sustainable Development and PPS7 Sustainable Development in Rural Areas.

5.2.5 A copy of the delegated report and decision notice are attached as Appendix 2.

5.2.6 The refusal of application MA/10/1332 to vary the occupancy condition is currently the subject of an appeal by the applicant.

5.3 Proposal

5.3.1 The current application seeks to vary condition 7 of MA/08/0333 which reads as follows:

The touring caravan and camping site hereby permitted shall not be open for business between 1 November and 31 December (inclusive) in any calendar year (the closure period). Within the closure period, no part of the site shall be used

for the storage of touring caravans or camping equipment or the open storage of any other goods or materials.

Reason; To ensure that the site is not used as a permanent encampment and in the interests of the visual amenities and character of the surrounding countryside pursuant to policies ED20 and ENV28 of the Maidstone Borough-wide Local Plan 2000.

5.3.2 The wording of the condition relates to saved Local Plan policy ED20, which states that "a holiday occupancy condition will usually be attached...the condition will limit occupation to a specified ten month period in any calendar year."

5.3.3 The current application seeks to vary this condition to read as follows:

The touring caravan and camping site hereby permitted shall not be open for business on 9th January in any calendar year (the closure period) or 10th January during a leap year.

5.3.4 The key consideration is whether the proposed open period would meet the terms of the Local Plan policy.

5.4 Planning Policy Context

5.4.1 The key Development Plan policies are Local Plan policies ENV28 which restricts development in the open countryside subject to exceptions as set out elsewhere in the Local Plan and ED20 which relates to caravan and camping sites. The relevant South East Plan policies are TSR2 (rural tourism) and TSR5 (tourist accommodation). These provide policy support for tourism uses such as this, subject to conditions. In particular, the Local Plan policy seeks to avoid the establishment of permanent residential uses on such sites.

5.4.2 Nationally, PPS7 (2004) supports tourism uses, including the provision of accommodation, and their role and benefits to rural economies, while policy EC7 (planning for rural tourism) of PPS4 (2009) supports tourist accommodation uses in rural areas.

5.4.3 In addition to the above, central government guidance on tourism related development is set out in "Good Practice Guide on Planning for Tourism" (2008). This document sets out the planning framework for tourist development. In particular, Annex A of the document relates to tourist accommodation, including holiday and touring caravan parks, and in paragraph 23 states that "with better caravan standards and the trend towards tourism as a year round activity, authorities should give sympathetic consideration to applications to extend the opening period allowed under existing permissions".

- 5.4.4 The document also sets out, in Annex B, the scope of occupancy conditions that can be used to restrict the use of such facilities to prevent use for permanent residential accommodation, and thus prevent firstly compromise of local, regional and national planning policy objectives on the restraint of new residential development in the open countryside, and secondarily the imposition of unsustainable burdens on local services.
- 5.4.5 Such conditions are predominantly worded in the context of holiday occupancy. Whilst reference is made to seasonal occupation conditions, it is made clear in the Annex that the aim of such conditions is primarily to protect local environments by preventing occupation during periods during which specific local conditions may be sensitive, such as bird breeding seasons. The document goes on to state that "Local Planning Authorities will need to balance the need to impose seasonal occupancy conditions with the wish to avoid exacerbating the seasonal nature of tourism in the locality and its possible adverse effects upon local businesses and jobs."

5.5 Principle of Development

- 5.5.1 The caravan and camping site has a lawful use under the existing permissions for the period 1st January to 31st October inclusive per annum. It is asserted that the closure period is not appropriate given that the autumn half term and traditional festive period falls within these dates, which are times at which holidays may reasonably be expected to be taken, and as such the applicant has applied to vary the condition to allow what would effectively constitute almost all year round use of the site for holiday accommodation.
- 5.5.2 It is considered reasonable for the applicant to seek to open the site for business during these months. This is supported by the comments of the Maidstone Borough Council Economic Development and Tourism Manager and guidance in Good Practice Guide for Planning and Tourism, as set out above.
- 5.5.3 The principle of the use of the land as a caravan and camping site has been established through the grant of successive planning permissions, as set out above. The impact of the use has been considered and found to be acceptable with regard to visual and residential amenity, the setting of the neighbouring listed building and highway safety under the previous applications, and these are therefore not matters for detailed consideration at the current time. Notwithstanding this, consultees including Kent County Council Highway Services, the Maidstone Borough Council Conservation Officer and the Maidstone Borough Council Environmental Health Officer have raised no objection to the proposal.

- 5.5.4 The main considerations in the assessment of the current application are firstly the additional impact of what would essentially be year round occupation in comparison with the existing use levels, and secondly whether the closure of the site for a single day annually (two consecutive days during leap years) would secure the intended purpose of Local Plan policy ED20, which is to prevent permanent residential occupation of the site.
- 5.5.5 In respect of the first consideration, it is not considered that the use of the land for the purposes of providing a camping and caravanning site during the months of November and December annually would result in significant additional harm to the visual appearance or overall character of the countryside, the residential amenity of the occupiers of the neighbouring properties, or highway safety. The existing screening to the site boundaries would remain in place during the extended open season.
- 5.5.6 With regard to the latter consideration, the wording of policy ED20 is clear in setting out the requirement that occupation of sites should be restricted to ten months per calendar year, however this is qualified in the policy wording which states that such a condition would "usually" be attached. This implies that there will be occasions when such a condition will not be appropriate.
- 5.5.7 As set out above in section 5.4, the Local Plan policy ED20 has to some extent been superseded by more recent national planning policy guidance, in particular "Good Practice Guide on Planning for Tourism", which establishes that seasonal occupancy conditions will normally be acceptable only in specific circumstances, none of which apply in the current case. The use of holiday occupancy conditions is encouraged in cases such as these as a means of controlling the occupation of the site and restricting it to use as for holiday accommodation.
- 5.5.8 Whilst the Local Plan policy states that the open season will normally be restricted to ten months a year, in this case given the extant permissions, which currently allow for operation of the site during January and February annually which would otherwise be considered to be the obvious months during which to secure closure of the site, it is not considered reasonable to impose such a restriction given that the land benefits from a lawful use during these months currently, and in light of the policy guidance in "Good Practice Guide on Planning for Tourism" set out above, which has been supported through appeal decisions.
- 5.5.9 The applicant has requested that the date(s) on which the site should be closed for operation should be the 9th January (9th and 10th January every leap year). This restriction is in accordance with central government guidance and appeal decisions that require that a clear break in use that can be enforced is imposed in order to prevent the establishment of permanent residential occupation of

