

APPLICATION: MA/11/1236 Date: 14 July 2011 Received: 27 January 2012

APPLICANT: Mr D Montebello

LOCATION: CLAYGATE LAKES, CLAYGATE, MARDEN, KENT, TN12 9PL

PARISH: Collier Street

PROPOSAL: Erection of a building to accommodate an office, tackle shop and toilets; erection of a building to act as a drying room; siting of two storage containers; formation of a base for a mobile catering unit; and landscaping as shown on drawing nos. 02, 05, 06, 07, 08, 09, 10 and 11 received on 22/7/11; drawing nos. 04 and 12 received on 5/9/11; drawing nos. 01 and 03 received on 12/9/11; and drawing no. 03A received on 11/6/12.

AGENDA DATE: 28th June 2012

CASE OFFICER: Geoff Brown

The recommendation for this application is being reported to Committee for decision because:

- Councillor Nelson-Gracie has requested it be reported for the reasons set out in the report

## **1. POLICIES**

- Maidstone Borough-Wide Local Plan 2000: ENV6, ENV28, ENV49, T23
- South East Plan 2009: CC1, CC6, C4, NRM4, NRM5, S5
- Village Design Statement: N/A
- Government Policy: NPPF (2012), Technical Guidance to the NPPF (2012)

## **2. HISTORY**

MA/10/0570 - Use of the site for recreational fishing without compliance with condition 13 of permission MA/03/1197 – Permitted

MA/03/1197 - Change of use of land from agricultural use to a use for the purposes of recreational fishing involving the desilting of an existing lake (Pond A) and construction of a new lake (Pond B) together with associated drainage and earth works, provision of a new access, closure of the existing access, provision of 26 car parking spaces, internal access road and footpaths,

construction of a footbridge, erection of gates and retention of a storage container - Permitted

### **3. CONSULTATIONS**

COLLIER STREET PARISH COUNCIL states:

“The Parish Council wish to see the application REFUSED for the planning reasons detailed but DO NOT REQUEST the application to be reported to the Planning Committee:-

Having discussed the proposals there is no justification for this development.

No business plan has been produced

Hours of use

Over intensification of the site

Visual intrusion into the countryside

Unresolved ‘flood issues’ and the resultant impact on the neighbouring properties

#### Additional comments

Refreshment facilities are available within a reasonable walking distance.

What are the proposed employment issues?

The site was purchased knowing the existing situation”

THE ENVIRONMENT AGENCY has no objection subject to a condition requiring the submission for approval of details of surface water disposal.

KENT HIGHWAY SERVICES states that the proposal is unlikely to result in any significant increase in traffic flows and there would therefore be no detriment to highway safety or capacity. There is therefore no objection.

THE KENT COUNTY COUNCIL BIODIVERSITY PROJECTS OFFICER advises that there is limited potential for direct ecological impacts as a result of this development and no need for an ecological survey. Any lighting should be designed to limit the impact on bats.

RURAL PLANNING LTD comments that the proposed facilities appear broadly in line with what might be typically found on other similar fisheries and they would be very helpful in the better management and development of this site as against competitor sites.

THE MBC ENVIRONMENTAL HEALTH MANAGER has no objection provided a condition is imposed requiring the submission for approval of details of the storage and disposal of refuse.

#### **4. REPRESENTATIONS**

COUNCILLOR NELSON-GRACIE states:

"A number of concerned residents have lobbied me to call in this application to be heard at Planning Committee if you are minded to approve it.

Their concerns include:

- This further expansion of business will require more building and hard standing, which will exacerbate the flooding issues, particularly in Burtons Lane
- There are ongoing highways problems, the access being on a dangerous bend with an accident record. More business will increase the use of this access, increasing the chances of accidents
- The hedge should be cut more frequently to improve sightlines
- The existing business is not well landscaped, looking like "a car boot sale" on occasions. Improvements to landscaping should be required"

LETTERS OF OBJECTION HAVE BEEN RECEIVED FROM FOUR LOCAL HOUSEHOLDS and the following points are raised:

- a) The flood risk assessment is flawed: the site is in a designated flood plain prone to flooding, as occurred in 2000. Alterations to water courses to maintain the lakes are a matter of concern.
- b) Concern is expressed as to the burning of rubbish and cooking odours. There would be an increase in the incidence of litter and other environmental damage. The residential amenities of local residents would be adversely affected.
- c) This would be an intrusive and undesirable commercial development, harmful to the character of the countryside. The site is prominent and could not be adequately screened. There would be light pollution in a sensitive area.
- d) An office is not necessary, nor is a bailiff's office. There is no overriding need for the facilities proposed as fisheries are able to operate without them.
- e) A catering van would lead to cooking odours and is not appropriate here.
- f) The tackle shop would be a commercial development that would increase the intensity of use of the site.

