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Proposal:	Change of use of land from pub car park to B8 (storage yard), erection of fencing and enlargement of access
Location:	Land South West Of Junction Of Chatham Road And Common Road Chatham Kent
Applicant:	Mr Darren Clarke

1. Description:

1.1 Full planning permission is sought for the change of use of land that previously comprised one of the car parks serving the Upper Bell Public House (which has now been demolished) into a storage yard falling within use Class B8 of the Use Classes Order. In addition, planning permission is sought retrospectively for the installation of 2 metre high close board and chain link fencing with razor wire above (extending to a total height of 2.4 metres) to sit around the boundary of the site and for the enlargement of an access onto Common Road.

2. Reason for reporting to Committee:

2.1 The application is being reported to the Planning Committee at the request of the Ward Member, Cllr Sullivan, due to the public concern expressed at the proposal.

3. The Site:

- 3.1 The application site lies to the south of Common Road and on the western side of the now redundant section of the former A229. The site has historically been used as a car park to serve the Upper Bell Public House. However, in more recent years, it had been left unmanaged which had allowed it to become overgrown with vegetation. The public house has now been demolished and therefore the site has reverted to a "nil" use.
- 3.2 The site has an access onto Common Road to the northern side which sits opposite residential dwellings. There is a dense tree screen to the southern side of the site which blocks views from the A229; however, some views are afforded from the Common Road bridge to the west of the site.
- 3.3 The application site is located within an Area of Outstanding Natural Beauty and within the Strategic Gap that separates the built-up areas of Maidstone, the Medway Towns and the Medway Gap.

4. Planning History:

- 4.1 There is no relevant planning application history associated with the application site although there is enforcement history including an extant enforcement notice on the site requiring the removal of the fencing. A separate report relating to further enforcement action appears elsewhere on this agenda.

5. Consultees:

- 5.1 Aylesford PC: Object to the application on the following grounds:

- The proposal is not in keeping with the local amenity area
- The development would be an eyesore within the Area of Outstanding Natural Beauty

- 5.2 KCC (Highways): require additional information relating to the proposed use and layout of the site in order to be able to fully assess the highway implications of the proposed use.

- 5.3 Private Reps: 34/0X/60R/0S. The objections raise the following issues:

- Visual impact of the development.
- Impact upon the AONB.
- Impact of traffic upon local roads.
- No information has been provided with regard to waste disposal.
- The applicant has already carried out the works.
- Trees have been removed from the site and surrounding land.
- The development would set a precedent for future large developments within the village.
- The Council should not have allowed demolition of the pub as the site will now never be refurbished.
- Potential congestion issues.
- The hazard caused by the location of the access in close proximity to the junction with Maidstone Road.
- No benefit to the local community from the proposed development.
- The type 1 surface finish would result in dust in the summer and mud/dirt in the winter being tracked onto local roads.

- Concern that the new development would rely on a cesspit.
- Local roads are not designed for the transport of large equipment or lorries.
- The site should be left alone.
- The development would devalue local properties.
- There are no medical facilities within the village should there be an accident on the site.
- There are no utilities connected to the site.
- Lighting on the site is likely to shine onto the A229 causing a traffic hazard.
- Impact upon wildlife.
- Concern with regard to the possible materials to be stored on the site.
- The development is contrary to Council policy.
- The development would fail to reduce carbon emissions.
- Comments on the personal character of the applicant.
- The development would lead to an increase in crime and disorder in the locality.
- When the land was sold there were conditions attached to it which have not been complied with.
- The site should not be pared off from the public house site.

6. Determining Issues:

6.1 The National Planning Policy Framework (NPPF) along with policy CP1 of the Local Development Framework Core Strategy (2007) and policy CC1 of the Managing Development and the Environment DPD (2010) place sustainability at the heart of decision making, ensuring that new development does not cause irrevocable harm to the environment and balancing this against the need to support a strong, competitive economy and protect the social welfare of existing and future residents.

6.2 The application site is located outside the built confines of Bluebell Hill Village and is therefore in the countryside for Development Plan purposes. Policy CP14 of the Tonbridge and Malling Borough Core Strategy seeks to prevent the incursion of built development within such areas in order to protect the character and appearance of the Countryside for its own sake. The site is also located within the

Strategic Gap, the purpose of which is to provide a physical break and maintain the separate identities of the major urban areas and surrounding rural villages. Policy CP5 of the LDF requires that new development that harms the function of the Strategic Gap only be permitted where it can be justified by special circumstances.

