

MC/17/1714

Date Received: 11 May, 2017

Location: Medway Microlights, Stoke Airfield, Burrows Lane, Middle Stoke, Rochester, ME3 9RN

Proposal: Removal of condition 3 on application MC/16/3737 - Retrospective application for construction of a 3-bedroomed detached dwelling and ancillary enclosed hardstanding, along with removal of existing mobile home

Applicant: c/o Gary Mickelborough, Bloomfields

Agent: Mr Mickelborough Bloomfields Bloomfields 77 Commercial Road Paddock Wood Tonbridge TN12 6DS

Ward Peninsula

Case Officer Hannah Gunner

Contact Number 01634 331700

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**Recommendation of Officers to the Planning Committee, to be considered and determined by the Planning Committee at a meeting to be held on 30 August 2017.**

**Recommendation - Approval with Conditions**

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

Drawing number 03-13.010.0819 received on 14 September 2016; drawing number 04-13.010.0819 received on 24 February 2017, 01-13.010 and 02-13.010 received on 10 March 2017.

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

- 2 Within 4 weeks from the date of this decision, the mobile home located adjacent to the house shall be removed from site and the land on which it was located shall be landscaped to match the remainder of the site to be used as part of the residential garden area.

Reason: To ensure that the mobile home is removed in accordance with the approved plans within a reasonable timeframe.

- 3 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order amending, revoking and re-enacting that Order with or without modification) no development shall be carried out within Classes A, B, C, D, E and F of Part 1 of Schedule 2 of that Order unless planning permission has been granted on an application relating thereto.

Reason: To enable the Local Planning Authority to control such development in the interests of amenity, in accordance with Policies BNE1 and 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 application is for the removal of condition 3 on application MC/16/3737 which was a Retrospective application for construction of a 3-bedroomed detached dwelling and ancillary enclosed hardstanding, along with removal of existing mobile home. Condition 3 restricted the occupancy of the dwelling in order to ensure that the residential aspect remained affiliated to the Microlight site.

### **Site Area/Density**

Site Area: 0.19 hectares (0.47 acres)

Site Density: 5.3 dph (2.13 dpa)

### **Relevant Planning History**

MC/16/3737	Retrospective application for construction of a 3-bedroomed detached dwelling and ancillary enclosed hardstanding, along with removal of existing mobile home  <b>Decision Approval With Conditions Decided</b> 16 March, 2017
MC/07/2194	Construction of replacement two storey office and training building (Resubmission of MC2003/0532)  <b>Decision</b> Approval with Conditions <b>Decided</b> 13/06/2008
MC/03/0532	Construction of replacement two storey office and training building  <b>Decision</b> Approval with Conditions <b>Decided</b> 30/04/2003
85/897/A	Renewal of temporary permission for the siting of, a caravan for use by night watchman

**Decision** Approval with Conditions  
**Decided** 16/02/1987

85/897

Temporary permission for the siting of a caravan, for use by night watchman

**Decision** Approval with Conditions  
**Decided** 04/02/1986

## **Representations**

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

**Dickens Country Protection Society** object on the following grounds:

- This is outside of the established settlement where new dwellings would not normally be permitted.

**Stoke Parish Council** have objected for the following reasons:

- This is an industrial site and property should remain linked to it.
- If the business should stop trading a further application should be sought at that time.

## **Development Plan**

The Development Plan for the area comprises the Medway Local Plan 2003 (the Local Plan). 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*

In March 2017 planning permission was granted for retrospective consent for the construction of a 3-bedroomed detached dwelling and ancillary enclosed hardstanding, along with removal of the existing mobile home. On this permission a condition was placed on it to restrict the occupancy of the dwelling in order to ensure that the residential aspect remains affiliated to the Microlight site.

### *Principle*

The principle of this property being used for residential purposes was agreed within the previous committee report. It was stated in the previous report that the relevant policies with the Medway Local Plan (2003) include BNE1, BNE2, BNE25, BNE27 and H11.

