



to Maidstone Road). The site is a triangular parcel of land and falls slightly away to the north. Highway barriers front onto the site, as the site is close to the bridge over the A229.

- 2.2 The land in question formed part of the land take for the widening of the A229 in the early 1980s and until recently was owned by Kent County Council. The site was sold by Kent County Council at auction.
- 2.3 The site is subject to the following policies: CP5 (Strategic Gap), CP7 (Areas of Outstanding Natural Beauty) and CP14 (Development in the Countryside) of the Tonbridge and Malling Core Strategy 2007; and SS3 (Strategic Gaps), SS8 (Development in the countryside), EN4 (Areas of Outstanding Natural Beauty) and EP7 (Development of employment uses in rural areas) of Kent & Medway Structure Plan 2006.

### **3. Planning History:**

- 3.1 TM/79/0271                      Refused 11.04.1979; Appeal Dismissed 12.08.1980  
Application for a Certificate of alternative development (residential) under Section 17 of Land Compensation Act, 1961.
- 3.2 TM/78/1511                      Refused 25.01.1979; Appeal Dismissed 12.08.1980  
Application for a Certificate of alternative development (residential) under Section 17 of Land Compensation Act, 1961
- 3.3 MK/4/71/591                      Refused 17.11.1971  
Stationing of caravan.
- 3.4 MK/4/69/574                      Refused 22.12.1969; Appeal Dismissed 16.09.1970  
Storage of tiles and storage shed.
- 3.5 MK/4/58/586                      Refused 31.10.1958  
Outline application for one dwelling house.
- 3.6 MK/4/46/51                      Refused 03.07.1946  
Preliminary application for bungalow.

### **4. Consultees:**

- 4.1 PC: Strong objection. This change of use to light industrial is inappropriate in a residential area of outstanding natural beauty.
- 4.2 KCC (Highways): The submitted application is to allow the current land to be used for commercial use for the storage of various large items. It involves the creation of a new vehicle access and crossing onto Common Road and a new boundary treatment fronting the highway. It is not clear if the entrance is new or whether a pedestrian gate previously existed.

- 4.2.1 However, it would be normal to set a gated access suitably back to suit the largest vehicle to regularly use the access. 5m is the minimum distance for normal use, but larger vehicles could be set back 15m or more. Some details of the application are unclear: is the site just for storage only as toilet facilities are mentioned, which suggests that people might be working on site?
- 4.2.2 Hours of opening are daily, with two cars and two light goods vehicles shown to be using the site each day. It is normal for 2m x 45degree x 2m pedestrian vision splays to be provided either side of a new entrance as an aid to pedestrian safety.
- 4.2.3 In principle, I raise no objections to the proposed access, subject to it being constructed to Highway requirements following liaison with the Highway Authority. However, before further comment I would wish to see a scaled plan showing parking / turning arrangements and details of the proposed access.
- 4.3 DHH: Environment Protection: Based on the available information, I am concerned that noise associated with site activities, e.g. the movement onto and off site of large metal containers and sheds as well as noise associated with the handling of stored equipment/materials on site is likely to cause significant detriment to the aural amenity of nearby residents. I recommend the applicant be requested to submit an acoustic appraisal to evaluate the aural impact of the proposed development which includes appropriate mitigation proposals. Pending the receipt of the acoustic appraisal I must enter a holding objection to the application.
- 4.3.1 Housing: If permission for the mobile home is granted, a caravan site licence under the Caravan Sites Control and Development Act 1960 may be required for this site.
- 4.4 EA: No objections subject the imposition of a number of conditions.
- 4.5 Private Reps: 2/0X/0S/1R: One letter received objecting on the following grounds:
- The site has been cleared of trees;
  - Unsightly metal fence erected;
  - Works carried out without planning permission;
  - Storage units are not suitable for a residential area;
  - Concern that a snack bar will be on site.
- 4.6 A8 Site & Press Notice: 53 letters received objecting on the following grounds:
- Concern that a snack bar will operate from the site, causing rubbish and passing traffic;
  - Business use not appropriate in an Area of Outstanding Natural Beauty;

