

MC/23/2060	
Date Received:	15 September 2023
Location:	Boot Fair, Upnor Road, Upnor Rochester
Proposal:	Change of use of field for an additional 7 bootfairs a year (21 in total in any one calendar year).
Applicant	Mark Greenfield Boot Fairs Mr Mark Greenfield
Agent	
Ward:	Strood Rural
Case Officer:	Mary Smith
Contact Number:	01634 331700

Recommendation of Officers to the Planning Committee, to be considered and determined by the Planning Committee at a meeting to be held on 20th December 2023.

Recommendation - Temporary Approval with Conditions

- 1 The change of use for seven additional boot fairs days per calendar year (increasing the total number of boot fairs permitted on the site to a maximum of twenty-one per year, taking into account permitted development rights under Class B of Part 4 Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended)) is hereby approved for a temporary period only and shall cease on or before 30 September 2026.

Reason: To allow the assessment of the impact of the increased frequency of use together with the recent changes of parking charges on the countryside, amenity and highway safety with regard to Policies BNE2 BNE25, BNE26, BNE34 and T1 of the Medway Local Plan 2003.

- 2 The boot fairs hereby approved shall only take place between the months of May to September (inclusive) in any year.

Reason: To limit the impact of the use of local residents and the character and appearance of the countryside with regard to Policies BNE2, BNE25, BNE26 and BNE34 of the Medway Local Plan 2003.

- 3 The boot fairs hereby approved shall not commence before 5am on any day and no buyers or sellers shall be allowed to access the site before this time, nor shall any lighting be used (other than hand held torches).

Reason: To limit the impact of the use of local residents with regard to Policy BNE2 of the Medway Local Plan 2003.

4 The boot fairs shall be operated in accordance with the submitted details including the Site Location Plan and 'Supporting letter for planning application' received 25 September 2023. This shall include:

- The use of marshals to control traffic and parking.
- Post-event cleaning of the site on the day of each boot fair.
- The removal of temporary toilets at the end of each season.

Reason: To limit the impact of the use on the character and appearance of the countryside, residential amenity and highway safety with regard to Policies BNE2 BNE25, BNE26, BNE34 and T1 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

The use of land for the holding of a market (and any movable structures for the purposes of the permitted use) for not more than 14 days in any calendar year is permitted development under Class B of Part 4 Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). The current application is for additional use over and above these permitted development rights, to enable the holding of up to 7 additional boot fairs each calendar year. The hours of opening of the boot fair are given as 5am-1pm on Sundays and Bank Holidays and it is requested that any temporary permission be for a five-year rather than a three-year period.

Relevant Planning History

MC/19/1847 Change of use of field for an additional 4 boot fairs a year (18 in total in any one calendar year).
Approved 17 October 2019 (temporary permission until 30 October 2022)

MC/12/0950 Use of land for car boot sales for 21 days per year.
Refused 16 August 2012

Representations

The application has been advertised on site and in the press and by individual neighbour notification to the owners and occupiers of neighbouring properties. EDF Energy, the Highways Agency, the Lead Local Flood Authority, KCC Archaeology, National Grid, NHS Medway, Natural England, Southern Gas Networks and Southern Water have also been consulted.

Dickens' Country Protection Society consider it would be a mistake to change the use of the land and that a simple consent to increase the number of uses preferably on a time limited basis should suffice.

The **Environment Agency** have no comments as it falls outside their remit as a statutory planning consultee.

Frindsbury Extra Parish Council have no objection in principle but would like to see some restrictions put in place with regard to operating hours and parking management. They have been made aware that gates to the boot fair field have been getting opened as early as 3am in some instances and this is causing disturbance for residents living close by. Also due to parking charges being implemented the roads around the boot fair are becoming congested and dangerous on boot fair days and this needs to be looked at and managed.

Following the submission of a response to their concerns from the applicant, the Parish Council have further commented and wish to reiterate that they are not objecting to the application but feel the 5am opening of gates condition which is currently in place should be maintained. It is understood that the applicant is agreeable to the 5am opening of gates but was concerned about waiting vehicles parking along the road potentially causing a highways issue. The Parish Councillors feel this should not be Mr Greenfields responsibility and that Medway Council should be enforcing the yellow lines which are currently in place and may need to take action to prevent future incidents from occurring. They also feel that yellow lines should be extended around Frog Island/Upnor Road with correct signage to allow proper enforcement.