The original building was approved as an office associated with the microlight business. A mobile home was allowed on site initially for a night watchman

associated with the business. The last application sought to get retrospective consent for the building which had not been constructed in accordance with the initially approved plans and then to use the building for residential purposes. This would then allow the mobile home to be removed from site. The permission granted reflected that permission would not normally have been granted for a separate house in this location, physically separate from the residential part of the village of middle Stoke, but that the building was lawful (although not its residential use) and there were gains in removing an existing mobile home from the site. Reflecting on the fact that a residential property would not normally be allowed in this location, appropriate conditions were imposed including one restricting occupancy to link it to the microlight business.

The previous report stated:

"It has recently come to light that the owner of Medway Microlights is in fact renting the application property out. The tenant is a lady and her daughter who do not appear to have any links with the Microlights site. Despite this being the case, it is considered appropriate to condition this proposal to ensure the house is occupied in association with the overall site and shall not be used independently from the business that surrounds it. The house is located within the countryside and is considered to sit centrally within the existing business. If the application had been submitted prior to being built it would be considered appropriate only if tied to the business and not as an independent unit. The Local Authority does not consider that an independent house in this location would be viewed to be acceptable.

The main principle point for consideration here is that the application allows for the Local Authority to gain some control over the site by way of conditions and allows for the removal of the existing mobile home unit on site. It must be acknowledged that a residential building here would not normally be considered given the constraints and location in the flood zone, however there is a situation in place here and control of this is viewed to be beneficial. It is not considered that permission here would set a precedent as there are specific considerations for this property that would not transfer to other applications or sites."

The applicants have now set out within a further statement that the occupation of the property has been independent from the business since it was completed. This has been ongoing therefore for more than 4 years and could be immune from enforcement. It has also been stated that this occupation is offset by the removal of the mobile unit that was an unrestricted residential unit that was in place as such for a period exceeding 10 years.

The issue of the longstanding occupation of the mobile unit was verified within the previous report where it was stated that:

"It is noted in the applicants planning statement however that there is vast evidence that proves the structure has been in place for more than 4 years (construction commenced 8-9 years ago). Whilst not subject to a Lawful Development Certificate the Council is reasonably satisfied that this structure would be considered lawful. The use of this structure as residential is not however considered lawful currently.

The mobile unit has been on site since the 1980s and although was approved as a night watchman shelter for the airstrip, has been in residential use for a substantial amount of time. As with the detached building, evidence is available to show that this has been used for residential purposes in excess of 10 years. Again, whilst not subject to a Lawful Development Certificate the Council are reasonably satisfied that the use of this mobile home would be considered lawful."

Given that the above situation is the case the imposition of this condition is put under question somewhat. The applicants have stipulated that they do not feel that the Council are in a position to impose such a condition and in doing so are being unreasonable, especially given the evidence that can be found in relation to the previous unrelated occupation of the mobile and the application site.

It is therefore concluded that in this instance, given the information that can be obtained in relation to unrelated occupancy that the Council should allow for the removal of this condition, however in re-issuing the consent it is possible to place an additional (new) condition that removes permitted development rights for the property and restricts any structures being erected within the residential curtilage. This will ensure that the residential occupation of this property cannot expand without prior permission from the Local Planning Authority and also that the countryside location in which the property sits remains as open as possible with no outbuildings.

#### *Design*

There are no design issues for consideration in this application as it relates to the removal of a condition and does not require any building works to take place.

#### *Amenity*

There are amenity issues for consideration in this application as it relates to the removal of a condition and does not require any building works to take place.

#### *Highways*

The proposal does not intensify the use of the site, there are no highways issues in relation to the removal of this condition.

### **Conclusions and Reasons for Approval**

It is considered that the Local Planning Authority have already found the use of this (originally approved) office building as residential acceptable on the proviso that it was occupied in affiliation with the business on site. It was agreed within the previous permission that the intensification of residential on this site was not considered to be an issue as it resulted in the removal of a mobile unit of accommodation. Given that this application acknowledges the lawful situation on site, it is now considered suitable to remove the condition that ties the property to the Microlight business, but in doing this removes permitted development rights so that structures cannot be erected within the residential curtilage without prior consent by the Local Planning Authority, therefore preserving its setting within the countryside location.

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## **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/>