

Stansted **563062 161016** **28 October 2011** **TM/11/00384/FL**
Downs

Proposal: Change of use of land for car parking, vehicular access road, erection of timber outbuilding to provide additional seating and food preparation areas, installation of petanque pitch (Partially Retrospective)

Location: The Vigo Inn Gravesend Road Wrotham Sevenoaks Kent
TN15 7JL

Applicant: Mr Andrew Forrest

1. Description:

- 1.1 The application is for the change of use of land and works beyond the rear of the public house curtilage to create car parking spaces and an access road. This area would be accessed off Gravesend Road, via an existing vehicular access point. This access way is currently closed off to Gravesend Road by large solid timber gates.
- 1.2 The application also includes the retention of a recently erected and currently unauthorised single storey flat roofed timber outbuilding within the pub garden that is used as additional service area and seating and the installation of a petanque pitch that comprises an area enclosed by timber shuttering. The pitch is illuminated with floodlights. The application also includes a hardstanding area to the rear of the public house and low level lighting of this area.

2. Reason for reporting to Committee:

- 2.1 The complex nature of the planning and other issues.

3. The Site:

- 3.1 The application site is situated within the Metropolitan Green Belt, open countryside and Area of Outstanding Natural Beauty.
- 3.2 The site is situated on the eastern side of Gravesend Road, which is the A227, and to the north of the junction with Trosley Hill that is also a classified road. The pub building occupies a prominent position within the locality.
- 3.3 The building is a traditional Inn/Public House, in a traditional style, characteristic of Kent and its rural location. It is two storeys in height, with casement windows and has been extended to the side and rear over the years. There is a pub garden to the rear of the building and a number of detached older outbuildings sited to the north of the building. A request to list the building was declined by English Heritage on 31 August 2010.

3.4 The proposed development is situated to the rear of the property, in the public house garden, with the access road and car parking area situated beyond the curtilage of the public house garden and within an open field that adjoins the site.

4. Planning History:

TM/50/10156/OLD grant with conditions 19 October 1950

Sanitary accommodation and alterations.

TM/60/10817/OLD Refuse 5 July 1960

Outline Application for Residential Development.

TM/72/11338/OLD Refuse 15 March 1972

Advertisement box sign, for L.E. Ashwell Esq.

TM/76/11182/FUL grant with conditions 22 July 1976

Provision of further car parking facilities and construction of vehicular access.

TM/83/10996/FUL grant with conditions 24 January 1983

Single storey rear extension to provide toilets.

TM/08/03259/FL Application Withdrawn 15 December 2008

Change of use of public house with ancillary residential accommodation to single dwelling

TM/11/00444/FL Refused 1 March 2012

Single storey rear extension public house

TM/11/02132/FL Application Not Proceeded With 1 November 2011

Proposed camp site

TM/11/03345/AT Pending

Retention of fascia sign to the front of the Public House and pole mounted traditional hanging sign on adjacent footpath

5. Consultees:

- 5.1 PC (comments submitted jointly for this application and TM/11/00444/FL): The Council has no objection to the proposed rear extension or to the petanque court and building at the rear of the property in the beer garden, already constructed. The Council supports the applicants' wish to create a car park and has no objections in principle. However the Council feels that the applicant should perhaps take advice on layout and numbers of car parking spaces provided, not only for the pub as it currently exists but also to support a potential increase in business that the proposed rear extension would bring. The Council requests that a condition is imposed on TM/11/00444/FL, that the car park is constructed and open for use before the rear extension is begun.
- 5.2 KCC (Highways): Thank you for inviting me to comment on this application. It is considered that the standard of drawing provided is insufficient to judge the suitability of the proposed new access onto the A227. It is further considered likely that the proposed development would result in a multiplicity of accesses and side roads onto the A227 in this area such that there would be a significant and unacceptable road safety risk to all road users.

However should an improved and engineer designed drawing be provided it would be helpful if this could be accompanied with a description regarding:-

- Minimum visibility characteristics for vehicles exiting from Vigo Hill potentially obscured by vehicles parked on spaces shown on the pub forecourt, vehicles exiting out of the new access and vehicles turning right into the new access.
- Forward visibility (gap and turning judgement) of vehicles turning right into the proposed new access.
- Visibility splays for left and right turns out of the proposed new access.
- Visibility to the left obscured by right turning traffic into the proposed new access when exiting from Vigo Road on a junction which has limited visibility to the right.