Kent Police welcome a discussion with the applicant about site specific designing out crime. They recommend:

- perimeter fencing to be a minimum of 1.8m including lockable gates at the communal entry points.
- a swing arm or height restriction barrier or gate at the entrance of the parking area which is lockable in the open and closed positions to prevent/deter unauthorised vehicle access and anti-social vehicle misuse, fly tipping etc.
- the toilets should be locked when the land is un-attended to prevent un-authorized use and anti-social behaviour being committed.
- stalls and other valuable items used for the boot fairs are stored away securely and are not left on the land to prevent theft.

National Grid has confirmed that none of their assets would be affected.

Southern Gas Networks have provided extracts from their records and general advice regarding their coverage.

Southern Water have provided a screen shot of their apparatus in the locality and have no comments on the proposal.

UK Power Networks have provided copies of their records for the area and a related fact sheet.

Three letters of concern have been received:

- Parking and traffic issues including obstructions on blind corners, queuing (from tunnel to Four Elms Hill at times) and people walking in the road, danger and possible hampering of emergency vehicles.
- Popularity and size are too much for the site.
- Delay and difficulties for Upnor residents leaving the village.
- Cars access the field before 5am, undue noise to residents exacerbated by more boot fairs including use of headlights on darker mornings.
- Floodlights and noise disturbance from 3am.
- Do not agree with planning being extended for 5 rather than 3 years.
- No financial benefit to the village as patrons do not frequent local facilities and attractions.

One letter of comment has been received:

- No boot fair should take place after the end of September as it is darker in the mornings and headlights shine into nearby bedroom windows.
- No seller or buyer should access the field before 5am, the heavy chain on the gate wakes neighbours.
- Parking round Frog Island and the tennis club makes visibility hard when driving in and out of the village, also adds to journey times.
- Planning should remain at 3 years.

Councillor Elizabeth Turpin has submitted a letter of support:

- Popular events.
- Run to a high standard, well-staffed and cleaned after each event.

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 2023 (NPPF) and are generally considered to conform. Where non-conformity exists, this is addressed in the Planning Appraisal section below.

Planning Appraisal

Background

As stated above, the site can be used for a market/boot fair for up to 14 days per year under permitted development rights. In 2012, permission for use for 21 days per year was refused due to harm to the countryside from the intensification and urbanising effect, as well as harm to local residents from the inconvenience of traffic with resulting highway safety concerns. An application for an additional 4 boot fairs each year was approved in 2019 on a temporary basis, to allow time to assess the impact of the additional boot fair days. This permission has now expired, and the current application is for continued additional use over and above the permitted development rights.

Principle

The site is a well-known, popular boot fair location which is accessed from Upnor Road. This land is designated as rural land in the Local Plan and is within an Area of Local Landscape Importance (ALLI). The Medway Landscape Character Assessment 2011 (MLCA) shows it as being within character area 18, the Hogmarsh Valley, an urban fringe area with a role as a green buffer between urban and village settlements which is assessed to be in poor condition with moderate sensitivity.

Policy BNE25 of the Local Plan refers to development in the countryside saying that it should only take place if it maintains and where possible enhances the character, amenity and functioning of the countryside and falls within a given category, none of which apply to the current situation. Policy BNE26 refers to rural business development, saying that it should be small in scale without detriment to the amenity, character or setting of the village or if not small scale, justified by an overriding need, and Policy BNE34 says that in ALLI's development will only be permitted if it does not materially harm the landscape character or function unless the economic and social benefits outweigh the priority to conserve the landscape.

The NPPF confirms that decisions should enable the development and diversification of agriculture and other land-based rural businesses and sustainable rural tourism and leisure development which respect the character of the countryside (paragraph 84), with section 11 referring to the making of effective use of land.

In the current case a balance needs to be struck between the economic, social and recreational benefits of the boot fair and its impact on the countryside and surroundings. The boot fair season generally runs from May until September and the current proposal would allow a boot fair approximately once a week over this period, as opposed to two boot fairs in every three weeks under permitted development rights. This would be three more per year than that previously allowed on a temporary basis, reference MC/19/1847. It is noted that the currently proposed level of provision was previously refused in 2012 (MC/12/0950) but that the level of concern raised now, following experience of the event over the years, is much lower, with the Parish Council no longer raising objections.

