



Late Observations Sheet
DEVELOPMENT MANAGEMENT COMMITTEE
07 December 2023 at 7.00 pm

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Thursday 07 December 2023

LATE OBSERVATION SHEET

4.1 – 23/02299/FUL - Tor Na Coille, 1 Ashley Road, Sevenoaks, Kent TN13 3AN

Recommended alteration to the wording of conditions 10 (ecological enhancements) and 12 (precautionary mitigation for priority species), see alterations below:

Condition 10 to be changed from:

Within six months of works commencing on the site, details of ecological enhancements shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented prior to first occupation and shall be thereafter maintained.

In the interests of securing ecological enhancements in accordance with policy SP11 of the Core Strategy and the principles of the National Planning Policy Framework.

To:

Within six months of works commencing on the site, details of ecological enhancements shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented prior to first occupation of the dwellings, hereby approved, and shall be thereafter maintained.

In the interests of securing ecological enhancements in accordance with policy SP11 of the Core Strategy, the principles of the National Planning Policy Framework and policy L1 of the Sevenoaks Neighbourhood Plan.

Condition 12 to be changed from:

From the commencement of works (including site clearance), the following precautionary measures will be implemented to avoid capture of S41/priority species hedgehog: 1. Backfilling of trenches and other excavations will be undertaken before nightfall, or a ramp will be left to allow any animals to easily exit; 2. All excavations and trenches will be checked each morning throughout the construction period and prior to infilling; 3. All temporarily stored building materials (that might act as temporary resting places) will be isolated within hardstanding areas and raised off the ground, e.g. on pallets.

In the interests of conserving protected species in accordance with policy SP11 of the Core Strategy and the principles of the National Planning Policy Framework.

To:

From the commencement of works (including site clearance), the following precautionary measures will be implemented to avoid capture of hedgehog (a priority species): 1. Backfilling of trenches and other excavations will be undertaken before nightfall, or a ramp will be left to allow any

animals to easily exit; 2. All excavations and trenches will be checked each morning throughout the construction period and prior to infilling; 3. All temporarily stored building materials (that might act as temporary resting places) will be isolated within hardstanding areas and raised off the ground, e.g. on pallets.

In the interests of conserving priority species in accordance with policy SP11 of the Core Strategy, the principles of the National Planning Policy Framework and policy L1 of the Sevenoaks Neighbourhood Plan.

Recommendation remains to approve permission, as per committee papers and report.

4.2 – 23/01853/FUL – Kingdom, Grove Road, Penshurst, Kent TN11 8DU

Item 4.2 – Kingdom, Grove Road, Penshurst

A further comment has been received from Penshurst Parish Council stating:

“We note that the proposed planning conditions appear to deal only with “events” within the building and do not address issues relating to either day to day activities within the building or to any outside activities.

Whilst the restriction on numbers of people attending events is welcomed, we would point out that under the conditions of the premises licence (15/ 01679/LAPRE) the number of pre-booked events is restricted to 15 rather than the proposed 52 per year.

The only restrictions on the day-to-day use of the building ie where an “event” is not taking place, would appear to be the conditions relating to the premises licence. Although these conditions state that the premises will only be used by members of the British Cycling Association with a maximum of 4 guests per member, even if they were being adhered to, they do not place any restriction on the overall number of people within the building. It should also be noted that the licensing conditions are less restrictive than the proposed planning conditions and allow the building to be used from 8.00am to 12.30am Friday and Saturday, 8.00am to 11.30pm Sunday to Thursday and allow the upper terrace and roof terrace to be used until 10pm.

Clearly for the vast majority of the time the proposed planning conditions will not be relevant and consequently will do very little for the amenity of residents.

The other issue is the use of the wider outdoor part of the site.

In terms of planning consent, the only current lawful use of the site appears to be for cycling. The current planning application refers only to the building and not the entire site.

SDC Environmental Health Officer states (para 38) “subject to suitable conditions, I have no objection to the granting of planning permission in respect of this application”. At para 37, they refer to “A comprehensive noise management plan that includes patrons outside of the building, including prohibiting drinks being taken out of the building from a specified time etc”.

Where exactly is this in the Planning Conditions? There does not appear to be anything relating to patrons using the wider site.

