MC/13/1671

Date Received: 8 July, 2013

Location: Deangate Cottage, Dux Court Road, Hoo St Werburgh, Rochester, ME3 8RZ

Proposal: Retrospective application for change of use of land to rear from agricultural to a junior off road track (Sui Generis use class) with portable office/wc building and associated works

Applicant: Mr P Harris

Agent: 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 18 June 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: A4 site plan, A3 site plan, A3 block plan, drawing numbers 1, 3, 4, 5, 6 and 7 as received on 8 October 2013

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

3 The use hereby permitted shall be carried on only by Mr P Harris while he is living at Deangate Cottage, Dux Court Road, Hoo St Werburgh. The use shall cease and be discontinued when Mr P Harris ceases to live at Deangate Cottage, and the and the land shall be restored to its former condition prior to it use as a junior off road track, in accordance with a scheme of works related to the land restoration of the site that has first been submitted to the Local Planning Authority for its approval in writing. The scheme of works related to the land restoration of the site shall be submitted to the Local Planning Authority no later than 1 month prior to Mr P Harris ceasing to live at Deangate Cottage, Dux Court Road, Hoo St Werburgh. The scheme of works related to the land restoration of the site shall include a timetable for the implementation of the restoration works and shall be fully implemented in accordance with the scheme of land restoration approved in writing, by the Local Planning Authority, pursuant to this condition.
Reason: To regulate and control the permitted development in the interests of amenity in accordance with Policy BNE2 of the Medway Local Plan 2003.

4 The use hereby permitted shall only operate between the hours of 09:00 to 17:00 on Saturday and Sundays and the use shall only operate for one day over each weekend.

Reason: To regulate and control the permitted development in the interests of amenity in accordance with Policy BNE2 of the Medway Local Plan 2003.

5 The use hereby permitted shall not accommodate more than 30 bikes on any day of operation and no more than 15 bikes shall be on the track at any one time.

Reason: To regulate and control the permitted development in the interests of amenity in accordance with Policy BNE2 of the Medway Local Plan 2003.

6 The sound level limit for bike exhausts shall be no more than 105dBA. The sound level shall be assessed with a sound level meter / microphone (a class 1 / type 1, or type 2 with a class 1 calibrator added). The microphone shall be fitted with windscreen and positioned on a tripod at a distance of 0.5 metres behind the motorcycle and at the same height as the exhaust outlet. The sound level meter shall be set to the 'A' weighted position and set to 'fast'. The microphone shall be pointed towards the exhaust. The throttle of the bike shall be increased to 3000 RPM during the test and the measurement will be taken at this maximum output. The test should only be carried out after engines have been warmed up to operating temperatures. The ambient sound level must remain lower than 100dBA and the sound level meter / microphone shall be calibrated before and after every test using a class 1 calibrator. If there is any drift of more than 0.5 dBA between testing, the meter should be recalibrated and a retest of the bike undertaken. The sounds test must be undertaken twice for each bike tested and the highest dBA will be taken. A log of the testing must be completed at all times and be made available for inspection by the LPA at request.

Reason: To regulate and control the permitted development in the interests of amenity in accordance with Policy BNE2 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 planning application seeks full planning permission for the change of use of the land to rear of Deangate Cottage, Dux Court Road from agricultural land to a junior off road track (Sui Generis use class). In addition to the change of use of the land, the permission also seeks to regularise the portable office / wc building and associated parking area.
The application site is accessed via the existing vehicular access serving the associated residential property. This runs adjacent to the applicant's residential garage before entering the area occupied by the off road track. At the mouth of the off road track area, the applicant has sited a portable office building which includes w/c facilities. Egress from the site provided by a vehicular access to the south of the site.

The extent of the off road track encompasses an area of some 140m -180m in depth by some 62m - 95m in width. The track includes a circuit which traverses the site a number of times from east to west. Within the track, a number of man-made jumps and embanked turns are provided. Located within the recessed area created by the irregular 'L' shape of the track is an area set aside for car parking. This comprises an area some 45m by 25m.

The applicant has provided details of the operation of the off road track. Originally constructed to provide private use, the track is now also used by members of the public on a membership only basis. The use operates for members on alternate Saturdays and Sundays, between 09:00 hours to 17:00 hours. A maximum of 30 bikes are accepted each day, although track capacity restricts only 15 bikes to be able to race in each session. The engine capacity and the noise of the bikes are limited as part of the membership programme and the bikes are tested on the morning of the track day from 09:00 before the racing sessions starts.