- 6.3 The site originally formed part of a car parking area for the Upper Bell Public House, although it appears not to have been used for this purpose for many years, even before the public house was closed or latterly demolished. When the public house was demolished, on the separate site east of the now closed slip road to Blue Bell Hill, that site could no longer be used for such purposes. This, combined with the fact that the PH car park has not been used for parking vehicles for a substantial period of time (as evidenced by the overgrown nature of the site), suggests that this application site has lost the previous lawful use and has reverted to a “nil” use. The development proposes the development of an area of undeveloped land in the countryside, in the AoNB and Strategic Gap for use as a B8 storage yard – a use not compliant with these policies. Moreover arguably there are no historical rights to be taken into account. No circumstances have been put forward for the need for the development on this site and no overriding justification has been demonstrated. As such, the use of the site as a storage yard along with the erection of the fencing would give rise to unnecessary, unsustainable and harmful development which would be detrimental to the environment in general by allowing for the creep of built development into the undeveloped rural landscape. The development is therefore considered to be unacceptable in principle in this location.
- 6.4 Policies CP1 and CP24 of the Tonbridge and Malling Borough Core Strategy 2007 and Policy SQ1 of the Tonbridge and Malling Managing Development and the Environment Development Plan Document 2010 require high quality design which reflects the local distinctiveness of the area and respects the site and its surroundings in terms of materials, siting, character and appearance.
- 6.5 As the site is situated within an Area of Outstanding Natural Beauty Paragraph 115 of the NPPF requires that great weight is afforded to ensuring that new development does not detract from the character and appearance of the nationally designated landscape. Policy CP7 of the Tonbridge and Malling Borough Core Strategy states that development will not be permitted which would be detrimental to the natural beauty and quiet enjoyment of such areas except where such development is of national interest (subject to certain criteria) or the development is essential to meet local social or economic needs. These considerations do not arise in this case.
- 6.6 The area of land in question has been unused for a number of years. Until recently the site had become overgrown with self-seeded vegetation which the owner of the site cleared in January 2013. There was no action that could have been taken

to prevent the removal of the vegetation as there were no protected trees within the site, it does not fall within a Conservation Area and the trees in themselves were not worthy of protection.

- 6.7 A low fence had been erected around the site some time ago and this has now been replaced by a 2m high solid means of enclosure with razor wire above which was erected in January 2013.
- 6.8 The fence, because of its height, location, visual appearance and solid, imperforate nature, has a detrimental impact on the natural beauty and landscape of this Area. The development has not employed appropriate materials for this particular location and purpose, is of inappropriate design, and has no regard to local distinctiveness and the landscape character of the area.
- 6.9 An enforcement notice has been served requiring removal of the fencing and this has not been complied with. Prior to the submission of the current planning application the Council was seeking to prosecute the applicant for failure to comply with the enforcement notice but this is held in abeyance pending the consideration of this application.
- 6.10 The use of the land for open-air storage would introduce a substantial area of urbanising development into the rural landscape, the AoNB and Strategic Gap which would, even with soft landscaping around the boundaries, alter the character of the boundary between the village and rural surrounds. The development would therefore have an adverse impact upon the character of the edge of village setting, the appearance and tranquillity of the AoNB and the visual amenity of the wider rural landscape as a whole.
- 6.11 Development plan policy along with the NPPF requires that all new development does not result in harm to the residential amenities of neighbouring properties in order to allow for environmental and social sustainability. The Council has specific policy relating to noise resulting from new development in order to ensure that noise levels are appropriate for their context. The application is not clear in terms of the specific nature of the B8 use which the site is to be used for, however, it does state that the use would be in operation 24 hours a day, 7 days a week. The site is located on the edge of Bluebell Hill village and in close proximity to many residential dwellings. There is therefore considerable concern that the development would cause noise and disturbance to the neighbours both through operations within the site and comings and goings to and from it, especially during the evening and night time periods of all days plus on weekends and Bank Holidays when residents would reasonably expect to be able to peacefully enjoy their properties. No acoustic survey has been produced to demonstrate that the development would not have an adverse impact upon nearby residents in line with BS4142:1997 and BS833:1999 nor are there any attenuation measures either proposed or quantified.

