

APPLICATION: MA/13/1109 Date: 2 July 2013 Received: 4 July 2013

APPLICANT: Mr Kevin Taylor

LOCATION: 7-8, ST HELENS COTTAGES, ST HELENS LANE, WEST FARLEIGH, MAIDSTONE, KENT, ME15 0JZ

PARISH: Barming, East Farleigh, West Farleigh

PROPOSAL: An application to vary condition 3 of MA/06/0804 to allow the stationing of four field shelters on the land as shown on the site location and block plan received 20th June 2013.

AGENDA DATE: 19th September 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 West and East Farleigh Parish Councils.

## **1. POLICIES**

- Maidstone Borough-Wide Local Plan 2000: ENV6, ENV28, ENV35, ENV46, ENV49, T13
- Government Policy: National Planning Policy Framework 2012, PPS25 Development and Flood Risk – Practice Guide, Use of Conditions in Planning Permissions (Circular 11 of 1995)

## **2. HISTORY**

MA/10/1391 - Change of use of land from agriculture to a mixed use for a camp site, fishing and the keeping of horses – REFUSED

MA/06/1571 - An application for a certificate of lawfulness for an existing development being the stationing of 2 no. Mobile Homes within the curtilage of 7/8 St. Helens Cottages for purposes incidental to the enjoyment of the dwelling house – APPROVED

MA/06/0804 - Change of use of land to the keeping of horses as a small paying concern for a maximum of 9 no. horses (with no horse boxes on site) plus erection of 3 no. mobile field shelters – APPROVED WITH CONDITIONS

MA/06/0562 - An application for a certificate of lawfulness for an existing development being the use of the land for the stationing of 2 no. mobile homes (7 St Helens Cottages) – REFUSED

MA/77/0931 - Single storey rear extension and dormer window conversion - APPROVED

MA/76/0670 - Internal alterations and erection of garage – APPROVED WITH CONDITIONS

Enforcement:

ENF/12714 - Horse Shelters - CASE CLOSED (planning application invited) 5<sup>th</sup> June 2013

ENF/11227 - Site being used as a new campsite – CASE REMAINS OPEN PENDING DETERMINATION OF MA/10/1391

ENF/9686 - Use of land to provide camping facilities for general public – CASE CLOSED (no breach) 10<sup>th</sup> October 2007

ENF/9128 - Advertisement for grazing – CASE CLOSED (breach resolved) 11<sup>th</sup> January 2008

ENF/8685 - Alleged livery use on land - CASE CLOSED (no breach) 17<sup>th</sup> August 2006

ENF/8373 - Unauthorised stationing of a mobile home - CASE CLOSED (planning permission granted - MA/06/1751) 28<sup>th</sup> November 2006

414/4123 - Mobile home sited outside residential curtilage - CASE CLOSED (no breach) 14<sup>th</sup> June 1999

414/2829 - Use for camping/caravanning - CASE CLOSED (no reason given) 16<sup>th</sup> April 1997

414/2740 - Stationing of mobile home - CASE CLOSED (no reason given) 27<sup>th</sup> June 1996

- 2.1 The current application has been submitted in response to an enforcement investigation (ENF/12714) into the breach of a planning condition attached to MA/06/0804 which granted planning permission for the use of the land for the commercial keeping of 9 horses. The condition restricted the number of horse shelters on the land to a maximum of 3.

### **3. CONSULTATIONS**

- 3.1 **West Farleigh Parish Council** wish to see the application refused on the grounds of highway safety, and made the following detailed comments:

*"With reference to MA/10/1391, which was the previous application submitted, there were highways issues highlighted which were of grave concern to the Parish Council. This application highlights the same highways issues as the resulting traffic movements of horse boxes and arising related vehicles is inappropriate due to the narrowness of St Helens Lane."*

- 3.2 **East Farleigh Parish Council** wish to see the application refused on the grounds of highway safety, and made the following detailed comments:

*"There were serious highways issues associated with the previous application (MA/10/1391) and this one has the same issues: traffic movements would be inappropriate for the narrowness of St Helen's Lane."*

- 3.3 **Barming Parish Council** did not wish to comment on the application.

- 3.4 **Councillor Gooch** has raised concerns over issues of highway safety, impact on the visual quality of the environment and failure to take enforcement action, and makes the following detailed comments:

*"The protection of the character and appearance of the Medway Valley is a vital element of the emerging Local Plan and one which I and many others are particularly keen to secure. I am therefore very concerned about this retrospective application."*

*As I understand the situation, failure to take timely enforcement action against non compliance of the condition has meant that the unauthorised shelter is 'settling in'. This has subsequently diminished any potential grounds of refusal on any landscape grounds. More to the point, lack of enforcement action is effectively promoting creeping development, inappropriate and harmful to the very local character and appearance of the Medway Valley which we seek to protect."*