- Snack bar is unsightly;
- Unsightly metal fencing;
- This is a residential area not a commercial area;
- Increase in traffic movements;
- Trees have been removed;
- Metal shed and portaloos have already been erected on the site;
- There is no need for the siting of a static mobile home and it is not appropriate in this locality;
- The proposed hours of use are unacceptable and anti-social;
- Lack of suitable drainage on the site from the hardstanding areas;
- Disposal of tree stumps by burning will harm the residential amenity of nearby properties;
- Development will harm the visual amenity of the locality and Blue Bell Hill village;
- Will harm the amenity of the nearby viewing/picnic area across Common Road;
- Where will vehicles park when visiting the snack bar? ;
- Development out of character with the locality;
- Result in hazardous highway conditions;
- Development will result in noise disturbance;
- Contrary to planning policies;
- Hard surface has been laid across part of the site;
- Will the mobile home be used as an office or place of residence?

**5. Determining Issues:**

- 5.1 The main issues to be considered are whether this is appropriate development in this location, whether it detracts from the visual amenity of the locality and whether it results in hazardous highway conditions.

- 5.2 The site lies outside the rural settlement confines of Blue Bell Hill village and within the countryside, where development is highly restricted under policies CP14 of the TMBCS 2007 and SS8 of the KMSP 2006. The use of the land for storage and the stationing of a static mobile home do not fall into any of the categories of appropriate development listed in these policies. As such the development constitutes a departure from the Development Plan and an unacceptable form of development in the countryside.
- 5.3 The applicant has not submitted a justification for this development, but indicates that he believes that the site was a former KCC depot. Upon checking our planning records, there has not been any planning application for such a use. Members will note that there is a long planning history of refused applications from the 1940s through to the late 1970s, prior to this land forming part of the land take for the widening of the A229 in the early 1980s. No further planning applications have been made on this site until this current submission.
- 5.4 Aerial photographs of the site from 1990, 1995, 1999 and 2003 show the site as being covered in trees, scrub and grass. There is no indication on these photographs that the site has been previously used a KCC depot. The land in question appears to have been solely a parcel of land left over following the A229 widening programme in the early 1980s.
- 5.5 The applicant has also submitted a series of photographs to show that other commercial developments exist and that new development has been carried out nearby. In terms of Blue Bell Hill sites (such as Upper Bell PH, BT exchange, Ormonde car sales, Asprey housing development, etc) all of these apart from the Water Tower site lie within the rural settlement confines of Blue Bell Hill, where residential and commercial development is deemed acceptable in principle. Therefore, these are not comparable sites as different policies apply. In terms of the Water Tower site, this is a historical site, i.e., pre 1948, where the operations carried out are by a statutory undertaker. As for the Aylesford Newsprint site, this site lies within the Employment land designation on the TMBLP 1998, whilst the wood yard at Snodland bypass lies within the urban confines of Snodland and also on land safeguarded for the dualling of the Snodland bypass. Therefore, I do not consider that any of the examples forwarded by the applicant are comparable or lend support for this development.
- 5.6 In terms of the use of the mobile home and touring caravan, the applicant has stated that these are to be used as an office and somewhere to keep dry whilst on site. They are not intended to be used as residential accommodation.
- 5.7 Therefore, the development represents an unacceptable form of development in the countryside. The site also lies within the Strategic Gap and the Kent Downs Area of Outstanding Natural Beauty. The associated policies in the TMBCS and KMSP are as equally opposed to new development in such designations. In particular, development will not be permitted within an AONB which would harm

the natural beauty, the landscape character and quiet enjoyment of the AONB unless exceptional circumstances exist. The development does not meet any of the exceptional circumstances listed and as such is contrary to policy.

