

MC/14/1896

Date Received: 3 July, 2014

Location: Thameside Terminal Former Conoco Site, Salt Lane, Cliffe, ME3 7SU

Proposal: Retention of Plots 1, Part 2 and 8 for haulage and/or platform hire use with associated parking along with approximately 0.4ha of open storage

Applicant: Thameside Estates Ltd

Agent: Mr Collins DHA, Planning Eclipse House, Eclipse Park, Sittingbourne Road, Maidstone Kent ME14 3EN

Ward Strood Rural

Recommendation of Officers to the Planning Committee, to be considered and determined by the Planning Committee at a meeting to be held on 29 June 2016.

Recommendation - Approval with Conditions

- 1 Within 2 months of the date of this decision, details of the proposed landscape improvement measures set out on page 30 of the Environment Statement ref JAC/9673 which accompanied the application, shall be submitted to and approved in writing by the Local Planning Authority. The approved landscaping shall be undertaken in the first planting season following the approval of details and shall thereafter be maintained with all planting that dies or damaged replaced in the first planting season available.

Reason: In the interests of the visual amenities of the area in accordance with policies BNE1 and BNE34.

- 2 All platforms stored on site shall be kept at their lowered position at all times unless required to be raised for maintenance/repair purposes and all other open storage that takes place within any of the plots shall not exceed a height of 4m.

Reason: In the interests of the visual amenities of the area and to accord with Policies BNE1 and BNE34 of the Medway Local Plan 2003.

- 3 No external lighting shall be erected on site or placed on any of the buildings without the prior approval of the Local Planning Authority

Reason: In the interests of the visual amenities and ecology of the area and to accord with Policies BNE1 and BNE36 of the Medway Local Plan 2003.

- 4 Within 2 months of the date of this permission a travel plan relating to the use of the site and the employees shall be submitted to and approved in writing by the Local Planning Authority. The travel Plan shall be implemented as approved.

Reason: In the interests of sustainability.

- 5 The number of Heavy Goods vehicle movements to and from the site shall not exceed 40 in total in any one day. Records of all HGV arriving and departing the site shall be kept and maintained by the companies operating from the site and shall be provided for inspection by the Local Planning Authority within 24 hours of written notice (which includes email). No vehicles shall arrive at or depart from the site outside of the hours 07.30 - 18.00 on any one day.

Reason: To protect the residential amenity of residents in the area, particularly those living adjacent to Salt Lane and the B2000 and to comply with Policy BNE2 of the Medway Local Plan 2003.

- 6 All surface water and foul drainage shall be disposed of via the existing systems or in accordance with changes that have been agreed with the Local Planning Authority in consultation with the Environment Agency.

Reason: To protect controlled waters and prevent contamination.

For the Reasons for this Recommendation for Approval please see Planning Appraisal section and Conclusions at the end of this report

Proposal

Use of the existing buildings on Plot 1 and the hardstandings on part of Plot 2 and Plot 8 for haulage and/or platform hire use with associated parking and including approximately 0.4ha of open storage of items up to 4m high.

Plot 1 (with part of the area used as Plot 2) is on the eastern side of the entrance to the former Thameside Terminal site and accommodates the office block and a workshop/maintenance building together with a toilet and store which are to be retained for the new use. The hardstanding around the buildings was installed as part of the former oil storage depot use and is lawful as is the hardstanding on what has been referred to as plot 8 to the north of Plot 1. The total area of the site is just over 2ha but includes the roadway in front of Plot 1 and between Plots 1 and 8 and an overgrown bank to the south of Plot 1.

The application includes proposals for landscape planting to the eastern and western side of Plot 1/2 and to the west of Plot 8.

The application is accompanied by an Environmental Statement including bird surveys and ecology reports, assessments in relation to noise, lighting, transport, flooding, landscape and visual effects, contamination, hydrology and groundwater, nature conservation and cumulative impacts. There is a planning report that

considers policy implications as well as design and access.

