

APPLICATION: MA/11/1948 Date: 4 November 2011 Received: 9 December 2011

APPLICANT: Mr & Mrs Harrison, Monk Lakes Ltd

LOCATION: MONKS LAKES, STAPLEHURST ROAD, MARDEN, MAIDSTONE, KENT, TN12 9BU

PARISH: Marden

PROPOSAL: Part retrospective planning application for the retention of two lakes known as Bridges and Puma and works to create 3 additional lakes all for recreational fishing, erection of clubhouse building and associated works and landscaping.

AGENDA DATE: 7th June 2012

CASE OFFICER: Peter Hockney

The recommendation for this application is being reported to Committee for decision because:

- it is contrary to views expressed by Marden Parish Council

1. POLICIES

- Maidstone Borough-Wide Local Plan 2000: ENV6, ENV28, ENV49, T13
- South East Plan 2009: CC1, CC6, NRM4, NRM5, C4, TSR2, T4
- Government Policy: National Planning Policy Framework (2012)

2. BACKGROUND AND HISTORY

- MA/10/0766 – Creation of lakes for use for recreational fishing – WITHDRAWN.
- MA/10/0762 – Erection of clubhouse including decking area, solar photovoltaic tiles and associated works to replace existing buildings on site – WITHDRAWN.
- MA/09/2027 – Retrospective application for the retention of buildings and mobile facilities to serve recreational angling – TEMPORARY PLANNING PERMISSION (3 YEARS) GRANTED ON 4 JANUARY 2010
- MA/09/1380 – Retrospective application for the change of use of existing lakes from fish farm to recreational angling and retention of ancillary car parking and access to site (this related to the Mallard Lakes in the eastern part of the enforcement site) – PLANNING PERMISSION GRANTED.

- MA/03/0836 – Change of use of land and physical works to create an extension in the fish farm, to form an area for recreational fishing. The application involves the formation of ponds and lakes, the erection of a building and the formation of a car park. The existing access to Staplehurst Road is to be improved – PLANNING PERMISSION GRANTED.
- MA/00/1162 – Change of use of land and engineering works to create an extension to the existing fish farm and provision of temporary works access – PLANNING PERMISSION GRANTED.

Comment

- 2.1 The application site has extensive planning and enforcement history. Following the granting of MA/03/0836, works took place on the land which resulted in a configuration of development wholly different from the approved plans. Furthermore, the development was commenced without compliance with the planning conditions attached to the permission and, in particular, the pre-commencement conditions of that permission, as follows:-
- Condition 5: details of boundary treatment;
 - Condition 7: details of vehicular access;
 - Condition 10: scheme of landscaping;
 - Condition 12: details of earthworks;
 - Condition 13: details of foul and surface water drainage;
 - Condition 15: a scheme of habitat enhancement works to the River Beult SSSI.
- 2.2 On the 31st October, 2003, MBC wrote to the then landowner, Mr Simon Hughes, expressing concern at the commencement of development without the benefit of planning consent, and compliance with pre-commencement planning conditions, and advising that these works should cease immediately. Mr. Hughes was further advised that any works that had been undertaken were entirely at his risk. Mr. Hughes was asked to submit the details relating to the planning conditions within 14 days but if these were not forthcoming then enforcement action and/or legal proceedings would be investigated. Mr. Hughes replied with a letter dated 18th November, 2003, which sought to explain why the details relating to planning conditions 5, 7, 10, 12, 13, and 15 of planning permission MA/03/0836 had not been supplied. There was a subsequent meeting with Mr. Hughes and a further letter from him to MBC on the 11th December, 2003, but no submissions of details to discharge conditions.
- 2.3 No valid submissions for the discharge of any of the planning conditions attaching to planning permission MA/03/0836 were subsequently received.

2.4 An Enforcement Notice was served against the unauthorized development on 12 September 2008. The Notice alleged a breach of planning control in two parts, on the western part of the site both operational development and a change of use of the land from agriculture to recreational fishing is alleged. On the eastern part of the site a material change of use of the land from fish farming to recreational fishing is alleged (this aspect has been regularised by the granting of planning permission under reference MA/09/1380). The alleged operational development on the western part of the site consists of the following:-

