

- a) **DOV/21/00208 - CHANGE OF USE FROM SALVAGE YARD TO B8 SCAFFOLDING YARD, ERECTION OF SCAFFOLDING STRUCTURES AND ASSOCIATED HARD STANDING (RETROSPECTIVE)**

**UNIT G, SANDWICH INDUSTRIAL ESTATE, RAMSGATE ROAD, SANDWICH, KENT, CT13 9LY**

Reason for report – Number of contrary views (35)

- b) **Summary of Recommendation**

Planning permission be granted.

- c) **Planning Policy and Guidance**

Core Strategy Policies (2010): CP1, DM1, DM3, DM11, DM13, DM15, DM16

Land Allocations Local Plan (2015): N/A

Local Plan (2002) Saved policies: OS8 Development site for Sport & Recreation New development involving the Stonar Lake area, Sandwich

Draft Dover District Local Plan: The Consultation Draft Dover District Local Plan is a material planning consideration in the determination of this planning application. At this stage in the plan making process however the policies of the draft have little weight and are not considered to materially affect the assessment of this application. The Draft has completed the first public consultation exercise, which expired in March and at this stage only minimum weight can be afforded to the policies of the Plan.

Kent Downs Area of Outstanding Natural Beauty Management Plan 2021- 2026: N/A

National Planning Policy Framework (NPPF) (2021): Paragraphs 7, 8, 11, 38, 92, 110, 111, 119, 122, 124, 126, 130, 131, 132, 134, 152, 180, & 182.

National Design Guide & National Model Design Code (2021)

Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended)

- d) **Relevant Planning History**

There is an extensive planning history on the wider Sandwich Industrial Estate. In relation to this site there is no recent planning history, but it is apparent that the site has been used for a range of storage, sale and distribution uses since at least 1990, through its use as a salvage yard.

- e) **Consultee and Third Party Representations**

Representations can be found in full in the online planning file. A summary has been provided below:

Town/Parish Council – recommend planning permission be refused due to the following concerns:

- Significant disturbance to neighbouring properties caused by noise (clanking poles, bleeping machinery, loud radio music and shouting).

- Concern expressed that activity was reduced when the noise report took place.
- Inappropriate use next to residential homes.
- Scaffolding towers are excessively high – inappropriate materials and visual harm at the gateway of Sandwich. c.
- The hard surfacing put down is causing flooding in the gardens of properties at Stonar Close. The flooding is also undermining the roots of the trees in neighbouring gardens.
- Trees have been removed, appropriate tree planting needs to take place.

#### DDC Environmental Protection –

An EPO officer has visited the site and recorded noise levels. Initially concern was raised over the noise levels for the time of day by the officer. Subsequently a noise protocol has been submitted, which subject to compliance with, removes an objection on noise grounds. The protocol includes the provision of an acoustic barrier and amends start times. To date no complaints have been received by the EPO to noise generated from the site.

#### DDC Ecology – states no comments on the application

Kent Highways – Initially commented ‘no objections in principle in respect of highway matters, bearing in mind the historic and permitted uses of the site. However, a site layout plan is required demonstrating suitable parking and manoeuvring areas for the scaffold lorries and site personnel who will be parking at the site during the day. This is to ensure that the previous problems of vehicles parking on the highway or having to reverse on/off the highway, as identified in the Transport Statement, do not occur in the future.’

Final comments ‘I refer to the amended plans received for the above on 3 August and confirm the details are now acceptable. The proposals are unlikely to generate a residual level of traffic having a severe impact on the highway network, bearing in mind the historic and permitted uses of the site. Suitable parking and manoeuvring areas within the site are now shown on the latest plans.

I therefore now have no objections subject to the parking and manoeuvring areas shown on drawings numbers RG-M-01 Rev. G and 20-052-002 being provided and permanently retained.’

#### Environment Agency – states no objection and no comments to make

#### Third party Representations:

35 Representations of objection have been received and are summarised below:

- Impact on neighbours
- Lighting impact
- Noise and disturbance from early morning
- Traffic/parking/highways & pedestrian safety
- Blocking of national cycle route
- Drainage/flooding concerns arising from additional hard surfacing laid
- Visually harmful - an eyesore