These distances will need to be discussed in association with typical through traffic speeds. I would be grateful if amended plans and discussions regarding these road safety concerns could be forwarded to me for further consideration. Without this information I would recommend that the application be refused.

Following further consideration: I understand that a historic use of this access is now accepted which limits the amount of control or management that can be applied to the proposals. I am still concerned about inter-visibility to the right for

vehicles emerging from this pub access. Out of all the potential problems this is the one of most concern and I would consider that if permission is granted, mitigation measures are required comprising:-

- Cutting back the hedges and saplings immediately north of the
- pub outbuildings to improve visibility as much as possible. This would
- also allow better footway provision.
- Another SLOW marking in the carriageway - preferably within red
- surfacing - a short distance further north of this visibility pinch point.
- Private signing advising of the pub access.

5.3 DHH: The timber shed proposed as a food preparation area, will need to comply with food hygiene requirements. For example the internal structure of the food prep areas must be constructed of materials that enable it to be kept clean. The timber structure must be pest proof. Please advise the applicant to contact the Food and Safety Team for advice.

5.4 Neighbours: Three letters of representation have been received. Objections have been received on the following grounds:

- The access from the proposed car park is onto the A227 with very poor visibility.
- The site is on a dangerous corner and any extra traffic will increase this danger.
- Cars currently park in adjoining roads making junctions even more dangerous.
- Users of the proposed access will be turning into high speed traffic on a blind bend.
- Existing anti social behaviour at the pub is affecting residential amenities, the quality of life for local residents and the serenity of the AONB.
- Noise and light pollution from the facilities in the application.
- Facilities have a detrimental impact on residential amenities.
- Proposal is contrary to planning policies.
- Development affects the AONB and historic character of the public house.
- This is not a safe environment which is contrary to Council's objectives.

- This development does not enhance the natural beauty or quiet enjoyment of the locality.
- This proposal has not resulted in a high quality living environment.
- This development affects the human rights of existing residents in the locality.
- The parking at the front of the public house is on KCC Highway land, that is public land.
- There is already congestion and people turning in the middle of this busy section of road, at this point.
- This development causes a serious safety hazard to vehicles and pedestrians.
- The development affects the character of the countryside.
- Use of the car park causes noise and disturbance issues.
- The new access causes additional dangers on the A227.
- There have already been a number of near miss collisions due to the use of the new access.
- Car headlights shine directly into neighbouring properties.
- Vision to cars exiting the vehicular access is obstructed by signage.
- A car park will encourage drink driving.
- A community pub does not need a car park.
- The outbuilding is used as an outside bar and encourages outside drinking.
- The bar area outside results in further light pollution and noise.
- The pub operates outside licensing hours.
- The owner does not have any control and does not supervise their clientele and the use of their facilities.
- The floodlighting around the petanque pitch causes further light pollution.
- Increased noise due to the use of the petanque pitch.
- Noise from the outside area affects the reasonable enjoyment of neighbouring properties.
- Large parts of the application submitted are incorrect.

Others: Site and Press Notice, expiry dates 03.12.11 and 02.12.11.

6. Determining Issues:

- 6.1 At the time of writing this report, the new National Planning Policy Framework has just been published. An update to the national planning policy situation as it affects this case will be included in a supplementary report.
- 6.2 The relevant national guidance to consider prior to the issuing of the NPPF was PPG2: Green Belts and PPS7: Sustainable Development in Rural Areas.
- 6.3 Local Planning Policies are identified within two Local Development Framework Documents.

The Tonbridge and Malling Core Strategy 2007 (TMBCS), Policies:

CP1: Sustainable Development

CP3: Metropolitan Green Belt

CP7: Areas of Outstanding Natural Beauty

CP14: Development in the Countryside

CP24: Achieving a High Quality Environment

CP26: Safeguarding of Community Services and Transport

Managing Development and the Environment Development Plan Document (MDE DPD) 2010, Policies:

SQ1: Landscape and Townscape Protection and Enhancement

SQ8: Road Safety

DC7: Community facilities outside the settlement confines

- 6.4 The site is situated within the Metropolitan Green Belt (MGB) and outside any rural settlement boundary. Built development in the MGB is, by definition, inappropriate development unless there is a case of very special circumstances that justifies its inappropriateness or it is within one of the exceptions to this policy, identified in PPG2. Policy CP14 of the TMBCS also identifies similar criteria for new development in the open countryside. It allows for the limited expansion of an existing authorised employment use. However, within the Green Belt it also requires “inappropriate” development to be justified by very special circumstances.