*I would respectfully suggest that from the extensive highways evidence that substantiated grounds of refusal for the recent campsite application MA/10/1391, such precedence could similarly justify refusal of this retrospective application on highway grounds, because the resulting increase in traffic*

*movements of horse boxes and other related vehicles arising from the additional stabling is inappropriate and unsuitable for the narrowness of St Helens Lane."*

- 3.5 The **Kent County Council Highway Officer** raises no objection to the application, and makes the following detailed comments:

*Condition 2 of planning application MA/06/0804 requires that no more than 9 horses shall be kept on site at any time for the purpose of commercial livery. This condition remains unchanged and this application will not lead to any increase in the number of horses on site but will allow for a shelter to be provided for use for existing horses. The application is not likely to lead to any increase in traffic movements therefore I do not wish to raise objection."*

#### **4. REPRESENTATIONS**

- 4.1 A site notice was displayed at the site on 22<sup>nd</sup> July 2013.
- 4.2 One neighbour representation was received as a result of the publicity procedure, which raised concern in respect of highway safety and damage to private property.

#### **5. CONSIDERATIONS**

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

- 5.1.1 The application site is located within a rural location in open countryside designated as being within the Medway Valley Area of Local Landscape Importance (ALLI). The northern third of the site is located within flood zone 3 (functional floodplain) and the southern two thirds of the site within flood zone 2, as recorded by the Environment Agency. The site is located within the Parish of West Farleigh, however the boundary between East and West Farleigh runs along St Helens Lane in this locality, and as such comments were sought from both bodies.
- 5.1.2 The site comprises land to the north and north west of St Helens Cottages to the west of St Helens Lane. The land is mainly field/paddock land, which slopes to the north, down to the River Medway. Built development is restricted to the south east corner of the site, where the site boundary includes the residential property 7-8 St Helens Cottages, the northern most in a terrace of nineteenth century dwellings, as well as two caravans ancillary to the main dwellinghouse, two toilet blocks and a swimming pool.
- 5.1.3 The site is located on the southern slope of the Medway Valley, and in an elevated position relative to the river and the public footpath (the KM4) and

Medway Valley railway line which run along the opposite side of the river to the north of the site.

- 5.1.4 The site is bounded to the west by agricultural land, and to the north by agricultural land and land in equestrian use. To the east is agricultural land and agricultural buildings associated with Riverdale Farm, and the River Medway forms the northern boundary of the site. The closest residential properties are St Helens Cottages, which adjoin the site to the south.
- 5.1.5 The site is located to the west of St Helens Lane, an unclassified narrow single track public highway with no passing or turning areas. The site is currently accessed via an access way to the south and west of St Helens Lane.
- 5.1.6 St Helens Lane is officially a through road between Barming Road in the north and Lower Road (the B2010), however Barming Bridge, approximately 185m to the north of the site, has been closed to vehicular traffic since 1996 although it remains open to non-motorised traffic. There is no realistic expectation that the necessary works to make the structure safe for vehicle transit will take place in the foreseeable future. The highway therefore effectively serves only the properties located to the south of the river, which include 18 dwellings to the south of St Helens Cottages; St Helens Cottages themselves which although built as 8 cottages, are in fact occupied as 5 residential units; and to the north of the site, three dwellings, Riverdale Farm and a pumping station.

## **5.2 Application**

- 5.2.1 The application is retrospective, and seeks planning permission for the variation of condition 3 attached to MA/06/0804 to allow an additional horse shelter to be stationed on the land to facilitate the lawful use of the land for the commercial keeping of a maximum of 9 horses on the land.
- 5.2.2 The stationing of a field shelter on the land to serve a lawful use would not normally require planning permission, however in this case conditions restrict the number of field shelters and other chattels on the land in terms of their number and their location within the site.
- 5.2.3 The current application was submitted in response to an enforcement investigation (ENF/12714).

## **5.3 Principle of the variation of the conditions**

- 5.3.1 The site benefits from planning permission for the use of the land for the keeping of up to 9 horses under the consent granted under MA/06/0804. The impact of the use in respect of the planning policy framework and all other

material considerations, including visual impact, impact on highway safety and impact on residential amenity were considered by the Planning Committee at the time of the determination of the 2006 application. The reason for imposing the conditions on the original consent was to protect the character and appearance of the open countryside and the Area of Local Landscape Importance.

- 5.3.2 The field shelter is of conventional appearance and scale, being made of timber and providing two stabled areas with an overhang to the front elevation.
- 5.3.3 Assessment of the current application is restricted to the impact of the introduction of an additional field shelter to serve the lawful use of the land. The current application does not seek consent for intensification of the use in respect of the number of animals that can be kept on the land, or any change to the nature of the use of the land.