It is recognised that the boot fairs alter the character of the countryside and the landscape within which the site sits, however this is a temporary, wholly reversible impact primarily for the very limited period of the events, for half a day a week over less than half the year. At other times the area is left open and used for dog walking and other informal leisure activities, etc, being an open field. On balance, following the experience over the last few years at this site and bearing in mind the economic, social and recreational benefits, no overriding objection is raised in principle to the continuing use for this purpose, including the proposed additional three days a year. However, bearing in mind the sensitivity of this rural site, a further temporary permission is recommended, for three years, in order to allow further review of the impact at this greater level of use.

Design

There are no significant design impacts from the boot fair. Temporary portable toilets are provided in the northwest corner of the site for the duration of the boot fair season only, relatively tucked away so as limit their minor impact.

Amenity

Aside from traffic, to be addressed below, the main potential amenity impact is noise and other disturbance. There are no residential properties immediately adjacent to the site, but concern has been raised regarding the impact of noise, headlights and floodlights to residents in Upnor particularly in the very early morning. The official opening time of the boot fair is 5am but at times sellers have been let in earlier as the applicant says he was concerned about queuing on the road outside. It is agreed that noise and disturbance from opening up (or associated activities) prior to 5am is unreasonable and a condition to address this is therefore recommended. The applicant has confirmed that 5am is explicitly stated on his website and social media platforms as the opening time and that any preparation before 5am is conducted with lights off.

Highways

By vehicle, the site is accessed from Upnor Road, the entrance being the access closest to Berwick Way and the exit being further to the north, near the tennis club access. It is stated that there is on-site parking for approximately 700 cars, separate to the area where the stalls are set up, with eight marshals employed to manage parking and traffic. This year a parking charge of 50p per vehicle has been introduced, payable on exit such that it does not delay cars entering the site (it is stated that this is due to increased costs and increases support for their chosen charity, Demelza House). There are double yellow lines along the sections of road closest to the site access points. Pedestrian access can also be obtained across the footbridge over Wulfere Way from Wainscott.

By their nature, boot fairs aim to attract many visitors during a fairly short period of time. Most cars come to and from the south, where Upnor Road links directly to through-routes in Medway, both via the Sans Pareil roundabout and the Medway Tunnel. At times, this may cause temporary queuing, although as the boot fair is a weekend/bank holiday activity it does not affect busier times in the usual working

week. It is not possible to prevent visitors using other routes and, similarly, whilst there is ample parking on site, it is difficult to prevent visitors parking elsewhere in the locality. The double yellow lines around the site entrances are a deterrent, as well as assisting traffic flow and safety, and although the boot fair operator employs marshals to manage parking and traffic, they are not able to enforce highway parking breaches, which is a matter for the police/highway authority. The provision of additional double yellow lines and highway signage could be considered although this is not a matter which has been raised by the police in this instance. In addition, the extension of the existing double yellow lines may well just displace on-street parking to slightly further away, beyond any new markings, rather than prevent it completely.

The site has direct pedestrian access from the closest urban area, across the footbridge from Wainscott, which is advantageous. It is noted that at times the vegetation affects the public footpaths used to access the boot fairs and an informative is recommended to remind the landlord/tenant of their responsibility to keep the path clear from vegetation grown.

Other Matters

Kent Police have made various recommendations regarding designing out crime. The applicant has confirmed that the matters raised have already been considered to prevent unauthorised access, with all gates leading to the field being securely locked. Although there is no height restriction barrier they feel the measures already implemented are sufficient, bearing in mind their thirteen years of experience here (it is also noted that a height restriction barrier would not be ideal from a visual perspective).

Conclusions and Reasons for Approval

Whilst the boot fairs alter the character of the countryside and have knock-on effects on the local highway network, at times causing disruption to local residents, this needs to be balanced against the positive economic, social and recreational benefits, as well as the fact that the application only relates to seven, half days a year, with permitted development rights for fourteen days a year. On balance, subject to conditions to ensure that the boot air does not open before 5am and that its operation continues to be actively managed, it is recommended that a further three-year temporary permission be granted, bearing in mind the proposed increase in frequency of use and recent changes introducing parking charges. This conclusion has been reached with regard to the advice in Policies BNE1, BNE2, BNE25, BNE26, BNE34, T1, T2 and T13 of the Local Plan and paragraphs 84, 110-112 and 130 and Section 11 of the NPPF.

The application would normally be determined under delegated powers but is being referred for Committee determination due to the number of representations received expressing a view contrary to officer's recommendation for approval.

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://publicaccess1.medway.gov.uk/online-applications/>