**Relevant Planning History**

**MC/12/2111**
Details pursuant to conditions 3 and 4 of planning permission MC/11/3092 retrospective application for change of use of land to rear from agricultural to a junior off road track (Sui Generis use class) with portable office/wc building and associated works
Decision Discharge of Conditions
Decided 16 October, 2013

**MC/11/3092**
Retrospective application for change of use of land to rear from agricultural to a junior off road track (Sui Generis use class) with portable office/wc building and associated works
Decision Temporary Consent Granted till 30 May 2013, plus the imposition of other conditions
Decided 01 June, 2012

**Representations**

The application has been advertised on site, a site notice has been erected along Christmas Lane, High Halstow and by individual notification letters have been sent to the owners and occupiers of neighbouring properties and those who commented upon the previous application.

The Environment Agency, the Dickens' Countryside Protection Society, Hoo St. Werburgh and High Halstow Parish Council have been consulted.
Environment Agency have raised no objection

Hoo St. Werburgh Parish Council have clarified their position and support this application.

High Halstow Parish Council have objected to this application raising the following comments:

- The development causes unacceptable noise and air pollution.

The Parish Council note that if Members are minded to grant permission, they wish for conditional control to be imposed on matters of noise, air pollution and hours of operation.

A 34 signatory petition against the development has been received with the following comments:

The development produces noise and dust which detrimentally affects local residents and local business users.

17 letters have been received raising the following objections:

- The level of noise generated by the development is unacceptable and harms residential amenity,
- The development results in the loss of grade 1 agricultural land,
- The use has a detrimental impact upon local ecology and wildlife,
- The access to the development is insufficient,
- The motorcross track is an unsightly encroachment into the countryside.

All other matters raised not listed above are non material

A 543 signatory petition in support of the development has been received with the following comments:

- The development provides a service to the young people of the local community.

218 letters of support have been received with the following comments:

- The development provides a service to the young people of the local community.

Development Plan

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

Background

Members considered an application for the use of this site as a motorcross track in mid 2012. The application was recommended by officer for refusal on four grounds, specifically the visual impact of this development on the Area of Local Landscape Importance (ALLI) within which it is sited, the loss of Grade 1 Agricultural Land, the lack of a robust noise impact assessment and the subsequent potential impact to neighbouring amenity, and the potential highway impacts which resulted from an insufficient vehicular access / egress. Members carefully considered this development, balancing the harm caused by the motorcross track highlighted in the officers report with the undoubted social and community benefits which resulted from the operation of the facility.

The original recommendation was overturned by Members who supported the scheme on a temporary basis, subject to an appropriate vehicular access and egress being provided and a robust noise impact being submitted. The temporary nature of the permission was to ensure that officers could assess the development in more detail and effectively allow a trial run to assess the effect of the development on the area. The imposition of these two conditions, on amenity and highway grounds indicated that Members were satisfied with the loss of the agricultural land and the visual impact of the development. On the basis that there has been no material change in the Development Plan or any other material considerations since the 2012 determination, matters of principle and visual impact are not raised in this report.

Main Issues

In light of the above paragraphs, the main issues for consideration in determining this application are:

- The impact upon neighbouring amenity;
- Air Quality; and
- Highways.

Amenity

Members will be aware that Policy BNE2 of the Medway Local Plan 2003 (Local Plan) requires development to have regards to noise and disturbance, and subsequent protection of the amenities of nearby occupiers. Furthermore the NPPF advises that in determining planning application, noise and its impact on amenity (and health and quality of life) is an important consideration in the determination.

In considering the 2012 application, Members recognised that the development would result in a specific form of noise generated from the site, which could not be associated with the lawful agricultural operations of the site, nearby residential or leisure operations, or the adjacent A228. Considering the ranging topography of the location and the nature of this noise (irregular pulses of noise rather than a continuous background drone), it is likely to be audible from some distance, with the potential to impact upon those properties within the villages of High Halstow and Hoo...
St Werburgh. Concern was raised with regards to the potential for noise disturbance and in light of the lack of a noise impact assessment, which formally sets out the nature, scale and intensity of noise resulting from the use, a formal assessment of the impact of the development upon the aural amenity could not have been made.

This application has been accompanied by such a noise impact assessment, however Council officers raised concerns about the reliability of the information held within the assessment. To assess the impact of noise from the development on residents living in the vicinity of the track, on 27 April 2014 a noise survey was undertaken by Council officers at the application site. The test reflected the proposed track conditions, whereby 30 bikes were present, but no more than 15 bikes were on the track at any one time. The testing of the track ran for 90 minutes and no bikes ran at a louder noise than that level specified in suggested condition no. 6.

