

APPLICATION: MA/12/1797 Date: 2 October 2012 Received: 15 March 2013

APPLICANT: Mr Mark Ansell

LOCATION: THE STY, HUNTON ROAD, MARDEN, TONBRIDGE, KENT, TN12 9SQ

PARISH: Marden

PROPOSAL: A retrospective application for the extension of garden land at The Sty, Hunton Road, Marden as amended by revised application site area on plan date stamped 15 March 2013.

AGENDA DATE: 6th June 2013

CASE OFFICER: Amanda Marks

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: ENV6, ENV28, H31
- Government Policy: The National Planning Policy Framework 2012

## **2. HISTORY**

MA/11/1008 THE STY, HUNTON ROAD, MARDEN Variation of conditions 1 & 2 of planning permission MA/08/2029 (retrospective application for the change of use of land from mixed use for parking of a touring caravan and keeping of horses to parking of a touring caravan, a mobile and keeping of horses) REFUSED 11/08/2011 APPEAL DISMISSED

MA/08/2029 THE STY, HUNTON ROAD, MARDEN Retrospective planning application for the change of use of land from mixed use for parking of a touring caravan and keeping of horses to parking of a touring caravan, a mobile and keeping of horses

REFUSED 24/12/2008 APPEAL ALLOWED

MA/06/2183 THE STY, HUNTON ROAD, MARDEN Retrospective planning permission for tarmac surfacing of type 1 and fill, surfaced hard standing to garage and stable block APPROVED 1/02/07

MA/06/2182 THE STY, HUNTON ROAD, MARDEN Retrospective planning permission for extension to garage/stable block, insertion of roof vent to stable and addition of a security light to garage APP 24/1/07

MA/06/2136 THE STY, HUNTON ROAD, MARDEN Retrospective planning application for the change of use of land from keeping of horses to a mixed use for parking of a touring caravan and keeping of horses APP 17/1/07

MA/99/1726 THE STY, HUNTON ROAD, MARDEN Change of use of land to the keeping of horses, the erection of a private stable block and garage and the construction of a private sand ménage APP 4/2/00

## **SITE HISTORY CONSIDERATIONS**

Deliberations of the Planning Inspectorate in Dismissing the appeal on application MA/11/1008

The application site has a fairly lengthy planning history as set out above. This application is for a different site area than previously considered and has been substantially scaled down since its original submission. The type of application also differs from previous submissions and therefore so does the planning policy which is needs to be considered against – this will be further explained in the main body of the report.

## **3. CONSULTATIONS**

- 3.1 **Parish Council:** first set of comments; Councillors would like to see the application refused because:
- i) There is no justification included with the application
  - ii) The application is not valid because section 25 on the form has not been signed
  - iv) We understand that this application is retrospective and thus planning enforcement needs notifying.

**Re-consultation:** wish to see the application refused and request it be reported to planning committee. The PC consider this to be an encroachment into the open countryside and are concerned that no justification for the works being proposed has been given.

#### **4. REPRESENTATIONS**

- 4.1 One neighbour letter initially raising objection on the grounds that this application is retrospective. Further comments received after reconsultation from the same neighbour stating that if the applicant is granted planning permission to extend their residential curtilage then this will enable them to relocate an existing ancillary mobile home in their garden which will cause harm to the rural and general open character and appearance of the area. This would be in direct conflict with the development plan and as suggested by the Planning Inspector.

The same objector also raised issues relating to procedural matters relating to the planning application which have been responded to by the case officer.

#### **5. CONSIDERATIONS**

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

- 5.1.1 The application site is located in the open countryside in the Parish of Marden. The site lies on the eastern side of Hunton Road to the north-west of Marden village centre. The main dwelling is a detached bungalow which is set back from Hunton Road by approximately 5metres. To the north/north east of the bungalow lies a ménage, stable block and garage. The site does not fall within any specific designation within the local plan, although it is within Flood Zone 3a.
- 5.1.2 To the south of the appeal site is a detached bungalow, and beyond this a pair of semi-detached cottages; to the north, east and west of the applicant's land are open fields and hedgerow boundaries of varying thickness and height. The rear curtilage of the bungalow contains a substantial amount of hard standing and it is not obvious where the lawful 'garden land' finishes and the other uses relating to the stabling start. Ariel photographs and Ordnance survey data has been relied upon to ascertain the lawful extent of the existing garden land.

##### **5.2 Proposal & Site History**

- 5.2.1 Planning permission is sought to extend the existing lawful garden land at the rear of the bungalow by an additional 10m in depth. The characteristics of the site at present already gives the appearance that this additional area of land

does form part of the garden. The additional area of land would be 17m wide initially and taper to 15m when reaching the end of the 10m length. The application originally proposed to change the use of an area roughly 'L' shaped and over double the size of the amended scheme. The original scheme also extended east beyond the rearmost line of the approved ménage and into the open field beyond.