the land. The applicant has indicated that he is willing to enter into a legal agreement to secure such a break, however it is not considered that this is necessary on this case as the break can be secured through the imposition of a condition.

- 5.5.10 In addition to the above, it is considered both reasonable and necessary to attach a further condition to the permission limiting occupation of individual pitches within the site with regard to individuals and groups of individuals.

5.6 Other Matters

- 5.6.1 There remain outstanding "pre-commencement" conditions attached to the existing permission. The applicant has indicated that the required details will be submitted for consideration in due course, and an update is expected to be included on the urgent update report prior to the Planning Committee Meeting.
- 5.6.2 In addition to the conditions referred to above, condition 8 attached to MA/08/0333 states that:

In the period between 1 January and 31 October (inclusive) in any calendar year (the open period), no part of the site shall be used for the storage of touring caravans or camping equipment that are not occupied and/or in use. During the open period, no touring caravan, touring caravan pitch or camping pitch shall be occupied by any one individual or group of individuals for any period longer than one month.

- 5.6.3 In the event of planning permission being granted for the current application to vary condition 6 of MA/08/0333, this condition would fail to chime with the variation permitted, and as such a condition should be attached to the permission to the same effect allowing the conditions to chime with regard to operational periods that would have the effect of superseding the existing condition attached to MA/08/0333.
- 5.6.4 The site already benefits from a Caravan Site License which is unrestricted with respect of the seasonality of the use.

6. CONCLUSION

- 6.1 For the reasons set out above it is considered that the proposed variation, being the increase of the open season of The Finches camping and caravan site, Chartway Street to allow the site to be open for business for 364 days per year (site to be closed on 9th January and 10th January in a leap year) is acceptable in the context of the Development Plan and national planning policy and guidance, and I therefore recommend the application for approval subject to conditions.

7. 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. In the period between 11th January and 8th January (inclusive) in any calendar leap year and 10th January and 8th January on any other year (the open period), no part of the site shall be used for the storage of touring caravans or camping equipment that are not occupied and/or in use. During the open period, no touring caravan, touring caravan pitch or camping pitch shall be occupied by any one individual or group of individuals for any period longer than one month.

Reason: To ensure that the site is not used as a permanent encampment and in the interests of local, regional and national planning objectives of sustainable development pursuant to policies ENV28 and ED20 of the Maidstone Borough-Wide Local Plan 2000, CC1 and C4 of the South East Plan 2009 and central government planning policy and guidance in PPS1 Delivering Sustainable Development, PPS7 Sustainable Development in Rural Areas and Good Practice Guide on Planning for Tourism.

3. The use of the land for camping and the stationing of touring caravans in the period between 11th January and 8th January (inclusive) in any calendar leap year and 10th January and 8th January on any other year (the open period), shall be for holiday purposes only.

Reason: To ensure that the site is not used as a permanent encampment and in the interests of local, regional and national planning objectives of sustainable development pursuant to policies ENV28 and ED20 of the Maidstone Borough-Wide Local Plan 2000, CC1 and C4 of the South East Plan 2009 and central government planning policy and guidance in PPS1 Delivering Sustainable Development, PPS7 Sustainable Development in Rural Areas and Good Practice Guide on Planning for Tourism.

4. The touring caravans shall not be occupied as an individual's or group of individuals' sole or main place of residence.

Reason: To ensure that the site is not used as a permanent encampment and in the interests of local, regional and national planning objectives of sustainable development pursuant to policies ENV28 and ED20 of the Maidstone Borough-Wide

Local Plan 2000, CC1 and C4 of the South East Plan 2009 and central government planning policy and guidance in PPS1 Delivering Sustainable Development, PPS7 Sustainable Development in Rural Areas and Good Practice Guide on Planning for Tourism.

5. The owners/operators of the camping and caravanning site known as 'The Finches' shall maintain an up-to-date register of the names of all owners/occupiers of individuals occupying the site, including details of their main addresses, and shall make this information available at all reasonable times to the Local Planning Authority;

Reason: To ensure that the site is not used as a permanent encampment and in the interests of local, regional and national planning objectives of sustainable development pursuant to policies ENV28 and ED20 of the Maidstone Borough-Wide Local Plan 2000, CC1 and C4 of the South East Plan 2009 and central government planning policy and guidance in PPS1 Delivering Sustainable Development, PPS7 Sustainable Development in Rural Areas and Good Practice Guide on Planning for Tourism.

Informatives set out below

Please note that all other conditions (with the exception of condition 8) attached to MA/08/0333 remain in force and should be complied with, and fully discharged if appropriate.

Please note that all other conditions (with the exception of condition 6) attached to MA/09/1220 remain in force and should be complied with, and fully discharged if appropriate.

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.