- g) Use of the car park would intensify. The proposed parking provision may be inadequate.
- h) The access and road network here are dangerous and any increase in traffic would be unacceptable. There is a dangerous bend in the road and there have been accidents in this locality. Exit visibility from the access point is poor due to the roadside hedge.
- i) The scope for job creation, activities for people with disabilities and community involvement is limited.
- j) The development, if permitted, would lead to pressure for further development.

## **5. CONSIDERATIONS**

### **5.1 Site Description**

- 5.1.1 The application site is located in open countryside south of the hamlet of Collier Street. This is land that is not the subject of any particular landscape designation. The site is bordered by the B2162 to the east and south, by farmland to the west and by the Paddock Wood to Ashford Railway to the north. There is a scattering of dwellings in the area, notably Claygate Cottages to the south west of the site, Longend Farm to the south of the site and Churston and Burton House (both off Burtons Lane) to the east.
- 5.1.2 The site has planning permission for the purposes of recreational fishing by virtue of permission reference MA/03/1197. The site has been developed pursuant to that permission and exhibits two large lakes with islands in the northern half of the site and a smaller lake in the western portion. There is a watercourse that runs through the fishery: it enters the site at the eastern boundary and meanders towards the railway line.
- 5.1.3 Access into the site is from Claygate to the south and a hardsurfaced track runs off northwards, close to the eastern boundary of the site, reaching a large car park between the fishing lake embankment and the eastern boundary. At the eastern edge of the car park is a small green painted container (that acts as an administrative cabin) and there is a portable toilet opposite that. The access point was moved to this more central point (it had previously been located close to the south western corner of the land) as part of the MA/03/1197 redevelopment.

- 5.1.4 The use of the site for recreational fishing was previously tied to the occupation of the residential property Longend Farm off the south side of Claygate but this link was removed by permission reference MA/10/0570.
- 5.1.5 The lakes are used for recreational 'day ticket' fishing and the lakes are stocked with most species of coarse fish.

## **5.2 Proposal**

- 5.2.1 The applicant indicates that the development of the site, including initiatives to cater for disabled anglers, is being prevented by the lack of facilities and this application seeks to rectify that. The application explains that the fishing facility works with, and has had visits from, a number of local charities and organisations and the facilities proposed here would enhance their experience. The applicant states that the purpose is not to increase the occupancy of the lakes but to provide much needed amenities. The application proposes two new buildings to enhance facilities: both to be sited on the existing car park area.
- 5.2.2 An 'L-shaped' building is proposed in the south western corner of the car park. This would accommodate a site office, toilets (including disabled persons toilet) and a shop selling spare fishing line, bait, etc. The building would be of horizontal wooden cladding under a felt covered, near-flat roof and would feature a ramp and walkway. The max. height of this building would be approx. 3m.
- 5.2.3 The second building would be sited on the eastern edge of the car park. This would act as a drying room for the drying of equipment, a shelter from inclement weather and as a teaching room. This would be a rectangular building of horizontal wooden cladding under a felt covered, near-flat roof with a max. height of approx. 3.2m. It would include a covered veranda to its front.
- 5.2.4 Further development proposed in this application involves a small hardstanding immediately to the north of the proposed drying room to facilitate the stationing of a mobile food unit which would be limited to peak times only. An existing equipment container would be re-sited and two new containers sited near the eastern boundary to the north of the car park.

## **5.3 Principle of Development**

- 5.3.1 Development in the countryside is restricted under the terms of Development Plan Policy and Central Government Guidance. As an exception to the general theme of restraint, Local Plan Policy ENV28 (which governs development in the countryside) allows for "Open air recreation and ancillary buildings providing operational uses only"; whilst South East Plan Policy S5 states that local

authorities should encourage increased and sustainable participation in sport, recreation and cultural activity.