- Trees removed when unauthorised access taken over Stonar Gardens Residents Company common land
- Impact on Heritage concerns (Medieval Port of Stonar)

f) **1. The Site and the Proposal**

- 1.1 The application site is approximately 0.16 hectares (ha) in size and is located on the eastern side of Ramsgate Road, approximately 0.5km to the north of Sandwich. The site currently contains scaffold towering, scaffold poles and ancillary buildings. There is extensive hardstanding through the site and a number of works vehicles park within the compound with staff vehicles outside. A footpath runs across the site frontage and extends into the entrance to the Sandwich Industrial Estate. There are double yellow lines on both sides of Ramsgate Road in this stretch of the highway network. A bus stop is also located outside the application site. Opposite the site is substantial tree planting along the highway boundary and beyond this are open fields. There is limited vegetation within the site. The closest dwellings are those situated in Stonar Gardens – some have gardens backing onto part of the site.
- 1.2 The site was previously used as a salvage yard for many years and now comprises a scaffold yard, containing scaffold structures, storage areas and associated parking. Unlike the rest of the units on Sandwich Industrial Estate, the site is accessed directly from Ramsgate Road via an existing gateway.
- 1.3 To the north-east of the site lies Stonar Lake, which extends northwards towards Discovery Park and part of which forms a Scheduled Monument. To the east lies Sandwich Industrial Estate, with residential properties to the south in Stonar Gardens. To the north-east of Stonar Lake lies the Thanet Coast and Sandwich Bay RAMSAR / Hacklinge Marshes SSSI, Special Protection Area and Special Area of Conservation. The site is located within an Area of Archaeological Potential (Ref: 229) which is defined as the environs surrounding the Medieval town of Sandwich and the Port of Stonar.
- 1.4 The Site is located within a Flood Zone 2 and 3, but within an area benefiting from flood Defences.
- 1.5 This application is retrospective and has arisen due to the applicant mistakenly believing that there was no change of use (in planning terms) between the former use of the site and their operation. The previous use on the site, as a reclamation yard, is considered to be *suis-generis*; the applicant's use is B8 and comprises a scaffold yard and associated activities/works.
- 1.6 The scaffold yard is set out with the following temporary structures within the compound:
- Board storage rack;
  - Board cutting shelter;
  - Double roof tube rack;
  - Fitting bins rack; and
  - Storage units
- 1.7 Plans have been provided showing the internal layout of the compound including staff car parking. Retrospective permission is also sought for the hardstanding

within the site – accounts of the extent of existing hard surfacing within the site have been provided by the applicant and residents have also commented on this.

- 1.8 In addition to the submitted plans, the application also includes, a planning statement; transport statement, Flood Risk assessment, noise assessment and Heritage Statement. Throughout the course of the planning application additional clarification has been sought in response to requests by statutory consultees for further and/or revised information.

## **2. Main Issues**

- 2.1 The main issues for consideration are:

- The principle of the development
- The impact on the character and appearance
- The impact on residential amenity
- The impact on Heritage concerns
- The impact on the highway network
- Flooding and drainage
- The impact on ecology

### **Assessment**

#### **Principle of Development**

- 2.2 Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that if regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts, the determination must be made in accordance with the plan unless material considerations indicate otherwise.
- 2.3 Under Policy CP1 of the Core Strategy, Sandwich is identified as a Rural Service Centre. The function of such is stated as being the ‘Main focus for development in the rural area; suitable for a scale of development that would reinforce its role as a provider of services to its home and adjacent communities’.
- 2.4 However, the site is located outside the settlement boundary of the defined settlement of Sandwich. Policy DM1 presumes against development in such a location (beyond settlement confines) unless justified by other development plan policies.
- 2.5 Policy DM3 considers the acceptability of commercial buildings in rural areas. The policy is hierarchal and directs development to fall within the rural settlement confines, adjacent to the confines or only if a functional requirement is proven then located elsewhere in the rural area. There is some tension between DM3 and the more recent advice of the NPPF which is explored further in this advice. Whilst alternative locations for the use have not been formally assessed, it is considered that the proposed use is more suited to outside of a settlement or would have some separation to neighbouring noise sensitive uses. The impact of noise from the site will be considered later. On this basis, it could be argued that there is a functional need for this use to be located outside of the settlement confines.

2.6 Policy DM11 seeks to manage travel demand and states that development that would generate travel will not be permitted outside rural settlement confines unless justified by development plan policies.

2.7 As set out above, the application site is located within the open countryside where the Core Strategy restricts development unless it falls within specific criteria. Policies DM15 and DM16 seek to protect the countryside and landscape character. Their objectives are broadly consistent with the NPPF and both these policies are applicable to the assessment of the application.

