

APPLICATION: MA/12/1835 Date: 10 October 2012 Received: 11 October 2012

APPLICANT: Mrs B Brett

LOCATION: PLOT 4, LAND WEST OF, CHURCH HILL, BOUGHTON MONCHELSEA, KENT

PARISH: Boughton Monchelsea

PROPOSAL: Retention of breeding pens, bird runs, rearing unit, aviary and feed store; temporary stationing of a mobile home and touring caravan (office); and the siting of new brooding and rearing sheds as shown on drawing numbers PA-184-01, PA-184-04, PA-184-05 and PA-184-06, and 3No. un-numbered photographs, supported by a design and access statement and business plan, all received 10th October 2013, and drawing numbers PA-184-02A and PA-184-03A received 7th May 2013

AGENDA DATE: 16th May 2013

CASE OFFICER: Catherine Slade

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

- it is contrary to views expressed by **Boughton Monchelsea Parish Council**.
- the application has been called in by **Councillor Steve Munford** for the reasons set out in the report.

## 1. POLICIES

- Maidstone Borough-Wide Local Plan 2000: ENV6, ENV28, ENV43, T13
- Government Policy: National Planning Policy Framework 2012

## 2. HISTORY

2.1 The site has previously been the subject of applications for various consents and permissions during the 1990s and early 2000's, none of which is relevant to the current application. The site is located between plots to the north and south which have planning permission for residential occupation by persons of Gypsy status, however the application site itself has not been the subject of any such applications.

### 3. CONSULTATIONS

- 3.1 **Boughton Monchelsea Parish Council** wish to see the application refused, and made the following detailed comments:

*"The positioning of the mobile home is contrary to policy ENV28 of the Maidstone Borough-Wide Local Plan 2000, in that it is damaging to the open countryside."*

- 3.2 The **Rural Planning Consultant** expresses some concern over the proposal but raises no objection, making the following comments (references to the confidential business information supplied in support of the application have been removed):

3.2.1 *"The details of how the business would operate over the next three years are set out in the submitted confidential Business Plan and also in the Design and Access Statement. Current breeding stock of some 50 hens (plus cockerels) would be expanded to 200-300; the eggs produced would partly be incubated for sale of chicks, or pullets on point of lay, i.e. aged from day old, up to about 16 weeks, and fertile eggs would also be available for sale for the purchaser to hatch.*

3.2.2 *The intention is to sell retail, largely to the private/hobby customer, mainly on the basis of the buyer collecting from the site. Most custom is expected fairly locally in the Maidstone, and north Kent areas, but the applicant's website is expected to attract interest from further afield and arrangements will be possible for courier deliveries, charged to the customer.*

3.2.3 *Mr Brett would be working on the premises full-time, and her partner would provide assistance particularly with works such as maintenance/construction of pens, and associated services (i.e. water, drainage/rainwater collection, and electricity supplies including possible renewable installations).*

3.2.4 *After 3 years, if the venture proves successful, I gather Mrs Brett is likely to seek consent for longterm retention of a mobile/park home (perhaps in the form of a log cabin) - she has no wish to seek to replace this sort of accommodation with a built dwelling.*

#### *Assessment*

3.2.5 *Firstly I would confirm that the existing and proposed poultry pens and sheds, that form part of this application, are appropriate and necessary for the proposed operation of the poultry business.*

3.2.6 *Regarding the mobile home, Para. 55 of the NPPF advises, in the context of sustainable housing development in rural areas, that local planning authorities*

*should avoid new isolated homes in the countryside unless there are special circumstances such as "the essential need for a rural worker to live permanently at or near their place of work in the countryside".*

- 3.2.7 In deciding whether "essential need" applies in individual cases, there is currently nothing to suggest that para. 55, albeit in summarised form, is promoting any significant departure from the sort of considerations that were previously set out in detail in Annex A of PPS7.*
- 3.2.8 Indeed there appears to be a general consensus amongst decision makers (including Planning Inspectors at appeal), advisors, and indeed applicants, that the principles set out in Annex A (particularly relating to functional need, and financial sustainability) continue to be broadly relevant to applications relating to isolated new homes for rural workers in the countryside.*
- 3.2.9 In terms of functional need, I would accept that to properly manage and protect the projected numbers of poultry on this site, it would be necessary to have a residential full-time presence on site, to adequately cover the various factors identified in the submissions, including very late/ very early stock inspection and housing/release, guarding against foxes, ensuring feed and water is available when weather and travelling conditions are adverse, managing/monitoring the incubation and brooding processes, and also protecting the birds and equipment from theft or vandalism.*
- 3.2.10 In terms of financial sustainability, Mrs Brett appears to have a clear intent, and the required practical/technical ability, to develop the enterprise here along the lines proposed; the main issue to consider, in my view, is whether there is clear evidence that the venture is planned on a sound financial basis so as to give Mrs Brett a good prospect of a sufficient livelihood, and particularly whether there is a private retail market sales available for expanding production to the extent that has been assumed. There are quite a number of other small-scale poultry producers already offering similar products and services.*
- 3.2.11 Mrs Brett believes sufficient demand exists for the expansion plans exists, but this is largely based anecdotally from the general level of enquiries she receives and cannot currently fulfil, and it is by no means clear, in my view, that these enquiries (and further enquiries that would be generated by additional advertising) would readily translate into the predicted sales numbers. I am not personally aware of any comparable unit that has demonstrated proven success, in terms of providing anyone with a full-time livelihood, with poultry production on this limited scale.*
- 3.2.12 Other businesses selling poultry also tend to advertise a wide range of equipment, feed, and other poultry supplies, as well as live poultry or eggs, and*