Relevant Planning History

Case ref: MC/13/1395 Town and Country Planning Act (Environmental Impact Assessment) (England and Wales) Regulations 2011 - request for a screening opinion as to whether EIA is necessary for use of an existing building as an office (B1 (a)) and to use two hard-standing areas for related parking
Decision EIA Required
Decided 25/06/2013

Case ref: MC/12/2942 Removal of condition 4 from planning permission MC/10/0925 for the installation of a 2 concrete head-walled stop log culverts/sluices to allow controlled water flow between 3 independent saline lagoons
Decision Approval With Conditions
Decided 04/02/2013

Case ref: MC/12/2684 Town and Country Planning Act (Environmental Impact Assessment) (England and Wales) Regulations 2011 - request for a screening opinion in respect of a proposal for a mixed commercial use of B1 and B8 and as a haulage yard with the existing office structure to be used for such proposed and existing workshop to either be used as a workshop (B1 only) or for storage or distribution
Decision EIA Required
Decided 28/11/2012

Enforcement

ENFCASE2007/0182 Enforcement notices in relation to the use of the land as an industrial estate and for operational development.
Appeal Dismissed and Notices upheld. 14/06/2010

Representations

The application has been advertised on site and in the press.

The Dickens Country Protection Society consider that the proposed use is unsuitable for the area and the access to the site would be via the B2000 which is unsuitable for the type of vehicles likely to be connected to the use.

The Environment Agency recommends conditions regarding further site investigations and assessment.

KCC Ecological Advice Service refer to the designated sites in the locality. On the basis of the information provided consider it unlikely that the development will have an adverse impact on the designated sites. Recommend conditions regarding storage at the boundary, control over works during the breeding season and a long term

biodiversity plan.

RSPB (as landowner and as a protection society) have no major concerns if the traffic movements and noise levels are as predicted and raise no objections. They point out that there has been no baseline 'without development' assessment of bird populations making impacts difficult to assess and consider caution be used in the use of the survey data. Welcome proposed speed reductions.

Cliffe and Cliffe Woods Parish Council raise objection. The parking site is overlooked by 'The Pinnacle', an observation point. Concern regarding size of vehicles on B2000. History of near misses and temporary blocking of road when large vehicles have to pass with poor visibility.

Natural England also point to the designations in the locality. The proposal is not necessary for the management of the European site and is unlikely to have a significant effect on a European site bearing in mind the information accompanying the application. NE is satisfied that subject to the development being carried out as submitted it will not damage features for which the SSSI has been notified. There has been no assessment by NE in relation to protected species.

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. The NPPF and NPPG are relevant considerations in the determination of this application.

Appropriate Assessment

The site lies adjacent to a European site. The Local Planning Authority is the competent authority for the purposes of the Habitats Regulations and it is therefore necessary for an Assessment to be made. First, it is clear that the proposal is not directly connected or necessary to the management of a protected site. With the benefit of an Environmental Statement accompanying the application including bird survey reports in relation to disturbance, lighting and noise modelling with measures relating to run-off, the advice of Natural England is that the proposal is unlikely to have a significant effect on the interest features of a Natura 2000 site either alone or in combination with other proposals. As such it is considered that there no constraint to the grant of planning permission subject to no other harm being identified.

Planning Appraisal

Background

It will be seen from the history that business uses of Thameside terminals as a whole were the subject of enforcement notices that were the subject of appeals. It is considered that the decision by the Inspector to dismiss the appeals and uphold the notices is particularly relevant given that the uses enforced against included haulage, open storage and for a platform rental company occupying Plot 1, as is the decision to

allow the retention of the building on plot 1 and the hardstanding on plot 1, part of plot 2 and plot 8 on the basis that the buildings and hardstandings were lawful..

Main Issues

The Inspector considered the main issues to be:

- i. The effect of the development on the adjacent sites of nature conservation interest and in particular whether the current use of the site is likely to significantly affect a European site.
- ii. The effect of the development on the character and appearance of the area having regard to the development of the Cliffe Pools Nature Reserve (the Reserve) and Cliffe Conservation Park and the landscape of the ALLI.
- iii. The effect of the development on the living conditions of local residents having regard to noise.
- iv. The effect of the development on highway safety and the free flow of traffic.
- v. Whether the development lies in a sustainable location.