- 5.8 The applicant has already commenced works on site, and has erected a metal storage building in the rear section of the section, sited a portaloos on the site, used the land for storage and erected sheet metal fencing along the road frontage. A mobile home and touring caravan have also now been stationed on the site. The applicant is also proposing to erect a shed and a metal container on the site, along with the storage of a snack bar van. These structures are relatively low level and are screened from most public vantage points by the existing landscaping from the north, west, east and from the south by the metal fencing. However, the metal sheet fencing is visually obtrusive and out of character with this locality. The existing and proposed structures are slightly taller than the frontage fencing and can be partially seen above the top of the fencing, as well as from views across the front of the Water Tower site into the application site. The development detracts from the visual amenity of the immediate locality and the landscape character of the AONB.
- 5.9 A large number of local residents have raised concerns over the removal of trees from this site prior to the application being submitted. These trees were not covered by a Tree Preservation Order or within a Conservation Area. Therefore, these trees were not afforded any protection and the applicant has not breached any planning control through removing the trees.
- 5.10 The use of the site for storage has raised concerns over the impact on the residential amenity of nearby dwellings. In particular, the DHH is concerned that the noise generated from the handling and storage of equipment and materials on the site. Strong concerns have also been raised by local residents in relation to noise disturbance. DHH considers that an acoustic appraisal is required, however, given the principle of the development not being acceptable, this has not been pursued.
- 5.11 Whilst strong concerns have been raised in relation to a potential increase in traffic movements, particularly relating to the snack bar van, I understand that the applicant is not seeking to operate a snack bar van from his site. Therefore, we are simply looking at a relatively low movement of 2 vehicles and 2 light goods vehicles per day. KCC Highways raises no objection to this arrangement and subject to submission of a parking layout raises no objections. The existing site is more than capable of accommodating 2 car and 2 light good parking spaces, along with turning areas and therefore, this on its own is a matter could be resolvable by condition. However, KCC Highways does raise concerns over the access arrangements, requiring the gates to be sited between 5m to 15m from the back of the highway depending on the size of vehicles. The metal gates erected

are sited adjacent to back edge of the highway, which will result in vehicles waiting on the highway prior to the gates being opened. This results in hazardous highway conditions.

5.12 In light of the above considerations, I am unable to support this development and recommend refusal. Given that the application is in the main retrospective, it will therefore also be appropriate to seek enforcement action to cease the use of the land for storage and remove the storage building, the metal sheet fencing from the road frontage, the mobile home, touring caravan and hard surfaces.

## **6. Recommendation:**

6.1 **Refuse Planning Permission** for the following reasons:

- 1 The development is contrary to Policy SS8 of the Kent & Medway Structure Plan 2006, which states that development will not normally be permitted in rural Kent, other than at the villages and small rural towns, unless the development falls into one of the special categories listed in the policy, none of which applies to the development proposed. For similar reasons, the proposed development is contrary to policy CP14 of the Tonbridge and Malling Core Strategy 2007.
- 2 The development would be detrimental to the landscape character and natural beauty of the Area of Outstanding Natural Beauty and would thus be contrary to policies EN4 of the Kent & Medway Structure Plan 2006 and CP7 of the Tonbridge and Malling Core Strategy 2007.
- 3 The development would harm the function of the Strategic Gap as a physical break maintaining the separation and separate identities of the built up areas of Maidstone, Medway Towns and the Medway Gap. As such the development is contrary to policies SS3 of the Kent & Medway Structure Plan 2006 and CP5 of the Tonbridge and Malling Core Strategy 2007.
- 4 The Council is not satisfied on the basis of the information submitted, that the development would not result in harm to the residential amenity of nearby dwellings. As such the development is contrary to the saved policy P3/17 of the Tonbridge and Malling Borough Local Plan 1998.
- 5 The access is inadequate to serve the development by virtue of the gates being sited immediately adjacent to the public highway and its use creates unacceptable additional hazards to traffic.

6.2 An Enforcement Notice **be issued** as set out below and copies **be served** on all interested parties.

The Notice to take effect not less than 28 days from the date of service, subject to:

- The concurrence of the Chief Solicitor, he being authorised to amend the wording of the Enforcement Notice as may be necessary.
- In the event of an appeal against the Notice the Secretary of State and the appellant to be advised that the Local Planning Authority is not prepared to grant planning permission for the development the subject of the Enforcement Notice.