*it may be that quite a degree of on-site or internet-order sales of such other items would be required to sustain the "package sale" demands of the domestic market. This may mean that the nature of the overall activity on site would have to include a fair degree of elements that are technically a non-agricultural use, and which may or may not be considered appropriate in this location.*

*3.2.13 Notwithstanding all the above, the Borough Council quite recently permitted a mobile home to be stationed on a very comparable start-up poultry unit at Woodside Farm, Lenham (ref. MA/11/0634) although I had expressed similar concerns in that case as to the level of available market opportunities. It is arguable that ultimately the level of sales success will only be demonstrated one way or the other if an opportunity to develop the business is afforded; the issue of consistency of approach in planning decisions may also arise, and in fact the Woodside Farm business projections appeared to me significantly more unrealistic than those of Mrs Brett."*

#### **4. REPRESENTATIONS**

4.1 **Councillor Steve Munford** requested that the application be reported to Planning Committee in the event of a recommendation for approval, and made the following detailed comments:

*"The positioning of the mobile home is contrary to ENV 28, in that in my opinion it is damaging to the open countryside.*

*Within this field all previous applications (including those for mobile homes) have been refused by MBC on the grounds that they damage the open countryside."*

4.2 No representations were received from neighbouring residents.

#### **5. CONSIDERATIONS**

##### **5.1 Site Description**

5.1.1 The proposal site is located in a rural location in open countryside with no specific environmental designations in the Maidstone Borough-Wide Local Plan 2000.

5.1.2 The site comprises a level grassed field with an area of approximately 0.3Ha which is considered to have a current lawful use as agricultural land. The site has an existing access central to the east frontage onto Church Hill, an unclassified public highway, which despite its name is in the vicinity of the site a level roadway.

5.1.3 The boundary of the site to Church Hill is characterised by mature native hedgerow, whilst those to the north, south and west are marked by post and rail fencing. The plots to the north and south of the site are in permanent use as residential sites for persons of Gypsy status, respectively known as Fairway and Greenacres. The land to the west of the site is in agricultural use, whilst that to the east, on the far side of Church Hill, comprises parkland associated with Boughton Monchelsea Place.

## **5.2 Development**

5.2.1 The application is partly retrospective; the use of the land for the rearing of birds has commenced (although as activity falling within the scope of "agriculture" this element of the proposal does not constitute development), and there are existing feed/store rooms, breeding pens, and runs on the land, albeit unauthorised.

5.2.2 The proposed development constitutes the erection of an additional brooding shed and rearing shed, together with the stationing of a mobile home on the land to provide accommodation for the applicant and a tourer for provision of an on site office. The proposed brooding shed would have a dual pitched form with a ridge height of 4.1m and eaves heights of 3.3m. The building would have a footprint of 20.16m, measuring 6.3m by 3.2m. The rearing shed would have a mono-pitched form and with a minimum eaves height of 1.7m and a maximum eaves height of 2.1m, and a footprint of 9.8m, measuring 4.9m by 2m. The siting of these structures and chattels are shown on drawing number PA-184-06. No detail has been provided in respect of the external materials of the built structures, however they are of conventional appearance and this can be secured by condition if necessary.

5.2.3 The applicant intends to use the land for the commercial production of fertile eggs, chicks and pullets (birds on the point of lay), the current business having outgrown the existing premises ancillary to the applicant's property in Sittingbourne in a built up environment, and the business has outgrown the current premises, which is not appropriate for an agricultural business such as this. The applicant asserts that the business proposed would require a full time on site presence in order to safeguard the welfare of the animals and to attain standards set out by DEFRA for such enterprises, with whom the applicant is registered on the Great Britain Poultry Register.

## **5.3 Principle of Development**

5.3.1 Whilst the application does not seek planning permission for the erection of a new dwelling, rather the stationing of a mobile home for residential purposes for

a temporary period of 3 years, this remains a residential use, and should be assessed as such.