2.8 With specific regard to the rural businesses the NPPF states (para 83):

*Planning policies and decisions should enable:*

- a) the sustainable growth and expansion of all types of business in rural areas, both through conversion of existing buildings and well-designed new buildings;*
- b) the development and diversification of agricultural and other land-based rural businesses;*

2.9 Paragraph 84 builds on this advice further:

*Planning policies and decisions should recognise that sites to meet local business and community needs in rural areas may have to be found adjacent to or beyond existing settlements, and in locations that are not well served by public transport. In these circumstances it will be important to ensure that development is sensitive to its surroundings, does not have an unacceptable impact on local roads and exploits any opportunities to make a location more sustainable (for example by improving the scope for access on foot, by cycling or by public transport). The use of previously developed land, and sites that are physically well-related to existing settlements, should be encouraged where suitable opportunities exist.*

2.10 It appears therefore that Policy DM3 takes a more rigid approach than paragraphs 83 & 84 of the NPPF. Whilst the development plan is the starting point for determining applications, the NPPF is a material consideration that offers support in broad principle for rural businesses and particularly on sites that are previously developed land.

2.11 The assessment below will consider the proposal against the policies set out above in more detail.

#### Impact on the Character and Appearance

2.12 As stated, the principle of the proposed re-use of a previously developed site is generally supported by national planning policy and guidance. It is the local impact that requires assessment.

2.13 The site is in the open countryside whereby policy DM16 seeks to resist development that would harm the character of the countryside. The site has been used for a great number of years as a salvage yard which would not have had a positive impact on the character of the countryside. The main difference in visual terms is how the site is organized and differences in the scale of structures on the site.

- 2.14 The former use (from historic photographs) was a cluttered, untidy site with storage at varying heights but clearly visible within the street scene. The site was cleared in its entirety but replaced with parking areas and structures in relation to the scaffold yard. The new use is less cluttered but more prominent due to the height of the scaffold towers. The assessment of this case is that the overall impact between the previous and existing use are not so dissimilar in that both are brownfield employment uses that ideally would not be in a rural location. However, the character of the rural location is very much of urban nature leading to the town boundary. This gateway to Sandwich is characterized by the presence of the Sandwich Industrial Estate and whilst many of the units are set back from the main road, the wide entrance affords views of the industrial estate and there is nothing to shield this. Both the old and new uses of the site cause some harm to the visual appearance of the locality, however the level of harm is limited and akin to what is an established industrial unit.
- 2.15 It is noted from photographs that have been sent to the planning department that the site was not covered in its entirety with hard surfacing from the previous use. In visual terms the extent of hard surfacing was not readily apparent when the site was occupied with the reclamation yard paraphernalia. Both uses were visually prominent from above ground level. It is not considered that the amount of hard surfacing across the site has a significant impact on the character and appearance of the area.
- 2.16 There is limited scope to soften the impact of the development with a robust landscaping scheme. When the new occupier established their business on the site, it has been stated that access was taken over land which forms part of the Stonar Gardens Residents common land. Having visited the site it appears that this access has been reinstated and new planting has been established along the boundary, I am led to believe, in consultation with the residents.
- 2.17 In conclusion, it is considered that the proposal does not cause harm to a level that would deem the proposal unacceptable in visual terms.

#### Impact on Residential Amenity

- 2.18 The closest residential dwellings are those within Stonar Gardens to the south/south east. There is a minimum distance of 37.5m from the boundary of the application site to the closest rear garden boundary. The nearest point is from the south-east corner of the application site. A number of the dwellings back on to the body spray workshop to the rear of the scaffold yard.
- 2.19 Representations have been received in relation to the noise impact from the site and site operatives. The DDC EPO initially raised concerns regarding the operating hours and impact on those residents. Having visited the site, undertaken noise readings and sought additional information on how the site will be managed, the EPO considered that subject to the imposition of enforceable planning conditions there was no longer an objection on noise grounds.
- 2.20 The additional information to inform the EPO's conclusion was the proposal for a noise protocol for the site operation borne about from the submitted noise assessment, this entails:
- Start time of no earlier than 7am;

- Loading of vehicles the day before to avoid loud noise in the mornings;
- Provision of acoustic barrier along southern boundary;
- Use of 'white noise' reverse bleeper on all forklift trucks;
- Turning off of reverse beepers on all lorries when in the yard;
- Any use of radios to be restricted to low levels;
- Shouting across the yard to be prohibited unless in an emergency situation;  
and
- Dedicated site contact for local residents in case of complaints or concerns.