5.3.2 This recreational fishing facility is already established under the terms of permission MA/03/1197. This application seeks to enhance its facilities through the provision of office space, toilets, storage, etc. which I regard as genuinely ancillary to the existing lawful use. The shop element has less policy support but the intention is to provide items directly related to recreational fishing only (which could be controlled by condition) and so this element would also be ancillary to the main use. I conclude that the principle of the development is supported by policy: however the detail must be appropriate.

#### **5.4 Visual Impact**

5.4.1 The site for the buildings and containers is reasonably well screened from the north and east by established railside and roadside vegetation. There are clear views from Claygate to the south as the road bends around and the roadside vegetation there is limited to a low hedge in poor condition. The site is therefore only partially screened and there are clear views into the site from the south. However, the buildings proposed here are very low structures, of timber boarding under felt, that are akin to stable buildings found throughout the countryside. Whilst these buildings and the containers would be visible from public vantage points I do not consider that they would appear out of place or be significantly harmful to the character of the countryside. The application expresses the willingness to landscape the site to supplement relatively new planting that has become established around the ponds and on the approaches to the car park and clearly this would help further soften any impact.

5.4.2 Low level bollard lighting is proposed but no detail is given. I consider this reasonable, not least for safety and security reasons, but I consider it should be the minimum necessary and that full details should be secured by condition to safeguard the character of the countryside.

#### **5.5 Residential Amenity**

5.5.1 The site for the buildings is well divorced from residential property and I do not consider that the development would cause any loss of light, outlook or privacy to local residents. The nearest residential property is Churston approx. 75m east of the car park on the other side of Collier Street. Clearly the use is already taking place and I do not consider that any increase in noise and disturbance from 'comings and goings' and the fishing use itself would be so great as to warrant a refusal of permission. Similarly, I do not consider that smells from a catering van would be so intrusive as to warrant objection.

## **5.6 Landscaping**

5.6.1 No existing trees of any significance would be affected by the development. The application documentation indicates that new planting would be put in place in the vicinity of the new buildings and this can be secured by conditions. The submitted drawings show new planting to take place in bands on the southern edge of the existing car park area to supplement established planting along the access track. I consider this indicative planting to be acceptable. Planting should reflect the characteristics of The Laddingford Low Weald landscape area and I phrase the relevant landscaping condition accordingly.

## **5.7 Highways**

5.7.1 Kent Highway Services states that the proposal is unlikely to result in any significant increase in traffic flows and there would therefore be no detriment to highway safety or capacity: no objection is raised on highways grounds. The access that serves the site is close to the bend in the B2162 and access visibility is not ideal. However, condition 9 of permission MA/03/1197 restricts the number of fishing rods in use at any one time to 52 and there is no proposal here to vary that condition: with that in mind, whilst facilities on site would improve I am not convinced that the use of the access would intensify significantly. There is a large car park here and an access drive and I consider that vehicles would have sufficient space to park and turn.

## **5.8 Floodplain Issues**

5.8.1 The application is accompanied by a Flood Risk Assessment. That report states that the site is within an area classed as Flood Zone 3a and there is a 'high probability of flooding' from the River Teise but also that this is a 'water compatible' usage (water-based recreation). The Technical Guidance to the NPPF can allow for such uses in Zone 3a. The report concludes that the development would not impact on floodplain storage because an 150m<sup>2</sup> area of raised bunding has been removed (shown on plans) and that there is no objection subject to finished floor levels being set at least 300mm above existing ground levels and a formal flood warning and evacuation plan being implemented. The Environment Agency has raised no objection and there are no justifiable grounds to refuse this application on floodplain issues.

5.8.2 I am aware that concern has been raised as to interruption of local watercourses but a development of this nature does not affect those matters. The applicant has written to state that the lakes are self-contained and replenished only by rainwater. He points out that his stretch of the watercourse is properly maintained.

## **5.9 Other Issues**

- 5.9.1 The Biodiversity Projects Officer advises that there is limited potential for direct ecological impacts as a result of this development and no need for an ecological survey. Any lighting should be designed to limit the impact on bats.
- 5.9.2 In terms of sustainability of the location, the fishing facility already exists and this application is to erect ancillary structures. Recreational fishing lakes will often be located in the rural area and this one is not remote, being served by a B road.