#### **5.4 Visual Impact**

- 5.4.1 As set out above, the variation would allow the stationing of an additional horse shelter on the land, which aerial photographs in the possession of the Local Planning Authority indicates has been on the land for some time. The shelter is a non-permanent chattel capable of being moved around or removed from the site, and serves an existing use of the land. The shelter is stationed in the south of the land adjacent to a hedge and in close proximity to two of the other three shelters. In this context, the additional field shelter is not considered to be significantly visually intrusive or out of keeping with the character or appearance of the area, or to be detrimental to the openness of the Area of Local Landscape Importance. The stationing of an additional field shelter on the land is not considered to exceed what might be reasonably expected in association with the lawful use of the land.
- 5.4.2 For these reasons, the application to vary the condition is not considered to be detrimental to the visual quality of either the open countryside or the Medway Valley Area of Local Landscape Importance.

#### **5.5 Highway Safety**

- 5.5.1 The comments of the Parish Councils and Councillor Gooch are noted, however as set out above, the introduction of an additional field shelter would not result in an intensification of the use, which by virtue of condition 2 attached to MA/06/0804 is restricted to the keeping of 9 horses. This is supported by the comments of the Kent County Council Highway Services Engineer, who confirms that the introduction of the field shelter does not give rise to any additional vehicle movements.

5.5.2 For these reasons, it is not considered that there is any objection to the proposal on the grounds of highway safety.

## **5.6 Other Matters**

5.6.1 The development does not have any significant implications for landscaping and would not result in harm to ecological or heritage assets. The site is known to be within an area recorded by the Environment Agency as being prone to flood, however the scale and character of the development is such that it is not considered that the variation of the condition would result in exacerbation of flood or increased hazard to human health in this regard. The proposal would not result in harm to residential amenity.

5.6.2 I note Councillor Gooch's comments on the enforcement of breaches and the risk of "creeping" development. As Members will be aware, enforcement is a reactive function of the Council, and breaches are investigated following receipt of complaints. In the circumstances of this case, the complaint received was investigated promptly, and it was considered appropriate and expedient to invite an application rather than taking formal enforcement action for the reasons set out above.

5.6.3 Concerns of damage to private property are not planning matters.

5.6.4 This permission would in effect be new planning permission for the use permitted under MA/06/0804, and therefore in the circumstances of this case, it is considered to be necessary and appropriate to impose conditions restricting the number and position of the field shelters and restating those attached to MA/06/0804, in order to ensure conformity with the existing consent.

## **6. CONCLUSION**

6.1 For the reasons stated above it is considered that the application is in accordance with the policies of the Development Plan (Maidstone Borough-Wide Local Plan 2000) and central government planning policy as set out in the National Planning Policy Framework 2012, and I therefore recommend the application for approval.

## **7. RECOMMENDATION**

GRANT PLANNING PERMISSION SUBJECT TO CONDITIONS:

1. Excepting the four fields shelters hereby approved, no additional buildings or temporary structures including horse jumps or fields shelters, shall be erected, placed or allowed to remain on the land unless the prior written approval of the

Local Planning Authority has been obtained;

Reason: To safeguard the character and appearance of the countryside and Area of Local Landscape Importance.

2. The additional field shelter hereby approved shall not be positioned outside the red outline shown on the attached plan (plan number 1);

Reason: To safeguard the character and appearance of the countryside and Area of Local Landscape Importance.

3. No more than nine horses shall be kept on the site at any time for the purpose of commercial livery.

Reason: To prevent an inappropriate increase in the scale and effects of this economic activity on the countryside, amenities of surrounding properties and highway network.

4. The use of the land hereby permitted shall only be used as a commercial enterprise for nine horses in connection with the occupation of the dwelling known as '7 & 8, St Helens Cottages' outlined in red on the attached plan (plan number 2);

Reason: To ensure that adequate security and supervision is provided to the animals kept on the land.

5. No new surface shall be placed or allowed to remain on the land unless the prior written approval of the Local Planning Authority has been obtained;

Reason: To safeguard the character and appearance of the countryside and Area of Local Landscape Importance.

6. No floodlighting shall be installed on the site without the prior written consent of the Local Planning Authority;

Reason: To safeguard the character and appearance of the countryside and Area of Local Landscape Importance.

7. 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 parking/turning areas approved under MA/06/0804, 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.

8. Within three months of the date of this decision a scheme for the disposal of surface water and run-off from the shelters, any hardstandings, manure heaps, shelter washings and hay soaking areas has been submitted to and approved by the Local Planning Authority and these works shall be completed in accordance with the approved details and maintained thereafter;

Reason: To ensure adequate drainage arrangements and prevent the risk of polluting run-off entering either ground or surface waters.

### **Informatives set out below**

Foul water from stables and water from hay washing must not enter any watercourse. Manure must be stored at least 10 metres away from any watercourse in accordance with the 'Code of Good Agricultural Practice for the Protection of Waters' in order that there is no risk of polluting run-off entering either ground or surface waters and causing pollution.

The applicant should take note of the Environment Agency's Pollution Prevention Guidelines, 'PPG24 - Stables, Kennels and Catteries'

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