

MC/14/0223

Date Received: 27 January, 2014

Location: Sturch Fields, Grain Road, Lower Stoke, Rochester, ME3 9RF

Proposal: Change of use for the siting of containers for storage of household furniture and associated landscape works - resubmission of MC/13/1536

Applicant: Mr S Hoadley

Agent: Mr M Carter Mark Carter Design Design Studio Priestfield Stadium Redfern Avenue Gillingham, Kent ME7 4DD

Ward Peninsula

Recommendation of Officers to the Planning Committee, to be considered and determined by the Planning Committee at a meeting to be held on 23 April 2014.

Recommendation - Approval with Conditions

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: To comply with Section 91 of the Town and Country Planning Act 1990 (as amended).

- 2 The development hereby permitted shall be carried out in accordance with the following approved plans: 2027-001 Rev B, 2025-002 Rev A and site location plan received on 27 January 2014 and 2027-002 Rev B received 31 January 2014

Reason: For the avoidance of doubt and in the interests of proper planning.

- 3 Notwithstanding the submitted drawing, prior to the commencement of the use, details of the mix of species and the location of the soft landscaping proposals for the site shall be submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the approved details prior to the first container being located on the site.

Reason: To accord with the provisions of Section 197 of the Town and Country Planning Act 1990 and to ensure that the development does not prejudice the appearance or character of the site and the locality.

- 4 Notwithstanding the submitted documentation, details of the height, siting appearance and acoustic properties of the western boundary shall be submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the approved details prior to the first the first container being located on the site.

Reason: To protect the amenities of adjoining neighbours in accordance with paragraph 123 of the NPPF.

- 5 The area for vehicle manoeuvring as shown by the tracking diagram shown on approved drawing 2027-001 Rev B shall remain clear of obstacles and development whether permitted by the Town and Country Planning (General Permitted Development) Order 1995 (as amended) (or any order amending, revoking and re-enacting that Order) or not and shall be retained for the purposes of vehicle access and manoeuvring.

Reason: To ensure that the development permitted does not prejudice conditions of highway safety or efficiency in accordance with Policy T1 of the Medway Local Plan 2003.

- 6 The development shall be carried out in accordance with the recommendations and statements contained with the Flood Risk Assessment dated June 2013.

Reason: To reduce the impact of flooding on the proposed development and future occupants in accordance with Policy CF13 of the Medway Local Plan 2003.

- 7 No more than 3 containers shall be placed on the site and then only in the location shown on drawing number 2027-001revB.

Reason. In the interests of the visual amenities of the area and to accord with Policy BNE1 of the Medway Local Plan 2003.

- 8 Unless otherwise agreed by the Local Planning Authority, development other than that required to be carried out as part of an approved scheme of remediation must not commence until conditions 8 to 11 have been complied with. If unexpected contamination is found after development has begun, development must be halted on that part of the site affected by the unexpected contamination to the extent specified in writing by the Local Planning Authority until condition 11 has been complied with in relation to that contamination.

Reason: To ensure that the development is undertaken in a manner which acknowledges interests of amenity and safety in accordance with Policy BNE23 of the Medway Local Plan 2003.

- 9 An investigation and risk assessment, in addition to any assessment provided with the planning application, must be completed in accordance with a scheme to assess the nature and extent of any contamination on the

site, including risks to groundwater, whether or not it originates on the site. The scheme shall be submitted to and approved in writing by the Local Planning Authority prior to commencement of the development. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report shall be submitted to and approved by the Local Planning Authority prior to the commencement of development. The report of the findings must include:

(i) a survey of the extent, scale and nature of contamination;

(ii) an assessment of the potential risks to:

- human health
- property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes.
- adjoining land,
- groundwaters and surface waters,
- ecological systems,
- archaeological sites and ancient monuments;

(iii) an appraisal of remedial options, and proposal of the preferred option(s).

This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'.

Reason: To ensure that the development is undertaken in a manner which acknowledges interests of amenity and safety in accordance with Policy BNE23 of the Medway Local Plan 2003.

- 10 A detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment must be prepared, and submitted to and approved in writing by the Local Planning Authority prior to commencement of the development. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

Reason: To ensure that the development is undertaken in a manner which acknowledges interests of amenity and safety in accordance with Policy BNE23 of the Medway Local Plan 2003.