The survey was undertaken at two monitoring sites and these were undertaken using the sound level meters which were calibrated immediately before the readings commenced and then immediately after the readings ended. The results of the calibration tests were satisfactory. The sound level metres were fixed to tripods and measured at 1.5 m above ground and away from any reflecting structures; each microphone was fitted with a windshield. During the survey, the wind speed and directions at Christmas Lane were recorded, as were the weather conditions. The conditions recorded were generally within acceptable standards (twice during the survey the wind speed briefly exceeded the recommended maximum wind speed of 5 metres per second). There was no rain, fog or temperature inversion. The results were not considered to have been adversely affected by the weather conditions.

Those two static monitoring positions were;

1. Trackside. The sound level meter was positioned in the northeast corner of the site approximately 1 metre from the track. The position was logging noise from all the bikes using the track for approximately 90 minutes. The position was manned at all times and notes made of numbers of riders using the track during the course of the monitoring. The numbers ranged from 8 to 14 bikes at any one time.

2. Christmas Lane, High Halstow. The High Halstow site was identified as being most appropriate on reflection of the letters of objections being received. Residents of this road had complained previously about motorcross noise when the site was operating in 2013. This site was also manned throughout the survey period and observations made by the officer present.

Mobile monitoring also took place during the test.

Other sites were visited during the survey by a third officer in order to assess the impact of noise on nearby locations and properties in a radius around the application site; lay-by opposite Deangate Lane, Dux Court Farm, Garden Centre and Cooling Lane.

The results show that on the date of the survey, with the motorcross track operating
under normal conditions, the noise from the motorbikes using the track do not cause a significant noise issue. For most of the time, the motorcross track was not audible. The observations made at Christmas Lane indicate that the motorcross was heard for very brief periods of time, (less than 1 second), on each of the 11 occasions it was heard. The officer noted that the noise from the A228, low flying aircraft (commercial and private) and typical residential noises (a lawn being cut, children playing in a back garden and music playing from a house) were more apparent than the motorcross track. Due to the very short duration of the noise sample it is not possible to isolate the individual events from the monitoring data and noises from the everyday activities around Christmas Lane were the dominant noise. No noise from the motorcross track was heard whilst undertaking the mobile monitoring and therefore no recordings made.

On the basis of the track test, the recordings and the observations taken, the noise generated from the motorcross activities held at the track at Deangate Cottage, High Halstow on 27 April did not constitute a significant noise impact on residents living in the vicinity of the track. This position reflects the information reported in the applicant's supporting Noise Impact Assessment.

Moving towards a judgement of the noise impact of the development, particularly upon those residents of Christmas Lane, upon the basis of the available information the development is considered acceptable. Officers acknowledge that there could be variables, such a different wind conditions or that all bikes in attendance meet the upper limit of the sound level limit, and this could result in a different outcome. Due to this, a series of conditions are recommended which restrict the hours of operation, the day of operation (non consecutive weekends), and the amount of bikes present and on the track at any one time. Furthermore, a condition is recommended which restricts the sound level of motorbike exhausts to no more than 105dBA. With such conditions imposed, officers have balanced the development to be acceptable in amenity terms and the development accords with Policy BNE2 of the Local Plan.

Air Quality

The proposed use is considered to be isolated from adjoining occupiers and uses. It is not located within an Air Quality Management Area (AQMA) and no objections from the Council's Environmental Protection Section have been received in relation to air quality. The development as a whole is not considered to result in any unacceptable air quality effects on health, amenity or the natural environment. This view has been reached taking into account the potential for cumulative effects arising from existing and proposed sources of air pollution that are located in the vicinity of the site. Bearing in mind the above, the proposal is considered to be acceptable in terms of policy BNE24 of the Local Plan.

Highways

The application is likely to generate in the region of 60 trips per day of operation. The development utilises the existing access and egress which was created as a result of the previous application. Dux Court Road (in capacity terms) can accommodate these levels of traffic and sufficient visibility, particularly leaving the site can now be achieved. Sufficient parking can be accommodated within the site to serve the needs
of the development. As such the development accords with the objectives of Policies T1, T2 and T13 of the Local Plan.

Local Finance Considerations

If the Planning Committee move to refuse this application, they will be authorising the taking of Enforcement action against those parts of the use/structures where action can be taken. Clearly this will have a financial implication for the land owner/applicant.

Conclusions and Reasons for Approval

This application has resulted in significant local interest, with a number of objections and a significant level of support. Members have previously considered the visual impact of the development and the loss of agricultural land as being appropriate in this instance. Council officers have undertaken a noise survey to determine the harm to local residents and has concluded that, subject to those conditions set out at the head of the report, the development results in no detrimental harm to local amenities. A full consideration of the objections to the development has been made within this determination, however for those material planning considerations set out above, the scheme is recommended for approval.

This application would normally fall to be considered under officers' delegated powers but has been reported for Members due to the number of letters in objection that have been received contrary to the recommendation and Members consideration of the previous application.

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/dconline/AcolNetCGI.gov