At para 64, the Planning Officer states “Conditions to control noise emanating from events/functions such as weddings which fall outside of standard working hours are not

uncommon and the applicant and as suggested by the noise assessment, a Noise Mitigation Management Plan is to be employed. This together with alterations required to the building fabric itself (i.e. sealing of gaps/windows/doors) would significantly improve the sound absorption and limit noise emission from the building. Further details are required in this regard to be secured by condition, as well as other restrictions on the use of fireworks or entertainment outside of the building. The controls also allow for the ongoing and continued use of the site for a wide range of indoor and outdoor sport and recreation uses that support the rural enterprise.”

The questions here are

- 1) what “further details are required and what restrictions are there on “entertainment outside of the buildings”?
- 2) Where are these so-called “controls” that “allow for the ongoing and continued use of the site for a wide range of indoor and outdoor sport and recreation uses”?
- 3) Is this a surreptitious way of granting lawful use to the rest of the site for the current and ongoing unlawful uses ie everything that is not cycling?

At para 69, the report states “At present the building concerned in a mixed use and events are being held within the building and upon the wider land i.e., outdoor recreation, whereas the former use of the site was for off-road cycling. There is still some element of this use remains, as a part of the site retains a cycle track. The use of the site cannot readily be seen from outside of the site. It is acknowledged that the existing outdoor recreational use of the site and building may have an impact upon the tranquillity of the area at certain times. This reduction of tranquillity is therefore limited in scope and time which can be assisted by the use of appropriate restrictions by planning conditions to ensure the amenities of the area are not compromised to a detrimental degree. This loss of tranquillity has to be balanced against the benefits of the proposed use, which supports the secondary objectives of the Area of Outstanding Natural Beauty Management Plan for providing recreation, promotion of well-being, diversifying and supporting the rural economy”

Note that “events are being held upon the wider land” and “It is acknowledged that the existing outdoor recreational use of the site and building may have an impact upon the tranquillity of the area at certain times.”

Although the report states that “This reduction of tranquillity is therefore limited in scope and time which can be assisted by the use of appropriate restrictions by planning conditions to ensure the amenities of the area are not compromised to a detrimental degree”, where are the planning conditions for “appropriate restrictions” relating to outdoor activities?

At para 83, the report states “It is considered that by restricting the use of the site in terms of hours of use, limiting the number of people attending ‘late night’ events, controlling the use of external lighting, this would bring ecological benefits to the site, as opposed to the ‘baseline’ unrestricted use of the building.”

If that is what the planning officer “considers”, where is the planning condition that “restricts the site in terms of hours of use”? – the only conditions appear to restrict the hours of “events” within the building and not the hours of use of the site as a whole.

In conclusion, we consider that the proposed planning conditions are inadequate as they

- 1) fail to address concerns relating to the day-to-day activities within the building

2) *fail to address the use of the wider outdoor site*

and so we must object to the application."

One further neighbour representation has been made maintaining objection to the application on the following grounds:

- Lighting in breach of dark skies policy;
- No confidence that the proposed conditions will work;
- Does not refer to car park extension nor works to the ground floor terrace;
- Report does not mention about the 'unlawful' existing use;
- Questions whether the building is structurally sound;
- Inaccurate description proposal
- Building is closed to public 60 days a year for private events – question arises around local community facility what benefits it has?

Officer comment

The Parish Council has made reference to the wider use of the site and questions about the appropriate use of conditions.

Firstly, the purpose of this application is to regularise the use of the building and car parking area only – not for the wider use of the land within the applicant's ownership.

The conditions proposed are considered to relevant and necessary to make the use of the building acceptable in planning terms, in compliance with National Planning Practice Guidance. Further details are expected by the submission of a noise management plan, which will deal with patrons using premises and how this will be managed amongst other things. Further to this, contrary to the Parish Council comments, conditions have been recommended to control the hours of use of the building however an amendment to condition 7 is proposed -see below.

With regard to the comments made relating to the Premises Licence, even though the proposed planning conditions may differ from those in the Licence, it does not confer that such changes would automatically change the conditions of the Premises Licence. Planning and Licensing are two independent regulatory regimes and as such, if there were notable differences between the planning permission and Premises Licence, a variation to the licence would be required.