### **Breach Of Planning Control Alleged**

Without planning permission the change in use of the land for the stationing and storage of metal containers, mobile homes, a snack bar vehicle and other items.

### **Reasons For Issuing The Notice**

It would appear that the above breach of planning control has occurred within the last ten years. The development is contrary to Policy SS8 of the Kent & Medway Structure Plan 2006, which states that development will not normally be permitted in rural Kent, other than at the villages and small rural towns, unless the development falls into one of the special categories listed in the policy, none of which applies to this development. For similar reasons, the development is contrary to policy CP14 of the Tonbridge and Malling Core Strategy 2007. The development is detrimental to the landscape character of natural beauty of the Area of Outstanding Natural Beauty and is thus contrary to policies EN4 of the Kent & Medway Structure Plan 2006 and CP7 of the Tonbridge and Malling Core Strategy 2007. The development harms the function of the Strategic Gap as a physical break maintaining the separation and separate identities of the built up areas of Maidstone, Medway Towns and the Medway Gap. As such the development is contrary to policies SS3 of the Kent & Medway Structure Plan 2006 and CP5 of the Tonbridge and Malling Core Strategy 2007. There is no information to suggest that the development would not result in harm to the residential amenity of nearby dwellings. As such the development is contrary to the saved policy P3/17 of the Tonbridge and Malling Borough Local Plan 1998. The access is inadequate to serve the development by virtue of the gates being sited immediately adjacent to the public highway and its use creates unacceptable additional hazards to traffic.

### **Requirement**

To cease the use of the land for storage and to permanently remove from the land all tools, metal containers, mobile homes, snack bar vehicle and other stored items.

### **Period For Compliance**

Three calendar months from the date the Notice becomes effective.



- 6.3 An Enforcement Notice **be issued** as set out below and copies **be served** on all interested parties.

The Notice to take effect not less than 28 days from the date of service, subject to:

- The concurrence of the Chief Solicitor, he being authorised to amend the wording of the Enforcement Notice as may be necessary.
- In the event of an appeal against the Notice the Secretary of State and the appellant to be advised that the Local Planning Authority is not prepared to grant planning permission for the development the subject of the Enforcement Notice.

### **Breach Of Planning Control Alleged**

Without planning permission the unauthorised erection of a fence and gates and the creation of a hardsurface.

### **Reasons For Issuing The Notice**

It would appear that the above breach of planning control has occurred within the last four years. The development is contrary to Policy SS8 of the Kent & Medway Structure Plan 2006, which states that development will not normally be permitted in rural Kent, other than at the villages and small rural towns, unless the development falls into one of the special categories listed in the policy, none of which applies to this development. For similar reasons, the development is contrary to policy CP14 of the Tonbridge and Malling Core Strategy 2007. The development is detrimental to the landscape character of natural beauty of the Area of Outstanding Natural Beauty and is thus contrary to policies EN4 of the Kent & Medway Structure Plan 2006 and CP7 of the Tonbridge and Malling Core Strategy 2007. The development harms the function of the Strategic Gap as a physical break maintaining the separation and separate identities of the built up areas of Maidstone, Medway Towns and the Medway Gap. As such the development is contrary to policies SS3 of the Kent & Medway Structure Plan 2006 and CP5 of the Tonbridge and Malling Core Strategy 2007. There is no information to suggest that the development would not result in harm to the residential amenity of nearby dwellings. As such the development is contrary to the saved policy P3/17 of the Tonbridge and Malling Borough Local Plan 1998. The access is inadequate to serve the development by virtue of the gates being sited immediately adjacent to the public highway and its use creates unacceptable additional hazards to traffic.

### **Requirement**

To permanently remove the fence, gates and hardsurface from the land.

**Period For Compliance**

Three calendar months from the date the Notice becomes effective.

**6.4 Further Proceedings**

In the event of the Enforcement Notice(s) not being complied with and subject to satisfactory evidence, the Chief Solicitor **be authorised** to commence any proceedings which may be necessary under Section 179 of the Town and Country Planning Act 1990 (as amended) to secure compliance with the Enforcement Notice.

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