

APPLICATION: MA/13/2091 Date: 4 December 2013 Received: 5 December 2013

APPLICANT: Crismill Lane Ltd.

LOCATION: PEGASUS GYMNASTICS CLUB, CRISMILL LANE, BEARSTED,
MAIDSTONE, KENT, ME14 4NT

PARISH: Thurnham

PROPOSAL: Demolition of existing gymnasium building and removal of parking area, and erection of 3 detached dwellings with associated garaging and creation of new site entrance as shown on drawing nos. 13-50-02 RevF, 13-50-03 RevB, 13-50-04 RevA, 13-50-05 RevB, 13-50-06 RevB, 2898/DR/001B, and 2898/DR/002D received on 27th February 2014, and 13-50-07 RevA received on 4th April 2014.

AGENDA DATE: 1st May 2014

CASE OFFICER: Richard Timms

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

- It is a departure from the Development Plan.

1. POLICIES

Maidstone Borough-Wide Local Plan 2000: ENV6, ENV28, ENV34, T13
Government Policy: National Planning Policy Framework (2012), National Planning Practice Guidance (2014)
Draft Maidstone Borough Local Plan: SS1, SP5, DM1, DM4, DM30

2. HISTORY

MA/99/0009 Over roofing existing asbestos cement, duo pitch roof to gymnasium – APPROVED WITH CONDITIONS

MA/93/1688 Change of use of light industrial unit to gymnasium – APPROVED WITH CONDITIONS

MA/84/1655 Change of use of the warehouse for the storage, testing and servicing of audio equipment – APPROVED WITH CONDITIONS

MA/75/0336 Use of land for the storage of timber – APPROVED WITH CONDITIONS

MA/74/0082 Timber storage building and a sawdust cyclone for commercial use – APPROVED WITH CONDITIONS

Other applications for workshop/storage/office building in the 1960's that were approved, and single dwellings/bungalows in the late 1960's and 70's that were refused and approved.

3. CONSULTATIONS

3.1 **Thurnham Parish Council:** No objections.

3.2 **Kent Highways:** No objections.

3.3 **MBC Landscape Officer:** Some concerns raised but overall no objections subject to conditions securing replacement trees and securing the tree protection plan.

3.4 **KCC Ecological Advice Service:** No objections subject conditions securing the recommended mitigation and enhancements.

3.5 **MBC Environmental Health Manager:** No objections subject to a condition requiring a traffic noise assessment and any necessary mitigation.

3.6 **Environment Agency:** No objections

3.7 **Southern Water:** No objections.

4. REPRESENTATIONS

4.1 Local Residents: Five representations received raising the following (summarised) points:

- Support for application.
- Development will improve traffic conditions on Crismill Lane and the A20.
- Houses will blend in well.
- Concerns over pruning of oak tree on neighbouring land.
- Questioning contents of marketing report.

5. CONSIDERATIONS

5.1 Introduction

5.1.1 This is an application for the demolition of an existing gymnasium building and removal of parking area, with the erection of 3 detached dwellings with associated garaging, and creation of a new site entrance at the former 'Pegasus Gymnastics Club', Crismill Lane, Bearsted.

5.2 Site Description

5.2.1 The application site is on the west side of Crismill Lane, a single track lane accessed off the A20 some 250m south of the site. The site was formerly part of a larger commercial site (which is to the south) built in the 1960's but was separated in the 1990s when it was used as a gymnasium, a use which continued until the end of last year. The site has a large two storey building along most of its frontage with access on the south side. To the rear, the site is almost entirely hard surfaced. The site is an L-shaped area with a narrow part extending to the north. There is a pond immediately to the north and the commercial premises within a single storey building to the south. Woodland tree preservation order (No. 16 of 2007) covers trees immediately to the north and west.

5.2.2 The site is just under 1km east of the settlement boundary of Bearsted and so within the countryside for planning purposes. It also falls within a Special Landscape Area in the Local Plan.

5.3 Proposal

5.3.1 Permission is sought to demolish the existing building and erect three detached two storey houses. The existing southern access would be closed off and a new single access would be created within the centre of the site to serve all three houses. There would be two houses either side of the entrance and one towards the rear.