- 5.3.2 The application is located in open countryside outside the defined settlement boundary of Boughton Monchelsea, and as such is subject to the normal constraints of development in such locations under policy ENV28 (Development in the Countryside) of the Maidstone Borough-Wide Local Plan 2000, which seeks to protect the character and appearance of the open countryside, and restricts new development, including residential development, in the open countryside to certain defined exceptions as set out in the Local Plan. The policy identifies the construction of farm dwellings as an exception to the general presumption against new development if "reasonably necessary" for the purposes of agriculture. In respect of the modest operational development in existence and proposed associated with the keeping of birds on the site, this is considered to be reasonably necessary for the purposes of agriculture on the land, a view which is shared with the Rural Planning Consultant.
- 5.3.3 The National Planning Policy Framework 2012 (NPPF) provides qualified support for "the development and diversification of agricultural and other land based rural businesses", as set out in paragraph 28. The NPPF also identifies "the essential need for a rural worker to live permanently at or near their place of work" as being a "special circumstance" which may overcome resistance to new isolated homes in the countryside (paragraph 55).
- 5.3.4 The Local Plan policy relating to such development, policy H35, has not been saved, and the national planning policy which superseded it, as set out in Annex A of PPS7 "Sustainable Development in Rural Areas", has now been superseded by the NPPF. However, it is considered that in the absence of any adopted policy or guidance, the annex to the now superseded PPS7 (which has been the subject of rigorous public consultation) and sets out functional and financial tests for assessing the need for residential development associated with agricultural enterprises, remains valid in the determination of such applications, and I shall refer to the annex to the document in the assessment of the current application.
- 5.3.5 Paragraph 12 of the annex reads as follows:
- "If a new dwelling is essential to support a new farming activity, whether on a newly-created agricultural unit or an established one, it should normally, for the first three years, be provided by a caravan, a wooden structure which can be easily dismantled, or other temporary accommodation."
- 5.3.6 The purpose of such a temporary consent is to allow a reasonable period to allow an opportunity for the viability of the agricultural enterprise to be established and demonstrated.

- 5.3.7 The annex goes on to set out the criteria against which such proposals should be assessed, which includes evidence of an intention and ability to develop the enterprise; functional need, that the enterprise has been planned on a sound financial basis and that alternative accommodation is either does not exist or is unavailable.
- 5.3.8 In the circumstances of this case, the application satisfies the requirement for a functional need for the operators of the enterprise to be living on the land in connection with the agricultural business, and, in the absence of evidence of an existing viable business have applied for temporary period to be sought in order to allow the viability of the agricultural enterprise to be demonstrated. Whilst supported by a business plan which has been assessed by the Rural Planning Consultant as being unlikely to result in a viable business capable of supporting a full time employee, it is considered in light of a recent appeal decision in Lenham in which it was concluded by the Inspector that, a residential use associated with a new agricultural enterprise may be considered acceptable subject to the submission of a business plan, that it would be unreasonable to refuse the application on this ground. As set out above, the purpose of such temporary consents is to allow an opportunity for the business to establish, and this is a position that the Council has taken in assessing a subsequent application relating to the site referred to above. The appeal decision relating to the enforcement appeal and delegated report relating to MA/11/0634 are attached as Appendix 1. In the event that the business is unviable, and in practice fails the financial test after the temporary period, then further consents for further experimental temporary periods or for permanent dwellings could be refused at that time.
- 5.3.9 For these reasons, I therefore consider that whilst located in the open countryside, the proposed residential use represents a temporary residential use in accordance with the provisions of the annex, and is therefore acceptable in principle.
- 5.3.10 Notwithstanding this, the residential element of the application remains to be considered in the context of all other material considerations, including those of design (including layout and scale) and impact on the open countryside.
- 5.3.11 The application also seeks consent for the retention of existing agricultural buildings and the erection of additional structures, as set out above; this element of the proposal should be assessed in the context of Local Plan policy ENV43 which requires that such proposals should be reasonably necessary for the purposes of agriculture; located within or adjacent to existing buildings; and be of appropriate design; in addition to which proposals should not result in harm to residential amenity or be prejudicial to highway safety.

## **5.4 Design and Visual Impact and Impact on the Open Countryside**

- 5.4.1 As set out above, the operational development for which planning permission is sought is restricted to modest structures of agricultural appearance and function which do not as such appear out of keeping with the rural setting. In any case, the site frontage to Church Hill is well screened with mature native hedging which it is intended to retain. There is therefore no objection to this element of the application.
- 5.4.2 In respect of the stationing of a mobile for residential purposes and a tourer to provide an office, these would be mobile chattels with consent to be stationed for a limited time of 3 years; as such they would have a limited permanent impact upon the appearance of the site. Whilst there would inevitably be some domestic and agricultural paraphernalia associated with the use applied for, this would be seen in the context of the Gypsy sites located immediately to the north and south of the application site, both of which have permanent residential uses granted at appeal. It is therefore not considered that the development for which planning permission is sought would have any significant additional visual impact upon the character and appearance of the open countryside.
- 5.4.3 For these reasons, it is considered, in the circumstances of this case, that the application would have an acceptable visual impact on the character and appearance of the open countryside, which in this location has no specific environmental designations.