- 6.5 PPG2, policy CP1 and CP24 of the TMBCS and policy SQ1 of the MDE DPD also require that notwithstanding the appropriateness or otherwise of a development proposal, it should still be designed so as not to harm the visual amenities of the locality and be in keeping with existing built development.
- 6.6 In addition, Policy CP7 of the TMBCS requires new development that would be detrimental to the natural beauty and quiet enjoyment of the AONB to be refused unless in exceptional circumstances it is essential to meet local social and economic needs. Notwithstanding, any such development must have regard to local distinctiveness and landscape character, and use sympathetic materials and appropriate design.
- 6.7 Policies CP26 of the TMBCS and DC7 of the MDE DPD relate to rural community facilities and seek to protect their provision where they are well related to the community which they serve. However, they must be acceptable in respect of all other planning matters, have no adverse impact on the highway network and be appropriate in scale and design to their setting and to the character of the area.
- 6.8 PPS7 also highlights the need to retain and enhance existing facilities while ensuring the impact on the character of the rural area is contained.

Policy Considerations:

- 6.9 The car parking area, access road and outbuilding proposed are, by definition, inappropriate development and their impact on the openness and the visual amenities of the MGB needs to be considered accordingly. Therefore, these elements of the application are all inappropriate development, that should not be approved unless there is a case of very special circumstances. Very special circumstances to justify inappropriate development will not exist unless the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.
- 6.10 The outbuilding does not fall within any of the categories of appropriate development identified in PPG2 and is therefore inappropriate. It potentially has an impact on the openness and visual amenities of the MGB.
- 6.11 The proposed car parking and access road are beyond the defined curtilage of the public house and extend development into the MGB. Although it does not form a structure, the use of the car parking area would be inappropriate development unless it maintains openness and does not conflict with the purposes of including land within the Green Belt.
- 6.12 I am of the opinion that the formation of the petanque pitch and associated hardsurfacing works, within the rear garden area, do not constitute inappropriate development within the MGB as the works are low key facilities within the curtilage.

- 6.13 Nevertheless, this application is to improve the facilities of the public house, which is outlined in policy CP26 of the TMBCS as a community service and facility that should be retained.
- 6.14 It is uncommon to find a public house that does not have appropriate on-site car parking facilities, especially in a rural location. Therefore, an application for car parking facilities needs to be assessed in terms of the overall benefit to the community facility. The public house is also located in an unfortunate position on the busy A227 and adjacent to a crossroads/junction, with no on-site car parking facilities. Therefore, users of the public house risk parking unlawfully or in dangerous positions both for themselves and other road users. This is not an acceptable position. Therefore, the provision of on-site car parking facilities and the associated access road provides a justified case of very special circumstances, on this occasion, that is capable of overcoming the principal policy objection to new development in the MGB.
- 6.15 In terms of the outbuilding, that is retrospective, this is a relatively low key building and although visible, is largely obscured from direct views. This impact could be further minimised to blend in better with the landscape. I do not consider the structure itself causes any significant visual harm; although inappropriate development, however, the use of this building needs to be addressed as well as the detailed planning considerations, which shall be discussed later in the report.
- 6.16 In respect of the impact on the AONB and visual amenities of the countryside, the proposal, due to being relatively low level is unlikely to have a significant visual impact on the character and visual amenities of the locality and AONB. I do not consider the proposed development has an overly detrimental impact and is in accordance with policy CP7 of the TMBCS. It also accords, in principle, with policies CP1 and CP24 of the TMBCS and policy SQ1 of the MDE DPD.
- 6.17 I do not consider the retention of the works to form the petanque pitch, identified in the application, result in a detrimental impact on the locality, countryside, AONB or the openness and visual amenities of the MGB, however its use and illumination raise a number of issues that shall be addressed later in the report.
- 6.18 Consequently, although the works are, by definition, inappropriate development in the MGB they provide additional facilities for a community facility, as identified in policies CP26 of the TMBCS and DC7 of the MDE DPD. The basis of these policies is to protect and enhance community facilities including public houses. Therefore, an application to enhance the facilities of a public house and to ensure its retention should be supported in principle. In addition, policy CP14 of the TMBCS identifies that development in the countryside is acceptable in relation to development required for the limited expansion of an existing authorised employment use. Therefore the proposed development is also acceptable, in principle, under policy CP14 of the TMBCS. Detailed design, highway and amenity