5.3.2 The front houses would set back between 3m to 5.5m from the lane with landscaping in front. Plot 1 would be on the south side of the entrance and would have a roughly L-shaped footprint with maximum width of 11.5m and depth of 16m. It would have a ridge height between 7.5m to 8m, and eaves 5m. There would be a gable with a large projecting first floor window facing the lane, and hipped gable to the rear. Plot 3 would be on the north side of the entrance and would have a roughly L-shaped footprint with maximum width of 14m and depth of 10.5m. It would have a ridge height between 7.5m to 8.5m, and eaves 5m. It would have two gables at either end facing the lane and a large gable to the

rear. Plot 2 would be at the rear of the site again with a roughly L-shaped footprint, maximum width 13m and depth 11m. It would have a ridge height of 8m, and eaves 5m. The front of the house would face southwest where there would be two gables and there would be a hipped gable at the rear.

- 5.3.3 The houses would be of similar design style and appearance but would be different in terms of their form, shape and footprint. All houses would feature gables, hipped roofs, clay tiled roofs, brickwork, tile hanging, render with real exposed timber beams, and timber windows.
- 5.3.4 Plot 1 would have an integral double garage and two parking spaces outside. Plot 2 would have a detached single garage with two spaces outside. Plot 3 would have an integral double garage with two spaces outside. Driveways and turning space would be provided within the centre of the site with gardens to the rear of houses.

5.4 Principle of Development

- 5.4.1 The application site lies outside any defined settlement boundary and is within the open countryside for the purposes of the Development Plan. Policy ENV28 of the Local Plan restricts development in the countryside to specific types of which new housing is not one. As such, the provision of a dwelling at the site is contrary to the Local Plan.
- 5.4.2 However, it is noted the NPPF advises at paragraph 49 that, "*relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites.*" At this moment in time the Council cannot demonstrate a 5 year supply and as such policy ENV28, which restricts housing in the countryside, cannot be grounds for a principle objection to the proposals. The NPPF advises that with the lack of a five year supply housing applications should be considered in the context of the presumption in favour of sustainable development, which means that permission should be granted unless any adverse impacts would significantly and demonstrably outweigh the benefits of the application, when assessed against the policies of the NPPF as a whole.
- 5.4.3 The applicant has put forward a number of arguments in favour of the development. This includes an opinion that the current D2 use (leisure) is not suitable at a rural location, that the D2 use, or alternatives are not commercially viable, and that the three houses would reduce vehicle movements and be more suited to the location. The applicant also cites the NPPF's aim of encouraging the efficient use of previously developed land (paragraphs 17 and 111). I agree there is merit in considering these points.

- 5.4.4 In terms of the existing D2 use, planning policies would seek to focus such use towards town centres where they can be better accessed by a range of transport and where journeys can be linked. Therefore I agree that such a use is not appropriate for this location.
- 5.4.5 In terms of viable use, the applicant has submitted a surveyors marketing report. This outlines that the property was marketed by the previous owners (Pegasus Gym) from June 2012 with its D2 use. Some interest was shown, largely from leisure type occupiers but also commercial users. However, the majority were put off by the narrow single track lane on Crismill Lane and the fact that the access into the site is very tight and would prevent HGV's being able to access, which limits its commercial use. There was also no interest in B1 use as the owner at the time had offered to submit a planning application but this was not taken up. The property was marketed for 14 months and failed to produce a viable offer for either D2 use or commercial use despite good marketing, and nothing progressed to a sale. The property was eventually bought by the applicant of this application and the 'Pegasus Gym' has relocated to Tovil. I consider this does demonstrate that the D2 use or alternatives are unlikely to come forward at the site and so it would remain vacant and unused.
- 5.4.6 With regard to vehicle movements, a transport statement has been submitted which demonstrates that three houses would generate significantly less traffic on the local highway network than the D2 use. The previous gymnasium use created between 178 and 213 movements (inbound & outbound) during two weekday 12 hour periods (9am to 9pm). The proposed three houses are likely to generate 16 movements during a 12 hour period. This is a significant reduction in movements and in vehicle trip terms, is clearly a much more sustainable use.
- 5.4.7 For the above reasons, I agree there is merit in considering an alternative use at this site and the main issues to now consider are visual impact and protected trees, residential amenity, ecology, and highways.

5.5 Visual Impact

- 5.5.1 The existing two storey building is prominent from the lane being set close to the front of the site. I consider that its removal and replacement with houses would result in some improvement to the appearance of the site. The houses would be set back at the front of the site and will allow for native planting along the frontage, which would result in an good site frontage. There is no distinct character of houses along Crismill Lane and I consider the design approach would be suitable subject to good quality materials which can be secured by condition.

5.5.2 In terms of any wider impacts, the site benefits from some screening to the north from existing protected trees and the existing commercial building to the south would serve to largely screen views from the south. There is a protected tree line along the rear, west of the site which would break views of the development from a public footpath path to the west. Overall, I do not consider the proposal would result in any significant harm to the landscape.