Since that decision there has been a change to national policy in the replacement of PPGs and PPSs with the NPPF and the National Planning Practice Guidance.

Principle

In essence this site lies in the open countryside outside any location defined for employment or business development. As such the developments in this area for a range of businesses are contrary to the overall strategies set out in development plan policies for Medway. The appeal site is not a location identified for employment development.

It is pertinent to consider the planning history of the site, namely that the site was developed originally as a chalk quarry and cement works, then following permission in 1961 the site was used as a fuel storage and distribution depot for nearly 40 years. At that time 9 large fuel tanks and a number of buildings and structures were installed and a high proportion of the site hard surfaced. The use ceased in 1999 and for some reason the fuel tanks were removed in 2003. After that, Britannia estates divided the site into 8 plots and developed it as a business estate. The Council considered that the previous fuel storage use had ceased and that the new uses represented a significant intensification in the use of the site that was, in particular, harmful to the adjacent site of nature conservation interest as well as generating a large volume of heavy vehicle movements that were detrimental to the amenity of adjacent residents and those along the B2000. Enforcement notices were served and appeals against these were dismissed with the Council's decision being largely upheld. The unauthorised uses have for the most part been removed as have most of the unauthorised structures. The Council is in discussion with the owner regarding the remaining requirements of the notice - the removal of a significant area of hardstanding. While the notice requires its total removal this will cause problems, in that it will raise a contamination issue (and this has been confirmed by the EA), will also generate significant heavy traffic problems relating to the removal and will generate noise and disturbance issues relating to the digging up of the hard standing. It has therefore been agreed with the EA and the owner that the hardstanding can

remain but be covered with a 300mm layer of chalk which will then naturally regenerate. The layer of chalk will be deposited and spread on the site over a number of years in order to minimise vehicle movement and disturbance.

This then leaves the 3 existing buildings on plot 1, the associated hardstanding, part of the hardstanding on plot 2 and the hardstanding on plot 8, all of which the Inspector allowed to be retained as they are effectively lawful.

In essence the consideration for the Planning Committee is whether the uses proposed for these lawful structures are acceptable in terms of their impact on the nature conservation area and the amenities of the residents around. The proposed uses relate to platform hire use and storage and/or haulage with up to 0.4 hectares for open storage use. The applicants have confirmed that they will accept a limitation on the overall HGV movements as well as controls over the platforms being stored in retracted form.

Notwithstanding whether this application is approved or not the 3 buildings and the hardstandings referred to (on plots 1, part plot 2 and plot 8) will remain. On the basis of the removal of those businesses and the intensity of uses and structures that caused harm it seems reasonable that the lawful buildings and hardstandings be put to some beneficial use provided that there are controls in place that will limit any impact on the adjacent nature conservation area and neighbour amenity.

It is recognised that this is not the most sustainable location for business use, however recognising that there are existing buildings and hardstandings that were originally provided for business use that exist on site and are lawful, then it seems eminently sensible to find an appropriate use for those buildings and hardstandings, provided such uses are acceptable in terms of impact on nature conservation, character and appearance of the area, amenity, highway safety and contamination/drainage. Subject to those matters of detail the proposal are acceptable in principle and is not considered to be in conflict with the Medway Local Plan 2003 or the NPPF 2012.

Impact on Nature Conservation

The advice of NE, as noted, is that the proposals will not damage or destroy the interest features of the SPA or SSSI. It has not assessed the application for impacts on protected species. KCC Ecological Advice Service point out that the site has limited potential for suitable roosting or foraging habitats for birds. They conclude that, provided the development is carried out as indicated there is no evidence to suggest adverse impact on the European site. They recommend avoiding storage at the boundary of the site and that any works are carried out outside of the breeding season as well as a long term biodiversity management plan. There are also recommendations regarding lighting. RSPB have raised no objections but do draw attention to the fact that there has been no baseline assessment without any development.