issues, however, also need to be assessed and appropriately addressed in respect of these proposals, as identified in the above policies and are discussed below.

Highway Considerations:

- 6.19 In respect of highway considerations, historically there has always been an existing vehicular access in the position shown on the submitted plans. This access onto the public highway is shown on historic maps and photographs, dating back for a considerable period. It would therefore, now be unreasonable to resist this application on the impact of a new access onto the highway, although the application is for an increased and different use of this access.
- 6.20 The increased use of this access is to serve a proposed car park for the public house. The public house currently has no formal car parking facilities on site for the sole use of the public house and its customers. It is clear from the representations received that this lack of car parking facilities is causing a serious issue for this site and the public house. Currently, there are a few spaces at the front of the public house that are very limited and are accessed straight off the A227. Following investigations it has become clear that these car parking spaces are actually sited on public highway land and the land is not owned by the public house. Therefore any car parking in this area has not been formalised and is in a location where any vehicle manoeuvres are unsafe.
- 6.21 Consequently, although there are policy implications in respect of the provision of a new car park for the public house and its impact on the locality, a formal car parking area on site is still considered to be safer than informal car parking on the public highway and the new car park area can also be suitably controlled by planning conditions.
- 6.22 It is accepted that the visibility of this vehicular access is poor and this is clearly not an ideal situation, however, this is an existing vehicular access and is considered safer than the informal car parking on the public highway and a busy 'A' road. In addition, planning conditions can be imposed to improve as far as possible the visibility of this access.
- 6.23 Therefore in terms of policy SQ8 of the MDE DPD, the increased use of an existing access is considered to be a safer option than the existing situation and with appropriate signage and the loss of car parking at the front of the public house is likely to have a potential to reduce the risk of accidents and therefore results in an improvement to highway safety over the current situation. On this basis the application complies with policy SQ8 of the MDE DPD. Highway safety improvements are also in line with policies CP1 and CP24 of the TMBCS.
- 6.24 On this basis, Kent Highways has now revised their comments, to take into account the historic vehicular access on to this site. They have raised no objection to the new access road but have suggested a number of recommendations to

enhance and improve, as far as possible, visibility and highway safety as a result of an increased use of the existing vehicular access to serve the car park. These measures include: cutting back the hedges immediately to the north of the pub outbuildings to improve visibility as much as possible, another SLOW marking on the main A227 carriageway - preferably within red surfacing - a short distance further north of this visibility pinch point and private signage advising of the pub access.

- 6.25 The proposed siting of the proposed car parking area appears to be in the most appropriate location, bearing in mind the position of the public house on a busy cross roads and the lack of a suitable access off Trosley Hill. Furthermore, a vehicular access off Trosley Hill would not be suitable and would result in a greater impact on the locality and environment than the use of the existing access proposed.
- 6.26 Due to the highway and visibility issues surrounding this application, it is suggested that a number of planning conditions are imposed in regard to this matter. Relevant highway conditions have therefore been suggested in relation to layout, details and materials of the proposed car park, details and materials of the access road, details to be submitted in respect of proposed concealed entrance signage, no further car parking to the front of the public house at any time and cutting back the hedge along the north western field boundary and a maintenance plan to improve visibility.
- 6.27 It is considered that these conditions would minimise the impact of the proposed car park and overall would result in a significant benefit, with the removal of unsafe car parking at the front of the public house.