The submission provides clarification on working hours and acoustic measures to be put in place. A 2.5m high acoustic barrier is proposed along the southern boundary of the site with Stonar Gardens. The submitted noise assessment concludes that 'With the implementation of the recommended noise mitigation measures and an agreed noise management plan for the P&G scaffolding yard, it is considered that site activity noise at the nearest residential properties will be within acceptable levels. 'At the time of writing this report, the EPO has also confirmed that no complaints have been received regarding noise disturbance from the site. In light of the noise protocol and noise assessment conclusions, it is therefore considered that the site can operate in this location having had regard to the lawful use of the site, the proximity of Stonar Gardens and given that it forms part of the Sandwich Industrial Estate subject to a suitably worded planning condition.

- 2.21 Lighting has also been raised as a concern for residents. Having visited the site it was noted that there are 5 lights within the site. The lighting is either operated manually and turned on/off at the beginning/end of the working day or in the case of the two standard security lights by the site entrance and welfare/office unit these are operated by a sensor. The reactive lights are set lower and are away from the boundaries with Stonar Gardens and are deemed acceptable. The manual lights are inward facing in the site, set at an angle between 35- 50 degrees. The lights provide approximately 3000 lumens of brightness which is generally expected for lighting of outdoor spaces and security. Subject to a condition that the lights are turned off at the end of the working day, they are considered acceptable in terms of impact on visual and residential amenity.

#### Impact on Heritage Concerns

- 2.22 The application is not located within the Conservation Area, nor does it contain any listed buildings. However, it is an Area of Archaeological Potential that stems from the eastern part of the yard being part of the Scheduled Ancient Monument of the Medieval Port of Stonar.
- 2.23 Due to the need to consult Historic England on this application, the County Archaeologist has deferred to their view. The initial Heritage Statement was not sufficiently robust and after liaison between the applicant and Historic England, a suitably detailed report has been submitted.
- 2.24 It is conceivable that beneath the site, there could be some archaeology of interest. This being said, the development did not comprise significant excavation, rather placed temporary structures on the land that have required no

foundations to be provided. Hard surfacing has been overlain and most likely increased in area (from resident's photo's). The purpose of seeking a robust Heritage Statement was to ascertain the significance of the site and whether the works have an impact that needs to be safeguarded against in heritage terms.

2.25 The initial Heritage report was not sufficiently detailed, hence the delay in bringing this item to committee. A further report was then commissioned and undertaken by a professional, qualified archaeological firm and concludes as follows:

'The assessment provides a review of the site's below-ground archaeological potential and addresses the information requirements of national, regional and local planning policy.

- In terms of designated archaeological assets, no World Heritage Sites, Historic Wrecks or Historic Battlefields lie within the study site. The eastern part of the site does, however, lie within a Scheduled Ancient Monument (List entry 1003120), the extent of which is defined by the site of the Medieval port of Stonar.
- This assessment has identified that the study site has a moderate to high potential for Roman remains of low (local significance), and a high potential for Medieval remains of low (Local) to moderate (regional) significance. The potential for all other periods is regarded as low, and any remains surviving are likely to be of low (local significance).
- The development does not involve any below ground works and therefore there will be no impact on the scheduled monument or any other below ground archaeological assets.
- In light of the conclusion of this report it is unlikely that the Local Planning Authority will require any archaeological mitigation. However, given the presence of a scheduled monument on the eastern part of the site the Local Authority may require a retrospective application for scheduled ancient monument consent.'

2.26 Historic England have considered the findings of the report and confirmed (as set out in the consultee section of this report) that they do not consider harm to heritage assets will arise from the use of the site. They have also confirmed that Scheduled Ancient Monument Consent cannot be obtained retrospectively, but in any event it would not have been deemed necessary for the proposal. It is also understood from communication from the planning agent that discussions had taken place around the time of occupation of the site to ascertain whether scheduled ancient monument consent was required and the informal advice was that it was not.

2.27 The report has considered the historic evidence with regard to the previous and current level of hard surfacing within the site. The applicant has stated that the 'new' hard surfacing has consisted of the laying of new tarmac over old. Representations that have been submitted (with photo's) that have stated that the expanse of hard surfacing has increased since the previous use of the site. With regard to the Heritage Impact, it is considered that the fact that Historic England consider that above ground works would not 'impact on the scheduled monument or any other below ground archaeological assets' is sufficient to conclude that even with differences between the before and after area covered by hard surfacing, this is of minimal significance with regard to impact on designated heritage assets. Furthermore, due to the works being undertaken



and completed it would be inappropriate to seek removal of hard surfacing if this meant engineering works to remove the surface as this would risk causing more damage than leaving insitu.