## **5.5 Other matters**

- 5.5.1 The proposed development would have no significant impact upon the residential amenity of the occupiers of neighbouring properties, by virtue of the scale of the enterprise, which is suited to a rural setting in which some element of noise associated with the agricultural business might be expected. There are no neighbouring heritage assets which might be adversely affected by the development.
- 5.5.2 The site has an existing vehicular access, and the agricultural and residential use would be unlikely to give rise to significant additional levels of traffic. Notwithstanding this, an informative setting out the scope of the permission should be attached to the permission for the avoidance of doubt.
- 5.5.3 The site is not located on land recorded by the Environment Agency as being prone to flood. The use has commenced, and therefore any ecological impacts would have occurred prior to the submission of the current application. The character of the site, being open grassland and its location between two existing



residential caravan sites is such that it is unlikely to be of significant biodiversity interest in any case.

## **6. CONCLUSION**

- 6.1 For the reasons set out above, the application for planning permission for the erection of agricultural buildings and a touring caravan, and the temporary stationing of a mobile home for a period of 3 years is considered to accord with the policies of the Development Plan (Maidstone Borough-Wide Plan 2000) and the National Planning Policy Framework 2012, and I therefore recommend it for approval, subject to the following conditions.

## **7. RECOMMENDATION**

GRANT PLANNING PERMISSION subject to the following conditions:

1. The residential use hereby permitted shall cease, and the residential caravan and agricultural structures hereby permitted shall be removed from the land on or before 15th May 2016;

Reason: The site is in an area where the stationing of caravans/mobile homes is not normally permitted, and an exception has been made to enable the applicants to establish and achieve the forecasted growth potential of the business enterprise, and for the situation thereafter to be reviewed at that time, in accordance with Maidstone Borough-Wide Local Plan 2000 Policy ENV28 and national planning policy as set out in the National Planning Policy Framework 2012.

2. No more than one residential caravan, as defined in Section 24(8) of the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 shall be stationed on the land at any one time.

Reason: To accord with the terms of the application and in the interests of the visual amenity in accordance with Policy ENV28 of the Maidstone Borough-Wide Local Plan 2000 and national planning policy as set out in the National Planning Policy Framework 2012.

3. Within two months of the date of this permission, details of the method of foul sewage treatment shall be submitted to the Local Planning Authority for approval;

Reason : in order to ensure that suitable sewage treatment is provided for the development and therefore to protect the environment and human health in accordance with policy ENV28 of the Maidstone Borough-Wide Local Plan 2000

and national planning policy as set out in the National Planning Policy Framework 2012.

4. The development hereby permitted shall be carried out in accordance with the following approved plans:

drawing numbers PA-184-01, PA-184-04, PA-184-05 and PA-184-06, and 3No. un-numbered photographs, supported by a design and access statement and business plan, all received 10th October 2013 and drawing numbers PA-184-02A and PA-184-03A received 7th May 2013;

Reason: To accord with the terms of the application and in the interests of the visual amenity in accordance with Policy ENV28 of the Maidstone Borough-Wide Local Plan 2000 and national planning policy as set out in the National Planning Policy Framework 2012.

5. Within two months of the date of this permission, samples and details of the surface materials to be used in the construction of the buildings hereby permitted shall be submitted to the Local Planning Authority for approval;

Reason: To accord with the terms of the application and in the interests of the visual amenity in accordance with Policy ENV28 of the Maidstone Borough-Wide Local Plan 2000 and national planning policy as set out in the National Planning Policy Framework 2012.

6. The occupation of the caravan hereby approved shall be limited to a person solely or mainly working, or last working, on the site identified as being outlined in red on the attached plan in agriculture (as defined in Section 336 (1) of the Town and Country Planning Act 1990) or in forestry, or a widow or widower of such a person, and to any resident dependants;

Reason: The site is in an area where new residential development is not normally permitted unless essentially required for the proper functioning of the enterprise concerned. This in accordance with Policies ENV28, ENV33 and ENV34 of The Maidstone Borough-Wide Local Plan 2000.

### **Informatives set out below**

Please note that this temporary consent is restricted to agricultural and residential use, as set out in the description and restricted by condition, and whilst this may include the sale of eggs, chicks and pullets from the site, does not allow for retail or other commercial uses to operate from 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 and duty desk service.

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:

The application was acceptable as submitted and no further assistance was required.

The application was considered by the Planning Committee where the applicant/agent had the opportunity to speak to the committee and promote the application.

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.