Amenity and Lighting Considerations:

- 6.28 In terms of amenity issues, the existing outbuilding is of a limited height overall, largely obscured by most views and any visual amenity impact could be further minimised by staining the building dark brown and planting additional landscaping along the boundary of the public house garden. This can be controlled by conditions. Consequently, this building complies with policies CP1 and CP24 of the TMBCS and policy SQ1 of the MDE DPD.
- 6.29 In respect of the use of the outbuilding, it is stated in the application that the outbuilding is for food preparation and additional seating. I can see no reasoned justification for this building to be used as formal additional seating, as the pub garden and the main pub building serve this purpose. In addition, this building should not be used as an additional bar area and has not been submitted as such. Therefore, the justification submitted for the retention of this outbuilding is for the preparation of food, due to the separation of the garden from the main bar area and to serve the customers who come for BBQ's in the garden. Consequently, a condition has been suggested in respect of the control of the use of this outbuilding.

- 6.30 In addition, this application is for a new building and it is therefore appropriate under planning control to align the hours of use of such a building with the Licensing hours. Therefore an hours of use condition on this building is recommended. I suggest that the condition allows the outbuilding to only be used between 1300 hrs to 2330 hrs that is in line with the licence. I see no reason why the retained outbuilding should be used outside these hours and consider any use outside these hours does have the potential to cause a conflict with residential amenities.
- 6.31 The same considerations also apply to the use of the petanque pitch, which although the impact of the works is limited, has the potential to generate noise nuisance at inappropriate times of the day/night. Consequently, the above hours of use condition should also be imposed in relation of the petanque pitch to ensure noise nuisance is minimised. Again, there is no reason why the petanque pitch should be in use outside the stated hours.
- 6.32 Other elements of the application will also reduce noise and the potential for noise nuisance from the public house. Car parking to the rear only should reduce noise at the front of the public house, whilst also providing safer car parking. Additional landscaping along the pub and car park boundary will also reduce both the visual and noise impact of activities within the pub garden and any potential noise from the use of the outbuilding and petanque pitch.
- 6.33 Finally, external lighting also needs to be controlled on the site and by conditions. Representations have also been received in respect of light pollution, and as this is a rural area and within the AONB, I consider it necessary to address this issue in the consideration of this application. Insufficient information has been submitted in respect of this aspect of the application and although there is some lighting on site, no further details have been submitted. Consequently, a condition is suggested in respect of details of all external lighting to be submitted and approved. For the above reasons, I also consider it necessary to control the hours of use of the lighting, to the licencing hours only. Again, there is no reason why the new external lighting in the garden and around the outbuilding and petanque pitch would need to be in use outside of the opening hours. The application therefore complies with the planning policies identified above.
- 6.34 Clearly, this application raises a number of issues that all need to be considered in the determination of this application. On balance, however, it is considered that this application accords with planning policies, but subject to a number of conditions.

7. Recommendation:

Grant Planning Permission in accordance with Block Plan dated 26.09.2011, Proposed Layout dated 26.09.2011, Proposed Elevations A/E 250 dated 26.09.2011, Site Layout dated 07.10.2011, Proposed Elevations A/E 250 dated 28.10.2011, Land Registry Documentation dated 11.02.2011, Location Plan dated

07.10.2011, Documents dated 26.09.2011, Design and Access Statement dated 07.10.2011, Supporting Information dated 28.10.2011, Photographs dated 28.10.2011 subject to the following:

Conditions:

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

Reason: In pursuance of Section 91 of the Town and Country Planning Act 1990.

2. No development with regard to the creation of the proposed car parking area shall take place until details of the detailed layout, surfacing and draining of the vehicle parking area have been submitted to and approved by the Local Planning Authority. The works shall be carried out in accordance with the approved details before the parking area is brought into use and thereafter it shall be kept available for such use and no permanent development, whether or not permitted by the Town and Country Planning (General Permitted Development) Order 1995 (or any order amending, revoking and re-enacting that Order) shall be carried out on the land so shown or in such a position as to preclude vehicular access to this reserved parking space.

Reason: To ensure a layout and finish to the parking area consistent with the character and appearance of the locality and in the interests of highway safety.

3. No car parking area hereby approved shall not be brought into use until the area shown on the submitted plan as turning area has been provided, surfaced and drained. Thereafter it shall be kept available for such use and no permanent development, whether or not permitted by the Town and Country Planning (General Permitted Development) Order 1995 (or any order amending, revoking and re-enacting that Order), shall be carried out on the land so shown or in such a position as to preclude vehicular access to this reserved turning area.

