

Hildenborough **556083 148703** **11 October 2011** **TM/11/02794/FL**
Hildenborough

Proposal: Variation of planning conditions 1 and 4 of permission TM/10/03297/FL for the erection of a marquee to hold weddings and evening receptions and for educational use, to allow for a permanent siting of the marquee and to allow for 6 extensions of time to 1am each year

Location: Fosse Bank School Noble Tree Road Hildenborough
Tonbridge Kent TN11 8ND

Applicant: Mountains Country House

1. Description:

- 1.1 A permanent permission is sought to retain this a marquee within the grounds of this school. In addition to use directly associated with the school itself, the marquee is also to be used for functions such as Weddings and Balls. Permission was granted to use Mountains for civil wedding ceremonies in 2001 and this is also when the first temporary planning permission was granted for a marquee when the site was used as a Health Spa. Planning permission is now sought to use the marquee on a year round basis up to 11.30pm and up to 1am on 6 occasions a year (it was previously allowed for 4 occasions annually).
- 1.2 The main building had been previously used as a health centre and was converted to a school in 2003. The school applied for a permanent permission for a marquee in 2004 but this was granted on a temporary basis only, so that the noise implications on nearby properties could be assessed further. Marquees have been erected on the site every year since. The Council has granted several further temporary permissions differing technologies have been deployed to improve the performance of the facilities in an endeavour to improve the control over noise impacts.
- 1.3 The current application is submitted in the form of an application to vary two conditions on the most recent permission. The two conditions in question say:
- (1) The development hereby permitted shall cease on or before 29 February 2012.
- Reason: In pursuance of Section 91 of the Town and Country Planning Act 1990.
- (4) The hours specified in condition 3, may be extended from 23.30hrs to 01.00hrs on no more than 4 occasions during the life of this permission on any day with the exception of Sunday night to Monday morning. At least 14 days notice shall be given to the Local Planning Authority of the intention to operate beyond 23.30hrs.
- Reason: To allow the proposed extended operating hours to be reviewed in light of the experience of the operation of the use during the specified period.

- 1.4 The main marquee is 33m by 12m and has an adjoining food preparation tent/store that is 6m by 12m. There is also an entrance foyer designed to dampen the noise emission from the marquee. The marquee can accommodate 250 people but the applicants have advised that it is more usual for it to hold 100/120 people. It provides a venue for larger weddings and charitable/community events in the area. The venue has been a location for weddings since 2001 and the applicant comments that the impact on neighbours in terms of noise issues, has been vastly improved since April 2011, and has now, the applicant suggests, achieved an acceptable level.
- 1.5 The applicants indicate that profits from the events business are transferred to the school to help it develop; it is also vital to help maintain the Grade II Listed Building and the historic parkland and gardens. They comment that they provide work for a number of full and part time employees as well as supporting numerous local suppliers in the wedding and events industry.
- 1.6 The applicants state that since April 2011 the following measures are in place to restrict the noise impact:
- *They have fitted an acoustic lining into the marquee;*
 - *The music is monitored closely by the duty managers and recorded on sound report forms;*
 - *A new sound system has been installed;*
 - *They have met the Environmental Health Officer, local councillor, neighbours and school governors have been invited to test the new sound system;*
 - *Environmental Health have made several unannounced tests of various functions and have reported that there was no sound audible at the boundary;*
 - *If an outside DJ is used there are strict guidelines about compliance with sound levels.*

2. Reason for reporting to Committee:

- 2.1 This application has been reported to Committee in light of local concerns associated with the transmission of sound from the marquee.

3. The Site:

- 3.1 Fosse Bank School/Mountains is a Grade II Listed Building, set within Historic Parkland within the Green Belt. The site is set well back from the road and there is parking for up to 100 cars for the proposal.

4. Planning History:

TM/01/01398/FL Grant With Conditions 20 September 2001

Use of Mountains for civil wedding ceremonies and permanent siting of marquee for receptions (during summer months only)

TM/96/01075/FL Grant With Conditions 31 October 1996

change of use of house and grounds to sports and leisure complex with alterations and extensions and creation of 1 no. tennis court plus change of use of outbuildings/stables to 2 residential units and extension to Lodge House

TM/96/01077/LB Grant With Conditions 31 October 1996

Listed Building Application: alterations and extensions to "Mountains" and outbuildings and Lodge House re change of use to sports and leisure complex and 2 residential units

TM/03/03266/FL Grant With Conditions 4 December 2003

Change of use from health and leisure club to mixed use as school and health and leisure club to include staff flat and erection of fencing