- 6.12 The development proposes to widen an existing access into the site in order to allow for larger vehicles to enter and exit the site. KCC Highways has advised that visibility from the access is adequate to serve the use. Therefore there are no highway safety implications associated with this aspect of the development.
- 6.13 Policy SQ8 of the Managing Development and the Environment DPD states that development will only be permitted where it would not significantly harm highway safety and where traffic generated by the development can be adequately served by the highway network. The applicant has provided no details relating to the number of traffic movements to be generated by the proposed use, the size of vehicles to be accessing the site or a site layout showing adequate parking and turning areas to serve the use. The applicant has therefore not demonstrated that the development would be suitably laid out, nor that it would have adequate parking and turning provision within the site and would not result in significant traffic movements. As such, it has not been proven that the development would not cause a detriment to highway safety as a result of the proposed use.
- 6.14 The development proposes the installation of a septic tank, however no information has been provided with the application as to the size, location and maintenance regimes. There are Southern Water main sewers 55m to the west and 30m to the north of the site and there is a presumption that a connection to the Public Sewer should be the first considered method of sewage disposal. The applicant has not demonstrated why this is not practicable in this specific case. Further, it is not clear why there is a need for any kind of sewage disposal from the site as there is no built development (other than the access and fencing) proposed as part of this development.
- 6.15 Various other points have been raised by local residents including the character of the applicant, devaluation of property and the fact that the application is retrospective. These are not material planning considerations and therefore cannot be taken into account when making a decision on the application.

7. Recommendation:

- 7.1 **Refuse Planning Permission** in accordance with the following submitted details: Location Plan 6301-CU1 dated 21.08.2013, Letter dated 28.08.2013, Location Plan 6301-CU1 A dated 28.08.2013, subject to:

Reasons

- 1 The development of the site, which lies outside the built confines of the village, with no overriding justification having been demonstrated, would give rise to unsustainable and harmful development which would be detrimental to the environment in general by allowing for the creep of built development into the undeveloped rural landscape and would be harmful to the function of the

designated Strategic Gap. The proposal is therefore contrary to policies CP1, CP5 and CP24 of the Tonbridge and Malling Borough Core Strategy 2007 and paragraphs 8 and 17 of the National Planning Policy Framework.

- 2 The fence because of its height, location, visual appearance and solid, imperforate nature has a detrimental impact on the natural beauty and landscape of this Area. The development has not employed appropriate materials for this particular location and purpose, is of inappropriate design, and has no regard to local distinctiveness and the landscape character of the area. The proposal is therefore contrary to policies CP1, CP5, CP7 and CP24 of the Tonbridge and Malling Borough Core Strategy 2007 and policy SQ1 of the Tonbridge and Malling Borough Managing Development and the Environment DPD 2010 and paragraphs 17, 56, 57, 60, 64 and 115 of the National Planning Policy Framework (2012).
- 3 The development would introduce a substantial area of built development into the rural landscape and Strategic Gap which would, even with soft landscaping around the boundaries, alter the character of the boundary between the village and rural surrounds. The development would therefore have an adverse impact upon the character of the edge of village setting, the appearance and tranquillity of the AoNB and the visual amenity of the wider rural landscape as a whole. The proposal is therefore contrary to policies CP1, CP5, CP7 and CP24 of the Tonbridge and Malling Borough Core Strategy 2007 and policy SQ1 of the Tonbridge and Malling Borough Managing Development and the Environment DPD 2010 and paragraphs 17, 56, 57, 60, 64 and 115 of the National Planning Policy Framework (2012).
- 4 In the absence of a noise assessment or acoustic information relating to the proposed use, a proper assessment of the potential noise impact from the B8 storage yard cannot be made that would clearly show that the development would prevent demonstrable harm to the aural amenity of the neighbouring residential occupants. The proposal is therefore contrary to policies CP1 and CP24 of the Tonbridge and Malling Borough Core Strategy 2007 and policies SQ1 and SQ6 of the Tonbridge and Malling Borough Managing Development and the Environment DPD 2010.
- 5 The applicant has not demonstrated that the development would be suitably laid out, would have adequate parking and turning provision within the site and would not result in significant traffic movements. As such, it has not been proven that the development would not cause a detriment to highway safety as a result of the proposed use and the development would be contrary to policy SQ8 of the Managing Development and the Environment DPD 2010.

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