- 11 The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of any development (other than development required to enable the remediation process to be implemented) unless otherwise agreed in writing by the Local Planning Authority. The

Local Planning Authority must be given not less than two weeks written notification prior to the commencement of the remediation scheme works.

Following completion of the measures identified in the approved remediation scheme, a verification report that demonstrates the effectiveness of the remediation carried out must be produced, and submitted to and approved in writing by the Local Planning Authority prior to the bringing into use of the development.

Reason: To ensure that the development is undertaken in a manner which acknowledges interests of amenity and safety in accordance with Policy BNE23 of the Medway Local Plan 2003.

- 12 In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of condition 8, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 9, which is subject to the approval in writing of the Local Planning Authority.

Following completion of the measures identified in the approved remediation scheme a verification report providing details of the data that will be collected in order to demonstrate that the works set out in condition 9 are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with condition 10.

Reason: To ensure that the development is undertaken in a manner which acknowledges interests of amenity and safety in accordance with Policy BNE23 of the Medway Local Plan 2003.

For the reasons for this recommendation for approval please see Planning Appraisal Section and Conclusions at the end of this report.

Proposal

This application seeks full planning permission for the change of use for the siting of containers for the storage of household furniture and associated landscape works. This application is a resubmission of MC/13/1536.

Previously the site has been used (without the benefit of planning permission) for the storage of scaffolding, light plant and machinery. The site has now been cleared.

The proposal shows a single access point to be located on the eastern end of the site frontage. Five parking spaces for cars are shown on the drawings to the front of the office building. The spaces proposed for cars are currently not formally laid out on the site.

The proposal shows three storage containers proposed each measuring approx. 12.2m long by approx. 2.44m wide by approx. 2.6m high. In total there is approx. 90sqm of internal floorspace is proposed.

In terms of employment at the site, the application form states that there are currently no existing employees but two part time employees are proposed.

The difference between this application and the previous application (MC/13/1536) is that a noise assessment has been submitted with the current application.

Relevant Planning History

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| MC/13/1536 | Change of use for the siting of containers for storage and associated landscape works.
Refused, 16 October 2013. |
| COMP/09/0115 | Enforcement notice served regarding the material change of use without the benefit of planning permission and the erection of palisade fencing without the benefit of planning permission.
Notice served, 14 September 2012.
Appeal Dismissed 25 April 2013 |
| MC/12/0192 | Retrospective application for use of site for storage of scaffold and light plant and machinery relating to the scaffold business together with new pitched roof over existing store building and retention of boundary fencing.
Refused, 02 August 2012.
Appeal Dismissed 25 April 2013 |
| MC/09/2594 | Use of site for storage of scaffold and light plant and machinery relating to the scaffold business together with alterations to and retention of boundary fencing.
Approved (temporary permission) 24 November 2010 |
| COMP/09/0115 | An enforcement notice was issued regarding the material change of use without the benefit of planning permission and the erection of palisade fencing without the benefit of planning permission.
Notice served, 5 March 2010. |
| MC/08/1972 | Construction of two storage/workshop units (demolition of existing workshop).
Withdrawn 22 January 2009 |
| 85/238 | Change of use from café to residential use, alterations and garage (now Shant Cottage next to site).
Approved 23 May 1985 |
| 84/69 | Use of land and buildings for storage purposes with ancillary offices and plant repairs.
Approved 2 April 1984 |

81/24

Redevelopment of café and service station.
Approved 16 March 1981

Representations

The application has been advertised on site and by individual neighbour notification to the owners and occupiers of neighbouring properties.

The Environment Agency, The Dickens' Country Protection Society and Stoke Parish Council have also been consulted.

1 letter have been received raising the following objections:

- In accuracies and contradictions within noise survey
- Questions over the monitoring of engine running time
- Random selection of landscaping
- Playing down of flood risk

Stoke Parish Council has written raising no objection to the proposal.

The Environment Agency has written raising no objection to the proposal but requested a condition be attached should planning permission be granted.

The Dickens' Country Protection Society has written objecting to the proposal in support of the previous refusal.