TM/03/03286/LB Grant With Conditions 4 December 2003

Listed Building Application: Internal alteration in connection with change of use from health and leisure club to mixed use as school and health and leisure club to include staff flat and erection of fencing

TM/04/04182/FL Grant With Conditions 23 February 2005

Renewal of temporary planning permission TM/01/01398/FL(Use of Mountains for civil wedding ceremonies and permanent siting of marquee for receptions (during summer months only))

TM/06/00836/FL Grant With Conditions 11 May 2006

Construction of a pitch roof over existing timber deck to rear of Fosse Bank School

TM/07/01779/LB Approved 6 July 2007

Listed Building Application: Erection of a partition wall to create a toilet area within a classroom; Installation of a sink in each ground floor classroom and the removal of a partition wall

TM/08/03682/FL Approved 3 February 2009

Erection of a marquee from 01 April to 31 October each year

TM/09/01993/FL Approved 30 November 2009

Erection of marquee at Fosse Bank School to hold wedding and evening receptions and for educational use

TM/10/03297/FL Approved 14 February 2011

Erection of marquee to hold weddings and evening receptions and for educational use

TM/11/00336/AT Approved 3 May 2011

Erection of 8m white flag pole to fly 'eco school' green flag

TM/11/00779/RD Approved 10 May 2011

Details pursuant to condition 5 (schedule of events) of planning permission TM10/03297/FL (erection of marquee to hold weddings and evening receptions and for educational use)

5. Consultees:

5.1 KCC Highways: No objections.

5.2 DHH: Visited the site three times over the summer - 21 May, 4 June and 6 August;

Also visited the site on the afternoon of 24 May for a demonstration of the music equipment now installed (the system which it is believed was discussed at the last planning meeting). Music was turned up to its maximum setting and walked to the boundary with Farm Lodge, where it was inaudible.

21 May, 20:45 - 21:30: Very slight bass noise just audible at the boundary with Farm Lodge. I later learned that there was a live band playing at the time, and that this was the last time a live band had been booked.

4 June, 21:00 - 21:45: There was a noticeable level of road noise from the A21, however no music noise was audible at the boundary with Farm Lodge for the duration of the visit.

6 August, 23:00 - 23:45: Weather was clear and calm if not particularly warm. Again there was a noticeable level of road noise from the A21, but no music noise was audible at the boundary with Farm Lodge for the duration of the visit.

The site has been monitored on the 3rd and 10th December. On the 3rd December a bass noise and a microphone between songs, was audible beyond the boundary. On the 10th December a bass noise was barely audible on the boundary.

The applicants have commented on the 3rd December they did not have their approved DJ as it was a large event for Kent Cancer Trust – they comment that in the future they will insist that only their approved dj is allowed to operate.

Environmental Health have received no complaints from local residents regarding the site over the course of this temporary permission (TM/10/03297/FL). With this in mind and in light of the situation witnessed on 4 June and 6 August I have no objection to a permanent permission being granted providing:

- 1) Condition 2 of TM/10/03297/FL be reimposed;
- 2) A condition be added restricting or prohibiting live music on the basis that the nature of this activity means music can be heard at the site boundary.

5.3 Private Reps: 25: 1X/0S/1R: The following comments have been made from two local residents of the following properties:

- 2 Flatwood, Noble Tree Road - Problems with noise over the years but in the last year Mountains have finally done something positive to prevent the intrusive noise by installing some sort of system that reduces audio leakage. Also grateful to local Councillor Mark Rhodes who went to the trouble of visiting the site and observing the testing of the system. However, they do get occasional noise intrusion and ask if Members are minded to allow the application that Mountains ensure that the measures that have been taken to reduce the noise footprint remain permanently in place and enforceable. They also ask that the conditions relating no music or speech generated within the marquee shall be inaudible beyond the site boundary and that other noise measures installed shall be retained, be attached to any planning permission.
- The Stables, Noble Tree Road – Only moved to this property in May 2011 as seeking a peaceful environment. They have no objection to the marquee as they can understand that it provides revenue for the school but they are opposed to the six extensions of time to 1am as it would have a serious impact upon their health, well being and ability to enjoy their home. They comment that they very occasionally hear loud music when a band is playing; there is noise and disturbance from traffic and drunk, loud guests leaving the venue; taxis waiting outside their home and litter being left by guests. They comment that an extension until 1am will mean guests leaving the venue at 2am which will affect their sleep and they need to get up the next day to go to work. They consider it un-necessary to extend the hours – the weddings start early and should be finished by 11pm – apart from New Years Eve they can see no reason why the events need to go on until 1am.