- Importation of construction and demolition waste and its deposit upon the land (this remains the case);
- Raising of the levels of the land to form a plateau some 4m to 6m high with sloping sides across much of the area of the overall site (this remains the case);
- Excavation of a flood relief channel behind, and an earth bund along the western boundary of, the Hertsfield Lane properties, and excavation of other channels on the northern part of the land (this remains the case);
- Excavation of two lakes on the northern area of the blue edged land (known as Puma Lake and Bridges Lake (this remains the case);
- Improvement of a pre-existing temporary works access to the Staplehurst Road (A229), permitted for the duration of construction of an extension to the adjoining Riverfield Fish Farm under planning permission MA/00/1162, to form the main vehicular access for both construction traffic and recreational fishing traffic (this aspect has been regularised by the granting of planning permission under reference MA/09/1380);
- Construction of a hard surfaced car park and turning areas (this aspect has been regularised by the granting of planning permission under reference MA/09/1380);
- The erection of three permanent buildings within the car park area (this aspect has been regularised by the granting of temporary planning permission under reference MA/09/2027);
- The erection of fences and a car park barrier (this aspect has been partly regularised by the granting of planning permission under reference MA/09/1380).

2.5 The owner's response was to appeal against the enforcement notice, and also to submit a series of planning applications that in the main sought to deal with the pre-commencement planning conditions or that sought an extension of time for implementing the development. However, the Council declined to validate these planning applications for legal reasons. The owner then appealed against the non-determination of these applications. The Planning Inspectorate (PINS) on receiving the appeals inquired further into the reasons for non-determination and declined to accept the appeals, a decision it later reversed. PINS also declined to hear the planning appeals and the enforcement appeal together,

something the landowner had specifically requested. The owner submitted a High Court challenge against the refusal of PINS to hear all the appeals together. This High Court Challenge was settled late in 2011.

- 2.6 The Planning Inspectorate has restarted the appeal process and linked the planning and enforcement appeals. The linked appeals have a start date of 13 April 2012 and a Public Inquiry has been arranged to commence on 6 November 2012 and is scheduled to sit for 8 days. This planning application has to be considered on the basis that the enforcement proceedings would succeed and the enforcement notice would stand.

3. CONSULTATIONS

(full copies of the consultation responses are attached at Annex 1).

- 3.1 Marden Parish Council** wishes to see the application REFUSED and reported to Planning Committee stating:-

"Cllrs wished to see refusal of the 3 new lakes due to the adverse impact upon visual amenity, residential amenity and the wider countryside. Particular concern was raised regarding the flooding risk due to the loss of storage in the flood plain and the potentially contaminated soil already on site and consequently the absence of any justification for the further importation of potentially contaminated matter This has led to further concerns regarding the potential and/or existing ground and surface water contamination. It is also noted that any Environmental Statement should relate to the site BEFORE the potentially contaminated soil was imported - this is thought to be 2003. Any EIA must include an assessment of the soils that have already been imported into the site not just those the applicant might want to import."

Further comments were received on the 2 below ground lakes 'Bridges' and 'Puma' stating:-

Councillors have concerns about possible loss of storage in the flood plain and potential escape of non native species into the river. We ask that the Borough Council get specialist advice from the Environment Agency and Natural England. The Clubhouse and car park need to be commensurate in size with the development they have to serve and this remains undetermined. If it is approved then a shop should be allowed only to sell products relating to recreational angling."

Further comments received on 21 May 2012 state:-

"Councillors would like clarification of how the applicant proposes to fill the new raised lakes and wonder whether the Environment Agency is content with any extraction from the river Beult in this period of drought?"

3.2 Environment Agency originally raised objections to the scheme on the following reasons:-

"We consider it highly unlikely that the development would be granted the necessary Environmental Permit.

The Environmental Statement does not adequately assess the risks to the natural environment."

Following further work undertaken on behalf of the applicant and the submission of additional information the Environment Agency raised no objections to the scheme stating:-

"Based on the information provided to date, we can confirm we are in a position to **remove our objection.**"

The **Environment Agency** raise issues in relation to environmental permits and reservoir approvals that are covered by other legislation outside the scope of planning and they state:-

"In conclusion, we hope we have made it clear that in addition to any planning consent that may be granted, the applicant will be required to obtain an environmental permit and reservoir approval from us prior to any waste activity taking place on site. We have already made them aware that due to the current water levels within the River Beult, future abstraction from the river is unlikely to be permitted."

3.3 Natural England originally raised objections to the scheme on the following reasons:-

"Natural England objects to the proposed development. We recommend that as submitted the local planning authority refuse planning permission on the grounds that the application contains insufficient information to satisfy Natural England that there would be no adverse effects on features of interest for which the SSSI is notified."