- 5.2.2 Planning application MA/08/2029 was refused as the applicant's wished to site a mobile home in the open countryside on land to the east of the stables. The planning inspector allowed the appeal for a temporary period of two years as additional accommodation ancillary to the bungalow. The Council then refused permission to retain the mobile home permanently under application MA/11/2008; again the applicant appealed and this time the appeal was dismissed on the grounds of harm to the countryside.
- 5.2.3 An enforcement notice required the applicant to remove the mobile from the site and cap all services. This was duly done and checked on site by planning enforcement. The applicant moved the mobile to within their lawful garden where it does not require planning permission. However, this means that the mobile home is immediately adjacent to the neighbouring property on the southern boundary. In order to mitigate the impact on the neighbour and also to minimise the impact on the Sty, the applicant seeks a solution.
- 5.2.4 It is important to appreciate that this application is different to those previously considered as it is the first time that the applicant has sought a change of use to garden land.

### **5.3. Principle of Development**

- 5.3.1 The main issue for consideration is the acceptability of the proposal when considered against Policy H31 of the Maidstone Borough Wide Local Plan 2000. This policy states:

*"Planning permission will not be granted for the change of use of agricultural land to domestic garden if there would be:*

- (1) Harm to the character and appearance of the countryside; and/or*
- (1) Loss of the best and most versatile agricultural land.*

- 5.3.2 In this instance the land in question does not form part of an agricultural holding, the parcel of land has been under hard core for a significant period of time and incorporated within the lawful garden for a number of years. With regard to the visual impact of the change of use, this in itself would be substantially unchanged from the existing site appearance. Views are also

limited to from the rear of the site and the neighbouring properties; there are no far reaching or public views of the site which is also well screened from Hunton Road by the existing dwelling.

- 5.3.3 Policy ENV28 of the MBWLP 2000 also affords protection to the countryside. Due to the characteristics of the site (further explored below) it is not considered that this policy would be compromised.
- 5.3.4 The parcel of land now being considered relates well to the existing garden land pertaining to the Sty. As an extension to the existing garden it follows the width of the existing and does not encroach beyond the field margin previously referred to.
- 5.3.5 In terms of the principal of the proposal this is considered to accord with Policy H31.

## **5.4 Visual Impact**

- 5.4.1 As suggested already in this report, the application has limited visual impact within the locality. The change of use will not significantly encroach into the countryside. For the reasons stated, the mobile home is not for consideration as part of this application. However, the current position of the mobile is not ideal as in my opinion it does compromise the amenity of the neighbour at the gatehouse bungalow. It is my understanding that if this application is permitted, then the applicant will be moving the bungalow onto the extended garden area. I consider this a far more satisfactory arrangement than the previous location which did not relate well to the residential curtilage of the Sty.
- 5.4.2 The setting of the Sty and the land which belongs with it will not be compromised by this proposal. Along with the Sty, there is a fair amount of hardsurfacing which relates to the stables, ménage and agricultural use of the field beyond. This is immune from enforcement action and therefore will remain. The visual appearance of the overall site from close proximity is therefore clinical but cannot be altered through the planning process. With this in mind the visual appearance of the change of use is negligible.
- 5.4.3 Due to the existing 'lawful' hardstanding that remains elsewhere on the site, it is not realistic to require additional planting on the application site boundaries by way of condition. However, by way of an informative the applicant should be encouraged to break up some of the 'historical hardsurfacing' and provide a more attractive setting for his property.

## **5.5 Other Matters**

- 5.5.1 With regards to the initial comments of the parish council, I advise as follows:  
The applicant is not required to justify the reason for the planning application; section 25 has now been signed on the application form; planning enforcement are fully aware of this site and have undertaken recent site visits.
- 5.5.2 With regard to the second set of comments from the Parish, it is not considered that the proposal would result in encroachment into the open countryside for the reasons set out earlier in this report.
- 5.5.3 There has been planning history with this site as raised by the immediate neighbour, but the current planning application must be considered on its merits and against the relevant planning policy.
- 5.5.4 It is understood that since the case officer's most recent visit to the site, that the applicant has undertaken some substantial boundary planting and initial works in anticipation of moving the mobile home. The additional planting does not require planning permission and until such time that this application is determined it would not be appropriate to take enforcement action on any 'enabling' work.

## **6. CONCLUSION**

- 6.1 In light of the above considerations I consider that the proposal to change the use of the land to garden land is acceptable and in accordance with policy.

## **7. RECOMMENDATION**

GRANT PLANNING PERMISSION:

### **Informatives set out below**

The applicant is encouraged to improve the land outside the application site by breaking up the hardstanding previously laid where the mobile home was formerly sited and implementing a thorough landscaping scheme using native species.

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 approved without delay.

The applicant/agent was advised of minor changes required to the application and these were agreed.

The applicant/agent was provided with formal pre-application advice.

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, 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.