6. Determining Issues:

6.1 As with previous applications, the marquee needs to be considered in terms of its impact on the setting of the listed building, together with its effect on the character and openness of the Green Belt and the Historic Parkland. However, since other,

more permanent, developments such as a swimming pool and a tennis court have already been allowed on this site, I do not consider that this facility should be resisted on these grounds all other matters being equal. It is also appropriate to take into account the role that the provision of this facility plays in generating income to help with the upkeep of the listed building.

- 6.2 Members will note, from the history of the site set out earlier in this report, that the main issue of contention has been the impact of noise, generated by functions held in the marquee, on nearby residential properties. The marquee use has the past led to noise problems for nearby neighbours. The purpose of the three previous temporary permissions was to enable a “trial period” so that the impact – and in respect of the most recent permission, specifically the impact of noise on neighbours with the new measures in place – might be assessed in the light of experience, and in particular development of noise management technologies and management practices.
- 6.3 The experience so far demonstrates that the way in which the use has operated during this most recent temporary period has not resulted in disturbance for the neighbours, and no complaints have been made to DHH. The comments received from neighbours ask that the previous conditions concerning the controlling of the use be applied to any planning permission. However a neighbour who has recently moved to the area has asked that the use not be extended until 1am on six occasions a year. Whilst I can understand their concerns, DHH has commented that the audibility of noise that they have experienced at the site does not class as a statutory nuisance and the neighbours were aware that the adjoining site was used for weddings / evening events when they moved into their property. On these grounds, I have doubts whether an appeal regarding this condition could be sustained on appeal. The historical issues arising from noise impacts have related to music and P.A. noise – other impacts such as noise from visiting customers has not proven to be a problem during the periods of monitoring.
- 6.4 Government guidance, generally, is that a series of temporary permissions is not normally appropriate following a “trial run”, and that it should be possible to decide whether either a permanent permission or a refusal is appropriate in the subsequent application. However, because of the need to assess various aspects of the proposals as they emerged. Three temporary permissions have been granted on this site and this “trial run” has been in place for nearly the last three years. The applicants have amended their sound system further in order to improve their ability to undertake the uses within the marquee without causing any unacceptable impact on the neighbours. The most recently introduced noise controls implemented by the applicants have been tested and monitored over the summer and winter period. I am mindful of the general principle that local planning authorities should consider granting a conditional planning permission (as opposed to refusing permission) where there are reasonable grounds for believing that appropriate conditions will overcome any identified and sustainable planning objections.

6.5 DHH has commented that he has no objection to the granting of a permanent permission in the light of the way that the use has operated with the additional measures in place during 2011. On this basis, I believe that it would now be possible to grant permanent permission for the use, subject to a range of appropriate conditions.

7. Recommendation:

7.1 **Grant Planning Permission** in accordance with the following submitted details: Other CONTACT INFO dated 07.10.2011, Other CONTENTS dated 07.10.2011, Letter dated 07.10.2011, Design and Access Statement dated 07.10.2011, Photographs dated 07.10.2011, Drawing MQ1 dated 07.10.2011, Elevations dated 07.10.2011, Elevations dated 07.10.2011, Drawing dated 07.10.2011, Drawing MQ1 dated 11.10.2011, Site Plan dated 11.10.2011, subject to:

Conditions / Reasons

1. No live music shall be generated with the marquee.
Reason: In the interest of residential amenity.
2. Music or speech generated within the marquee shall be inaudible beyond the site boundary.
Reason : In the interest of residential amenity.
3. The noise measures outlined in the submitted Planning and Design Access Statement, submitted 7th October 2011, shall be implemented prior to the first function within the marquee to which it relates pursuant to this permission, and these measures shall be retained at all times thereafter. Notwithstanding the content of the Noise Measures, there shall be no use of amplified sound within the marquee between 23.30 hours on one day and 08.00 hours on the next day.
Reason: To safeguard the aural amenity of the occupiers of nearby dwellings.
4. The hours specified in condition 2, may be extended from 23.30hrs to 01.00hrs on no more that 6 occasions during the life of this permission on any day with the exception of Sunday night to Monday morning. At least 14 days notice shall be given to the Local Planning Authority of the intention to operate beyond 23.30 hrs.
Reason: To allow the proposed extended operating hours to be reviewed in light of the experience of the operation of the use during the specified period.

Informatives

1. The applicant is reminded that The Firework Regulations 2004 prevents any firework display outside the hours of 23.00hours and 07.00hours.

2. The applicant is advised that hirers of the marquee should be accredited with a MUTAmarq - hirers accredited to this scheme subscribe to a Code of Practice which covers structural integrity, flame retardancy, public safety etc.

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