5.5.3 As outlined above, there are protected trees to the west and north. A tree assessment has been carried out which proposes the removal of two trees along the rear, west of the site, and a row of trees along the front of the site to facilitate the development. These are all category C grade trees which should not normally constrain development. In addition, four trees along the rear of the site are proposed for removal because they are in a poor condition (category U) so for reasons of sound arboricultural management. The landscape officer has raised the point that whilst these trees are C and U category trees and would not normally be considered a constraint, because they are protected by the woodland TPO, the area will over time be subject to regeneration with similar stature trees. However, both the landscape officer and I do not consider that this is sufficient grounds to refuse the application. Following further discussion, it is considered that suitable replacement trees along the rear of the site could actually offer a better long term solution and as the applicant owns the strip of land to the rear this can be secured by condition. Otherwise development within any root protection areas would be carried out with a 'no dig' construction method to ensure no damage is caused. Overall, I consider the impact upon trees would not be objectionable.

5.6 Residential Amenity

5.6.1 There are no nearby houses that the development would impact upon in terms of privacy or outlook. The houses themselves have been designed not to overlook gardens and so would have private areas, and are spaced to have an acceptable outlook. The garden area for plot 3 is fairly small but the Council does not have specific size standards, and I consider it would provide suitable amenity space and therefore living standards. The commercial premises to the south was subject to a lawful development certificate appeal in 2011 where it was decided that the site does not benefit from a lawful B2 use but currently has nil use. It is occupied by a vehicle graphics printing company, which I would suggest is a B1 use. Such a use would not cause unacceptable noise and disturbance to the proposed houses. The Environmental Health Manager has raised the issue of traffic noise from the M20 motorway 400m to the north, but is content for this to be dealt with by a noise assessment and suitable mitigation by condition.

5.6.2 The previous D2 use resulted in numerous vehicle movements along the lane and the reduction from the proposed development would result in some improvement to the living conditions of existing houses along the lane.

5.7 Ecology

5.7.1 A phase 1 habitat survey has been carried out, and a phase 2 survey in relation to bats which revealed they are not using the building. Bats forage and feed within the area and so it is recommended that bat boxes are provided and lighting should be designed with bats in mind. The pond immediately north of the site which was dried out at the time of the survey falls within the 'Below Average' category for suitability for great crested newt. It is therefore considered that great crested newts (GCN) are highly unlikely to be present within this water body. Issues of GCN commuting across the site, and potentially using the site during construction, (within piles of material etc.) were raised and precautionary mitigation is proposed. Boundary vegetation has a high potential to support breeding birds so any removal would be carried on outside bird nesting season or if during, inspections would be carried out. Otherwise the site is considered to offer negligible potential for reptiles, dormice, and invertebrates.

5.7.2 KCC Ecology has reviewed the information and raises no objections subject to the recommended mitigation and enhancements being secured by condition.

5.8 Highways

5.8.1 No objections have been raised by Kent Highways in terms of parking and turning areas and visibility. As outlined above, the proposals would result in a significant decrease in vehicle movements from the previous users and a D2 use in general (213 movements compared to 16). In my opinion, the access with the A20 does not offer particularly good visibility to the west and so the proposals would reduce the potential for any incidents here.

5.9 Other Matters

5.9.1 The marketing assessment has been questioned by a person who is listed under the 'interest generated'. It is suggested that details of his interest as outlined are not correct and that an offer would remain for the site subject to B2 permission being granted. I have no reason to dispute the marketing report and that its contents are true when carried out. Clearly, various offers may be made, but ultimately it has not proceeded to a sale and the site does not have B2 permission. Some concerns over pruning of an oak tree on neighbouring land opposite the site have been raised. This is recommended within the application but as this land is outside the application site, any permission would not allow this to be done without the land owners consent.