In summary, whilst the use of the whole of the former depot was found to be unacceptable in nature conservation terms the Council's advisers are not suggesting that there is an equal objection to this lesser scale of development, despite the fact

that some aspects of the development are similar. The proposal is therefore acceptable in terms of Policies BNE36 and BNE40 of the Medway Local Plan 2003

Effect on the Character and Appearance.

As noted the Inspector considered the site to have a nil use and required the removal of the open storage from the plots as she found it visually intrusive.

Clearly, the removal of all the uses on plots 3-7 inclusive and part of plot 2 does have a significant benefit in landscape terms. The consideration here therefore is whether storage on a small part of the site could be acceptable with mitigation in visual and character terms, but recognising again that the buildings and hardstandings will remain on those plots.

The application is accompanied by a Landscape and Visual Impact Assessment. It is now proposed that the lifting equipment be stored with the platforms in the lowered position. The applicant accepts that they would still be seen from some vantage points but claims that from those views they would not be jarring or harmful in the landscape. This is accepted. In addition the applicant is proposing additional landscaping that will have several benefits including both from an ecological perspective as well as limiting the visual impact of the storage. A condition is also recommended to limit the height of other open storage of items other than platforms.

The character of the area remains predominantly rural with the Area of Local Landscape Importance designation. The approach to the site remains along rural lanes that do accommodate the lorries from the Brett businesses but are, nevertheless not particularly suited to large articulated vehicles. However, recognising that there are those heavy vehicles associated with Bretts and that the area of Thameside terminals for employment has reduced in size with the cessation of plots 2 (in part) and 3-7, the subject to a control over the number of vehicles it is not considered that the proposal will be unacceptably harmful to the character of the area. A condition is also recommended to control external lighting both from visual as well as ecological impact perspective.

The proposal therefore accords with Policies BNE1, BNE34, BNE36 and BNE40 of the Medway Local Plan 2003

Impact on Amenity

One of the key concerns of the Inspector was the impact on the residential amenities of properties that would be affected by the traffic generated by the use of the site, particularly in relation to unsocial hours. This current proposal can be conditioned to control the hours of use and thereby reduce the impact on dwellings along the approach roads. The applicants have suggested that the total numbers of HGV movements could also be conditioned. It is considered that in this location, within the former fuel depot and quarry, that a limited use of the lawful buildings and hardstandings area would not unacceptably harm residential amenity subject to controls over hours of use and number of vehicles. The proposal therefore accords with Policy BNE2 of the Medway Local Plan.

Impact on highway safety

It is considered that the roads serving the site have the capacity to accommodate the development, and that the highway issue relates more to one of amenity that is covered above. In capacity terms restricting the number of HGVs will assist. No objection is raised in relation to Policy T1 of the Medway Local Plan 2003.

Sustainability of the Location

The site is not easily accessible by a range of transport modes and it is likely that all journeys would be by motor vehicle. The site is not easily accessible to housing, infrastructure or other developments that would make joint journeys common. The Inspector noted that the site is not easily accessible by pedestrians, there is no public transport service and that there is no safe access for cyclists. In transport terms the location is not sustainable.

Notwithstanding this the key points made above regarding the previously developed land, and retention of buildings and hardstandings merit a limited use of the site such as that proposed, subject to the recommended conditions.

Conclusions and Reasons for Approval

Whilst it is clear that this proposal includes uses that the Inspector found objectionable in the appeals it is for a significantly lesser proposal and is based around the buildings and hardstandings that she found were lawful and will remain on site. The use of these buildings and land for the uses proposed based on the conditions recommended will have no unacceptable impact on matters of landscape, ecology, amenity and highway safety. The proposal is therefore considered to comply with the above mentioned policies and the NPPF and is recommended for approval subject to the conditions set out.

The application would normally be determined under delegated powers but is being referred to Committee due to the extent of the representations received.

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://publicaccess.medway.gov.uk/online-applications/>