Development Plan Policies

The Development plan for the area comprises the Medway Local Plan 2003. The policies referred to within these documents and used in the processing of this application have been assessed against the National Planning Policy Framework, 2012 and are considered to conform.

Medway Landscape Character Assessment 2011 is also relevant.

Planning Appraisal

Background

This site together with the adjacent land, now separate and occupied as a dwelling known as Shant Cottage is understood to have been used as a petrol filling station and café from the 1950's. The café ceased trading in the late 1970's and in 1985 planning permission was granted for its change of use to a dwelling, Shant Cottage. Just before this, in 1984, planning permission for the remainder of the land (the current application site) was granted for the use of land and buildings for storage purposes with ancillary offices and plant repairs. This was a personal permission for Jones Foundations Limited, the authorised use being Sui Generis (not falling within a specific use class). In these circumstances planning permission would be required for any alternative use/user of the site.

On 5 March 2010, an enforcement notice was issued regarding the material change of use of the application site for a scaffolding business without the benefit of planning permission and the erection of palisade fencing without the benefit of planning permission.

Following this, temporary planning permission was granted for the use and the palisade fencing. The temporary planning permission expired on 18 November 2011.

A further planning application was made retrospectively to authorise the use of the site for the storage of scaffolding, light plant and machinery and operational development in the form of a new pitched roof over the existing store building and the retention of the boundary fencing. This application was refused on 2 August 2012 and a further enforcement notice served on 14 September 2012. The applicant appealed against both the refusal of the planning permission and the enforcement notice. The appeals against the refusal of planning permission and the enforcement notice were dismissed.

Since the appeals, the site continued to be used unlawfully for the scaffold business. Only since the issuing of a court summons on 10 September 2013 for an appearance on 15 October 2013 and following my initial site visit on 5 September 2013 made in relation to the most recent planning application (MC/13/1536) did the applicant clear the site.

In relation to MC/13/1536, the applicant was asked to submit a noise assessment. This was not received so the application was determined in the absence of a noise assessment. The application was refused for the following reason:

In the absence of an acoustic assessment, the potential impact on the amenities of the occupiers of the adjoining residential property cannot be ascertained and the proposal is considered to be contrary to Paragraph 123 of the NPPF.

Principles of Development

The site is located within the rural area as designated by the Medway Local Plan 2003 and falls within the boundary of the tidal flood area. The land (including the road) to the north of the application site is within the North Kent Marshes Special Landscape Area.

Policies BNE25 and BNE27 of the Medway Local Plan 2003 provide guidance on development in the countryside. It is not considered that Policy BNE26 (business development in rural settlements) is applicable as the site is not within or on the edge of a village or rural settlement. Although the village of Lower Stoke is only a short distance away, it is not well linked to the site including by a safe pedestrian route.

Paragraphs 19 & 20 of the NPPF supports sustainable economic growth and encourages Local Authorities to plan proactively to meet the development needs of

business and support an economy fit for the 21st century.

Policy ED3 of the Medway Local Plan 2003 relates to other employment sites that are not specifically allocated as such on the Local Plan Proposals Map. This policy states that redevelopment will be restricted to business (Class B1) uses except where it can be demonstrated that other types of employment uses can be accommodated without detriment to residential amenity. This application is for the use of the site for the purposes of storage and therefore falls under use class B8. Policy ED3 also states that within the rural area, alterations to premises on existing employment sites will not be permitted where there would be an additional 10% or more of the original built footprint, visual amenity is not improved and or traffic volumes would increase on nearby roads.

In considering the planning application (MC/12/0192), the history search demonstrated that the site has not been in continual employment use. Prior to the submission of the 2008 application, many pre-application enquires were made to the Local Planning Authority (LPA) regarding proposed development and questioning the lawful use of the site. Information supplied by enquirers indicated that there were no obvious signs of any employment activity being undertaken on the site. The enquires date between 2004 and 2008. In addition to this, the applicant's design and access statement, submitted as part of that application, indicated that the site was a brownfield site and that it had suffered fly-tipping. This statement is backed up by photographs taken in 2007 by the LPA's enforcement team as part of an investigation into untidy land. Furthermore, the case officers' site notes from the 2008 application (MC/08/1972) indicated that the site had been recently cleared and the palisade fence had been erected. The clearing of the site and the erection of the fence was the first indication of the site being prepared for use. On this basis, it is considered that the site had not been in continual employment use (with or without the benefit of planning permission), particularly during recent years. As such the policy stance in the most recent application was that uses should be restricted to B1 uses unless it can be demonstrated there will be no detrimental impact on residential amenity. The policy stance remains the same for this current application.