6. CONCLUSION

- 6.1 Whilst the site is within the countryside where new housing would not normally be allowed, with the lack of a 5 year housing land supply, the application must be considered in the context of the 'presumption in favour of sustainable development', which means that permission should be granted unless any adverse impacts would significantly and demonstrably outweigh the benefits of the application.
- 6.2 In this case, I do not consider the lawful D2 use (leisure uses) is an appropriate use for this location, being away from any built up settlement and on a country lane. Planning policies seek to focus such use towards town centres where they can be better accessed by a range of transport and where journeys can be linked. Marketing evidence has been provided showing a lack of interest in the D2 use or other commercial uses. This demonstrates that the D2 use or alternatives are unlikely to come forward at the site and so it would remain vacant and unused. The proposal would result in re-use of brownfield land as advocated by the NPPF. The proposals would significantly reduce vehicle movements at the site compared to the previous gymnasium users and other potential D2 uses, which is clearly more environmentally sustainable.
- 6.3 For the above reasons, it is considered that the provision of three houses in this particular case would provide significant benefits without causing demonstrable harm. As such, there are not considered to be any adverse impacts that would significantly and demonstrably outweigh the benefits of the application, and I recommend permission be granted subject to the following 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. The development shall not commence until, written details and samples of the materials to be used in the construction of the external surfaces of the buildings hereby permitted have been submitted to and approved in writing by the Local Planning Authority and the development shall be constructed using the approved materials. Materials shall include clay roof and hanging tiles, stock bricks, and timber windows;

Reason: To ensure a satisfactory appearance to the development.

3. The development shall not commence until, details of all fencing, walling and other boundary treatments 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(s) or land and maintained thereafter;

Reason: To ensure a satisfactory appearance to the development and to safeguard the enjoyment of their properties by existing and prospective occupiers.

4. No development shall take place until there has been submitted to and approved in writing by the Local Planning Authority a scheme of landscaping, using indigenous species which shall include indications of all existing trees and hedgerows on the land, and details of any to be retained, together with measures for their protection in the course of development and a programme for the approved scheme's implementation and long term management. The scheme shall be designed using the principles established in the Council's adopted Landscape Character Assessment and Landscape Guidelines and shall include details of replacement trees along the west boundary of the application site.

Reason: No such details have been submitted and to ensure a satisfactory appearance and setting to the development.

5. No development shall take place until an acoustic survey, to identify the noise environment of the site, has been carried out.

Where habitable rooms will be exposed to unacceptable noise levels (in accordance with BS 8233), mitigation should include a scheme of acoustic protection sufficient to ensure internal noise levels (LAeqT) no greater than 30 dB in bedrooms and living rooms with windows closed. Where the internal noise levels (LAeq,T) will exceed 35 dB in bedrooms (night-time) and 45dB in living rooms (daytime) with windows open, the scheme of acoustic protection should incorporate appropriate acoustically screened mechanical ventilation.

Within gardens and amenity areas, the daytime 07.00-23.00 hours level of noise should not exceed 55dB (LAeq) free field. This excludes front gardens;

Reason: In the interests of residential amenity.

6. The dwellings shall achieve at least Level 4 of the Code for Sustainable Homes. No dwelling shall be occupied until a final Code Certificate has been issued for it

certifying that Code Level 4 has been achieved.

Reason: to ensure a sustainable and energy efficient form of development.

7. The approved details of the parking/turning areas shall be completed before the commencement of the use of the land or buildings 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 as amended by the Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2008 and the Town and Country Planning (General Permitted Development) (Amendment) (No.2) (England) Order 2008 (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.

8. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the building(s) or the completion of the development, whichever is the sooner; and 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.

9. The recommendations, mitigation and precautionary methods as outlined in the Extended Phase 1 Ecological Assessment (Revision 2, April 2014) and Bat Roost Emergence Survey Report (October 2013) shall be strictly adhered to and carried out unless otherwise agreed in writing with the Local Planning Authority;

Reason: To ensure that suitable ecology mitigation and enhancement is provided.

10. The Arboricultural Impact Assessment dated 7th February 2014 shall be adhered to unless otherwise agreed in writing with the local planning authority.

Reason: To ensure retained trees are suitably protected and in the interests of visual amenity.

11. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (as amended) no extensions shall be carried out without the permission of the Local Planning Authority;

Reason: In the interests of residential amenity.

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

Drawing nos. 13-50-02 RevF, 13-50-03 RevB, 13-50-04 RevA, 13-50-05 RevB, 13-50-06 RevB, 2898/DR/001B, and 2898/DR/002D received on 27th February 2014, and 13-50-07 RevA received on 4th April 2014.

Reason: In the interests of clarity and visual amenity.

The proposed development does not conform with policy ENV28 of the Maidstone Borough-wide Local plan 2000. However, the proposals are considered to provide benefits through a more suitable and sustainable use of the site without causing any demonstrable harm. In the absence of a five year housing supply, there are not considered to be any adverse impacts that would significantly and demonstrably outweigh the benefits of the application. As such the development is considered to be in compliance with the National Planning Policy Framework and this is sufficient grounds to depart from the Local Plan.