In terms of the receipt of the third-party representation, the issues raised as discussed as follows:

Lighting in breach of dark skies policy;

It is noted that existing downlit lighting exists on the building and festoon lighting is on the ground floor terrace and roof terrace. The existing lighting do not cause any light trespass onto neighbouring properties. However, light spillage from the building internally would occur due to the amount of glazing. It can also be said that the existing external lighting fixture contribute further to light spillage. Therefore, to ensure that the impact from existing festoon lighting is limited, an additional planning condition is proposed to restrict its use to 2130 hours on any day. This reduces the impact of the lighting upon the visual amenity of the area.

Notwithstanding the above, it is acknowledged that the site is within a dark sky area and the dark is an intrinsic quality of the National Landscape. However, a balance is needed to be struck that we have an existing building with large areas of glazing and recognise that light spillage would occur. By restricting the use of the existing external lights and any proposed lights in the future, limits the impact of spillage upon the dark sky.

No confidence that the proposed conditions will work

A question has been raised relating to the use of conditions. As part of considering the conditions as cited in the recommendation, if they were not enforceable, then as a local planning authority, we should not be imposing them, as cited by the NPPG. Therefore, the local planning authority considers that the conditions imposed are reasonable, necessary and enforceable. Planning applications cannot be refused on the basis of concerns that an applicant may not comply with the intend proposed conditions.

Does not refer to car park extension nor works to the ground floor terrace;

The proposals do not include an extension to the car park nor works to the ground floor terrace proposed.

Report does not mention about the 'unlawful' existing use;

This application relates to the proposed use as described, it is acknowledged that the existing use of the building is unlawful, however this application seeks to regularise it. As mentioned before, this application does not relate to the wider use of the site. That is not what is being proposed here.

Questions whether the building is structurally sound;

Even though there is not structural report to state that the building is structurally sound, it is evident that the building is well maintained and there is no sign of structural decay and that the building is in use. So, it is logical to assert that the building is structurally sound in terms of applying Policy GB7 of the ADMP.

Inaccurate description proposal

It is considered clear that the use of the building would be in a Sui Generis use when looking at the building as a whole as one unit.

Building is closed to public 60 days a year for private events – question arises around local community facility what benefits it has?

There is clear perceivable benefits to what this use of the building has upon the local community and wider area. Its place that promotes healthy lifestyles, well being and a place for recreation, providing access to the Area of Outstanding Natural Beauty for people to enjoy, as well as providing employment opportunities. The operation at Kingdom has created

47 full time (on and off site) and 27 part time jobs, which makes a valuable contribution to the rural economy. As mentioned in the main report, the use of the building supports the rural economy, both in social and economic terms in accordance with the aims and objectives of paragraphs 84 and 85 of the NPPF.

Recommendation

The recommendation remains unchanged with amendment to conditions 6 & 7 and inclusion of an additional condition (13) as follows:

Condition 6 amended to read:

The building shall be limited to only 52 late night events that functions after 21:00 hours on any day within a calendar year. The venue shall not exceed 150 people at any such late night event and an up-to-date register of all on-site events shall be kept within the building and be made available for inspection by the local planning authority upon request.

Reason: In order to safeguard the amenities of the occupiers of neighbouring properties and amenity of the National Landscape in accordance with Policies EN1, EN2, EN5, EN7 of the Sevenoaks Allocations and Development Management Plan and Policy LO8 of the Sevenoaks Core Strategy.

Condition 7 amended to read:

No event(s) within the building which commence on Friday or Saturday shall take place outside the hours of 09:30 that day and 23:30, and no event which commences on any day between Sunday and Thursday will take place outside the hours of 09:00 that day and 23:00 the same day. All amplified and non-amplified music must cease by 23:00 hours on days between Sunday and Thursdays and 23:30 hours on Fridays and Saturdays.

Reason: In order to safeguard the amenities of the occupiers of neighbouring properties and amenity of the National Landscape in accordance with Policies EN1, EN2, EN5, EN7 of the Sevenoaks Allocations and Development Management Plan and Policy LO8 of the Sevenoaks Core Strategy.

Additional Condition 13 to read:

The existing festoon external lighting that serves the external roof and ground floor terrace(s) of the building shall not illuminated after 21:30 hours on any day.

Reason: In order to safeguard the amenities of the visual amenity in accordance with Policies EN1, EN5, EN6 of the Sevenoaks Allocations and Development Management Plan and Policy LO8 of the Core Strategy.