As such it is now necessary to consider the visual impact and therefore Policies BNE1 and BNE25 of the Medway Local Plan 2003 and the impact on residential amenity. The consideration of these matters is set out in the sections below.

Street Scene and Design

The application site lies within the open countryside as defined by the Medway Local Plan 2003 Proposals Map and the Hoo Peninsula Character Area as defined by the Medway Landscape Character Assessment 2011. The character of the landscape in which the application site is located is of open undulating arable farmland with long views. The guidelines for this area advise resisting all development proposals considered likely to diminish rural character and to resist and reverse pressures such as poor boundary treatment.

Until its recent removal, the site previously had palisade fencing with timber cladding to the northern and eastern boundaries and a timber clad chain link fence to the southern boundary. In granting the temporary planning permission, the issue of

securing the site against the design implications was balanced in favour of securing the site. Given the countryside location, the gaps between the uprights of the fencing were deemed appropriate when granting temporary planning permission to try and retain views through the site. In addition, the timber cladding was introduced to the public side of the fence as a response to a condition attached to the temporary planning permission, in an attempt to minimise the impact of the harsh and stark appearance of the palisade fencing within the rural setting.

However, in considering a recent application (MC/12/0192), the gaps between the uprights were minimal and when viewed from an angle, the fence appeared as a more solid boundary treatment restricting views through. The timber cladding was considered to exacerbate the situation with regard to restricting views through and therefore it did not serve to minimise the impact of the appearance of the site within the open, rural setting.

As such, the application was refused and in considering the removal of the fence as part of the enforcement notice it was acknowledged that whilst the fencing provided security for the site and therefore prevented fly-tipping, the visual benefit of an open site when viewed in the wider rural context was greater than the need to provide security.

The current proposal does not include the harsh boundary treatment that was previously erected and subsequently applied for, but instead allows for areas of soft landscaping set between new lower boundary treatments that due to the proposed location and heights would not require planning permission. The soft landscaping would help screen the proposed containers and therefore, depending on the species planted would result in a more natural appearance that is more characteristic of the countryside location. The soft landscaping proposals are the same as the previously submitted MC/13/1536 during which the applicant was invited to revise the proposals in accordance with advice given by the Council with regard to the location and mix of species but despite agreeing to do so, did not submitted revised details nor was a response received to the suggestion of entering into a Planning Extension Agreement (PEA) to allow for extension of timescale to facilitate the submission of revised details. The applicant has clearly not amended the landscape proposals as part of this current application either. However, it is possible to apply conditions to planning permission should it be forthcoming, to ensure the mix of species and the location of the soft landscaping is suitable.

On this basis, it is considered that the proposal can be implemented in accordance with Policies BNE1 and BNE25 of the Medway Local Plan 2003.

The proposal does not include the reuse of the existing dilapidated building currently on site and as such policy BNE27 of the Medway Local Plan 2003 does not apply.

Amenity Considerations

The main amenity impact of the site's use is on the adjoining neighbours at the dwelling Shant Cottage to the west. Both the application site and the adjacent residential property front directly onto the busy A228 which carries traffic to and from the Isle of Grain and is therefore used by a significant proportion of HGVs.

Paragraph 123 of the NPPF states that decisions should avoid noise from giving rise to significant adverse impacts on health and quality of life as a result of new development.

A previous application (MC/12/0192) was submitted without an acoustic assessment. This was requested due to the nature of the activities presenting a significant risk of noise complaints from the neighbouring residential use and subsequently submitted. One of the grounds for refusal of this application related to the potential noise generated as a result of the use of the site and the impact on the adjoining residents.