Reason: Development without provision of adequate turning facilities is likely to give rise to hazardous conditions in the public highway.

4. The car parking area hereby approved shall not be brought into use until the access road which provides access to the car parking and turning area has been constructed in accordance with details to be submitted to and approved by the Local Planning Authority.

Reason: To ensure the safe and free flow of traffic.

5. The car parking area hereby approved shall not be brought into use until details of appropriate signage and their siting to warn motorists of a concealed entrance to the public house car park have been submitted to and approved by the Local Planning Authority. Such details as approved, shall be fully implemented before use of the car park commences and shall not be varied without the prior written approval of the Local Planning Authority.

Reason: In the interests of highway safety.

6. On completion of the full works to provide a car parking and turning area hereby approved, the area at the front of the public house shall not be used for the purposes of private or customer car parking at any time.

Reason: The provision of a safer car parking area and in the interests of highway safety.

7. Within three months of the date of this permission details shall be submitted to the Local Planning Authority for approval of scheme of landscaping and boundary treatment, to include the provision of additional planting around the public house garden and car parking area hereby approved. All planting, seeding and turfing comprised in the approved scheme of landscaping shall be implemented during the first planting season following occupation of the buildings or the completion of the development, whichever is the earlier. Any trees or shrubs removed, dying, being seriously damaged or diseased within 10 years of planting shall be replaced in the next planting season with trees or shrubs of similar size and species, unless the Authority gives written consent to any variation. Any approved scheme shall be retained thereafter.

Reason: Pursuant to Section 197 of the Town and Country Planning Act 1990 and to protect and enhance the appearance and character of the site and locality.

8. All the existing trees and shrubs on site, other than any specifically shown to be removed, shall not be lopped, topped, felled, uprooted or wilfully destroyed without the prior written consent of the Local Planning Authority, and any planting removed with or without such consent shall be replaced within 12 months with suitable stock, adequately staked and tied and shall thereafter be maintained for a period of ten years.

Reason: Pursuant to Section 197 of the Town and Country Planning Act 1990 and to protect the appearance and character of the site and locality.

9. The car parking area hereby approved shall not be brought into use until details of measures to cut back the hedge and any other planting along the north western field boundary, to the north of the public house brick outbuilding have been submitted to and approved by the Local Planning Authority. Such details shall include the method of cutting back the hedge and maintenance and timetable of works to the hedge. Such details as approved shall be fully implemented before the car park is brought into use and retained and shall not be varied without the prior written approval of the Local Planning Authority.

Reason: To provide improved vehicular visibility splays and in the interests of highway safety.

10. The retained outbuilding, hereby approved, shall be stained dark brown within three months of the date of this permission with the colour of the stain to be submitted to and approved by the Local Planning Authority. The colour of the

stain shall be implemented, as approved and shall not be varied without the prior written approval of the Local Planning Authority.

Reason: The protection of the visual amenities of the locality and the Metropolitan Green Belt.

11. The retained outbuilding hereby approved shall be used as a service area for the preparation of food only, in association with the public house and for no other purpose in connection with the public house including the sale of drinks and beverages.

Reason: The outbuilding is submitted as ancillary to the main public house and is to be used for food preparation only.

12. The outbuilding and petanque pitch shall not be used or operated outside the hours of 1300 to 2330 Mondays to Sunday.

Reason: To protect the aural environment of nearby dwellings and in accordance with the licencing hours.

13. Details of all external lighting, including all existing lighting shall be submitted to the Local Planning Authority for approval within three months of the date of this permission. Any scheme as approved shall be fully implemented within one month of such approval and shall not be varied without the prior written approval of the Local Planning Authority.

Reason: The protection of the rural locality and residential properties from light pollution.

14. All external lighting, as shall be approved, in the submitted lighting scheme shall be turned off at 23.30 hrs.

Reason: To protect the rural locality and residential amenities from light pollution.

Informatives:

- 1 The outbuilding will need to comply with food hygiene requirements. The timber structure must be pest proof. Please contact the Food and Safety Team for further advice.

Contact: Lucinda Green