- 2.28 The level of detail and assessment of the proposal on heritage assets is deemed in accordance with NPPF paragraph 194. KCC Archaeology have not provided formal comments on the application as they consider it more appropriate that Historic England are the higher authority in this instance. This being said they have received a copy of the Heritage report and the Historic England comments and are content with the findings. In light of the position of both Historic England KCC Archaeology, there is no objection to the retention of the use on the site in heritage terms.

#### Impact on Parking/ Highways

- 2.29 This is an existing brownfield site with an existing access. Kent Highways have accepted the principle of the change of use and sought clearer plans before submitting final comments. The main issues were in relation to ensuring adequate space within the site for parking and maneuvering of vehicles. Swept path analysis was requested and subject to conditions to retain the turning and visibility demonstrated, there is no objection on highway grounds.

#### Flooding and drainage

- 2.30 The site is located within Flood Zone 2 and 3, whereby the proposed use would be considered 'Less Vulnerable' under the Flood Risk Vulnerability Classification. A Flood Risk Assessment has been submitted with the application and the EA have raised no comment on the report.
- 2.31 Objections have been received in relation to the impact that resurfacing within the site has had on the effectiveness of drainage within the rear gardens of dwellings that back on to the site. Concerns expressed/supported by the Parish Council are to the effect that the drainage issues are undermining the roots of existing trees. It has been stated that the hard surfacing was laid substantially over an existing surface - arial records show the site largely covered in paraphernalia from the reclamation yard in previous years but there does appear to be more 'green' cover in patchy areas. It is not possible therefore to be exact over where an area of the site may have been more formally covered and therefore more impenetrable than from previous years, but there is no dispute over the brownfield nature of this site and its previous use as a salvage yard. It is not possible to attribute alleged drainage issues to the use of the site as the scaffold yard as the area is generally covered in hard surfacing save for the gardens and communal land of Stonar Gardens. A refusal based on the impact of some additional patchy areas of hard surfacing is not considered justifiable or defensible on a long established brownfield industrial site.

#### Ecology

- 2.32 Having regard for Natural England's Standing Advice and comments received from the DDC Ecological officer, it is not considered that the site includes any features likely to provide habitat for protected or notable species.

#### Other Matters

- 2.33 Concerns have been raised regarding the removal of vegetation when access was gained to the site when moving infrastructure on. Replacement planting can be seen and the former entry taken made good. This does not condone what took place, but the vegetation which was removed did not benefit from any protection (such as a tree preservation order) and, from a planning point of view, the amenity has been made good. There is limited scope to provide further planting on site, however the retention of existing vegetation is considered beneficial in mitigating the visual impact.
- 2.34 It has been stated that the existing unauthorised use has more impact both visually and intrusively than the previous sui generis lawful use. However, the fallback position for this site is it being lawfully taken over by another reclamation use – this would not offer any certainty over having less impact on residential amenity. In planning terms this is not only a brownfield site but forms part of an industrial estate. This is a material consideration. The fact that a retrospective planning application has been submitted, enables the Local Planning Authority to have control over the site by imposing conditions in relation to operating hours, noise protocol, lighting control – all aspects that were not previously regulated under the former use.
- 2.35 Regard must also be had for the benefits of the proposed use. The development supports a local business and employment, which are supported by Chapter 6 of the NPPF.

### **3. Conclusion**

- 3.1 The proposals have been given very careful consideration and having regard to adopted local and national planning guidance. There is national and local policy support for rural businesses subject to the details of the scheme. It is concluded that no harm would arise in respect of the character and appearance of the locality when considered against the historic use of the site.
- 3.2 Subject to the mitigation measures set out in the acoustic report and adherence to the site operating guidelines, residential amenity would be safeguarded. The continued use of the site as a scaffold yard is considered acceptable in terms of highways impact and drainage. In this instance, due in large part to the accepted status of the site as an existing brownfield site within an established industrial estate, it is considered that there is no reasonable grounds to object to the continued use of the land.
- 3.3 Regard has been had to the site falling in part within the safeguarded area of a Schedule Ancient Monument, it is considered that in light of the submitted Heritage Statement and nature of works that this Heritage Asset has not been compromised.
- 3.4 Having regard for the above, it is recommended that the application be approved, subject to conditions.

### **4. Recommendation**

I PERMISSION BE GRANTED subject to conditions:

- 1) Plans
- 2) Details of acoustic barrier and time frame to be implemented

3) Noise protocol to be formally submitted

4) Lighting

5) Operating hours

6) Site layout/parking

7) Landscaping retained

8) Maximum external storage height

II Powers to be delegated to the Head of Planning, Regeneration and Development to settle any necessary planning conditions in line with the issues set out in the recommendation and as resolved by the Planning Committee.

Case Officer: Amanda Marks