The proposed use of the site for storage has the potential to result in unacceptable noise levels that may be detrimental to the amenities of the adjoining neighbours due to activities associated with the use such as loading and unloading. As such, an acoustic assessment was requested during the consideration of MC/13/1536 to allow for adequate assessment of the potential impact. The applicant failed to submit an acoustic assessment as part of that application and the application was refused for the reason set out above in the 'Background' section of this report. An acoustic assessment has been submitted as part of this current application.

The submitted noise report recommends the erection of a 1.8m acoustic barrier giving 9dB attenuation along the western edge of the site. This is considered unacceptable as it would not protect the amenities of the occupiers of the neighbouring property. The level of attenuation needed should be +14 dB to minimise the excess of rating level over background noise to 0dB. To achieve this a fence of approx. 2.5m high is required. The acoustic screen should be constructed from solid material with a minimum mass/unit area of at least 15kg/m². Should planning permission be forthcoming, it is recommended that a condition be attached requiring details of the acoustic fencing to be submitted for approval.

With the inclusion of the suggested condition the proposal is considered to be in accordance with the provisions of the paragraph 123 of the NPPF.

Highways

The access is on to a relatively straight section of the A228, with good visibility in each direction. Notwithstanding this, it is appropriate for vehicles to be able to turn on the site and leave in a forward gear. The vehicle tracking diagram submitted with the application demonstrates that this can be achieved. It is suggested that should planning permission be forthcoming, this manoeuvring space should be secured through a planning condition. The level of traffic generated by the development does not cause any concern in relation to highway capacity, and it is considered that sufficient parking can be provided.

With the use of the suggested condition above, the proposal is considered to be in accordance with Policies T1, T2 and T13 of the Medway Local Plan 2003.

Flood Risk

The application site lies within the boundary of the tidal flooding area as identified on the proposals map accompanying the Medway Local Plan 2003. As such a flood risk

assessment (FRA) has been submitted as part of the application documentation. The FRA sets out mitigation measures such as the use of permeable surfacing for external areas of hardstanding. It is therefore recommended that should planning permission be forthcoming, a condition be attached requiring these measures to be implemented. With the use of such a condition, the proposal is considered to be in accordance with the provisions of paragraph 100 of the NPPF and Policy CF13 of the Medway Local Plan 2003.

Contaminated Land

Paragraph 121 of the NPPF and Policy BNE23 of the Medway Local Plan 2003 seek to ensure that development sites are adequately investigated for contamination and appropriate remediation (where necessary) is implemented to minimise the risk to human health. A contamination report has not been submitted with this application.

Before the site was fenced, it had suffered flytipping and so may have resulted in contamination. The proposal includes areas for soft landscaping. It is important that the ground conditions are investigated and treated to determine whether the desired soft landscaping proposals can be achieved within the site. In addition, the application documents state (and the use of condition will ensure), that areas of hardstanding within the application site will be permeable. As such the current hardstanding will have to be removed and replaced with hardstanding that is permeable and areas for the soft landscaping. This will disturb the existing ground and may mobilise any potential contaminants. It is therefore recommended that should planning permission be forthcoming, conditions be attached to secure an up-to-date investigation into contamination on the site and any necessary remediation measures. With the inclusion of the suggested conditions, the proposal is considered to be in accordance with the NPPF and Policy BNE23 of the Medway Local Plan 2003.

Local Finance Considerations

None relevant to this application.

Conclusions and Reasons for Recommendation

The use of the site for storage purposes has the potential to result in a detrimental impact on the residential amenity of the occupiers of the adjoining residential property. However, with the use of appropriate attenuation, the development would comply with planning policy and therefore be considered acceptable for the reasons outlined above in accordance with Paragraphs 19, 20, 100, 121 and 123 of the NPPF and Policies BNE1, BNE23, BNE25, BNE27, ED3, T1, T2, T13 and CF13.

This application would normally be determined under delegated powers but is being referred for Committee determination due to the number of representations received contrary to the recommendation.

Background Papers

The relevant background papers relating to the individual applications comprise: the applications and all supporting documentation submitted therewith; and items identified in any Relevant History and Representations section within the report.

Any information referred to is available for inspection in the Planning Offices of Medway Council at Gun Wharf, Dock Road, Chatham ME4 4TR and here <http://planning.medway.gov.uk/donline/AcolNetCGI.gov>