## **6. CONCLUSION**

- 6.1 Ancillary facilities for open air recreation are supported in principle by policy. From the content of the application, this scheme would enhance the opportunity for the public to enjoy an outdoor pursuit, including persons with disabilities and disadvantaged groups. I consider the development proposed here would have no adverse impact on the character, amenity and functioning of the area. I see no need for an hours of use condition given the low impact discussed above, whilst night fishing is clearly a popular activity and should not be restricted unnecessarily. I recommend that planning permission be granted.

## **7. RECOMMENDATION**

GRANT PLANNING PERMISSION subject to the following conditions and informative:

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

Reason: In accordance with the provisions of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. The development hereby permitted shall be carried out in accordance with the following approved plans:  
drawing nos. 02, 05, 06, 07, 08, 09, 10 and 11 received on 22/7/11; drawing nos. 04 and 12 received on 5/9/11; drawing nos. 01 and 03 received on 12/9/11; and drawing no. 03A received on 11/6/12.

Reason: To ensure the quality of the development is maintained and to prevent harm to the residential amenity of neighbouring occupiers in accordance with Policy ENV28 of The Maidstone Borough-Wide Local Plan 2000.



3. The development shall not commence until, written details and samples of the materials to be used in the construction of the external surfaces of the building(s) hereby permitted have been submitted to and approved in writing by the Local Planning Authority and the development shall be constructed using the approved materials;

Reason: To ensure a satisfactory appearance to the development. This in accordance with Policy ENV28 of The Maidstone Borough-Wide Local Plan 2000.

4. No development shall take place until there has been submitted to and approved in writing by the Local Planning Authority a scheme of landscaping, using indigenous species which shall include indications of all existing trees and hedgerows on the land, and details of any to be retained, together with measures for their protection in the course of development and a programme for the approved scheme's implementation and long term management. The scheme shall be designed using the principles established in the Council's adopted Landscape Character Assessment and Landscape Guidelines and shall show hedging and tree planting appropriate to the heavy clay soils of The Laddingford Low Weald area in bands on the south side of the existing car park area;

Reason: No such details have been submitted. This in accordance with Policy ENV28 of The Maidstone Borough-Wide Local Plan 2000.

5. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the building(s) or the completion of the development, whichever is the sooner; and any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation;

Reason: To ensure a satisfactory setting and external appearance to the development. This in accordance with Policy ENV28 of The Maidstone Borough-Wide Local Plan 2000.

6. Before development commences full details of the means of surface water drainage shall be submitted to and approved in writing by the Local Planning Authority:

Reason: To ensure adequate and appropriate management and disposal of surface water. This in accordance with Policy NRM4 of The South East Plan 2009.

7. The works hereby approved shall be carried out in accordance with the 'Flood Risk Management Measures' section of the Flood Risk Assessment Report dated January 2012:

Reason: To ensure adequate and appropriate measures to counter flood risk. This in accordance with Policy NRM4 of The South East Plan 2009.

8. Before development commences full details of the proposed external lighting shall be submitted to and approved in writing by the Local Planning Authority. No further external lighting shall be put in place without the prior written approval of the Local Planning Authority;

Reason: In order to protect the character of the countryside. This in accordance with Policy ENV28 of The Maidstone Borough-Wide Local Plan 2000.

9. Before development commences full details of the proposed means of refuse storage and disposal shall be submitted to and approved in writing by the Local Planning Authority. The approved facilities shall be provided before the first use of the buildings and maintained thereafter;

Reason: In the interests of the amenities of the countryside. This in accordance with Policy ENV28 of The Maidstone Borough-Wide Local Plan 2000.

10. The shop element of the scheme hereby approved shall only sell items incidental to the use of the site for recreational fishing;

Reason: An unrestricted retail use in this location would be an unsustainable form of development contrary to Policy ENV28 of The Maidstone Borough-Wide Local Plan 2009.

### **Informatives set out below**

You are reminded that the conditions imposed on planning permission MA/03/1197 are still in force and need to be complied with.

Any lighting proposed for the site should take into account the recommendations of The Bat Conservation Trust and Institute of Lighting Engineers document Bats and Lighting in the UK so as to limit the potential for impacts on bats.

The proposed development, subject to the conditions stated, is considered to comply with the policies of the Development Plan (Maidstone Borough-Wide Local Plan 2000 and the South East Plan 2009) and there are no overriding material considerations to indicate a refusal of planning consent.