Following further work undertaken on behalf of the applicant and the submission of additional information Natural England raised no objections to the scheme stating:-

“Having considered the additional information **Natural England withdraws its objection dated 10 January 2012**. This is on the basis that there is no additional abstraction of waters from the River Beult to maintain water levels (per section 3.2 of the Water Resource Management Strategy)”

3.4 Kent Wildlife Trust raise no objections to the application and welcome the proposed biodiversity enhancements stating:-

“In conclusion, then, I have no objection, in principle, to the grant of planning permission, subject to the imposition of conditions to secure the timely implementation of biodiversity enhancement prescriptions and the careful and meaningful monitoring of their success.”

3.5 KCC Ecology raise no objections to the application and are satisfied with the reptile surveys that have been carried out and the improvement to biodiversity that is proposed. They state:-

“One of the principles of the National Planning Policy Framework is that “opportunities to incorporate biodiversity in and around developments should be encouraged”. The landscaping strategy incorporates the use of native species planting, which we support. We also advise that a habitat management plan is required as a condition of planning, if granted. The implementation of a suitable plan, incorporating timing of management prescriptions, will ensure that all appropriate areas of the site are managed to secure optimal wildlife benefits.”

3.6 MBC Landscape Officer raises no objections to the application whilst identifying some issues with the proposed landscaping in terms of the finer details of the tree species to be planted and the dominance of weeping willow in the landscape and stating:-

“As the proposal is to reduce the average height of mounds and includes a comprehensive landscape scheme to help mitigate the incongruous nature of the development there are no landscape grounds on which to object to this proposal. I would, however, wish to see further consideration of the issues mentioned above, particularly in respect of the finer details of the landscape proposals. These can clearly be dealt with by condition if you are minded to grant consent for this application.”

3.7 MBC Conservation Officer raises no objections to the application stating:-

“The existing and proposed lakes have no adverse impact on the settings of listed buildings in the vicinity. However, given the substantial amount of excavation proposed I would recommend that we consult with KCC heritage section regarding archaeological impact prior to determination.”

3.8 MBC Environmental Health Manager raises no objections subject to the imposition of informatives.

3.9 Kent Highway Services raise no objections to the application stating:-

"An additional 51000m³ of material will need to be imported for the project and it is intended that 20 tonne lorries will be used; each carrying 10m² loads. The applicant has agreed to conditions to restrict the times and numbers of HGV movements and to agree a phasing and implementation plan. HGV's would be limited to 30 per day between Monday and Friday and 15 on Saturdays. The applicant estimates that the importation of material will be completed in a minimum of 45 weeks.

Access is to be made from an existing access onto the A229 Staplehurst Road a principal route. There have been no reported injury crashes at this access within the latest 3 year period. Staplehurst Road is subject to the national speed limit and the measured 85th percentile speed is 52mph. The visibility splay from the site access is considered to be adequate for the speed of traffic.

Bearing in mind the above information I am of the view that this application will not be detrimental to highway safety or capacity and I do not wish to raise objection to this application on highway grounds."

3.10 Sport England support the application stating:-

"Planning Policy Objective 7 of Sport England's Spatial Planning for Sport and Active Recreation: Development Control Guidance Note (2009) Appendix 2, www.sportengland.org/facilities_planning/developing_policies_for_sport.aspx supports the development of new facilities that will secure opportunities to take part in sport. As the proposal would secure new opportunities for participation in sport, the proposal is considered to meet this objective, Sport England would therefore support the principle of this planning application."

4. REPRESENTATIONS

(full copies of the representations are attached at Annex 2 with a detailed commentary on the points raised set out in Annex 3).

Three letters of objection have been received; two from a planning agent on behalf of a nearby resident and one from the Hertsfield Residents Association on the following grounds:-

- The 2003 permission has not been implemented and is not a fallback position.

- The consideration of the application should be based on the pre 2003 consent position and not the current situation.
- The application is a waste matter and therefore should be dealt with by Kent County Council.
- Concern regarding the type of material that has already been imported onto the site and the future material to be imported.
- The Council were justified and correct in issuing the enforcement notice.
- Loss of light and outlook to properties from the height of the bank and the proposed planting on top of the bank.
- If the planting on the bank is not carried out then there would be a loss of privacy to the properties from the users of the fishing lakes.
- The scheme has been designed to include the importation of more material in order to make money and the previous extensive importation would have generated a sizeable income.
- Concern in relation to the adequacy of the drainage ditch and the potential blockage of pipes between the lakes.
- The wildlife impact is not examined from the pre 2003 consent position.
- Concern regarding the surface water drainage from the site and its impact on neighbouring residences.

5. CONSIDERATIONS

5.1 Site Description

- 5.1.1 The application site, known as Monks Lakes, is an angling complex consisting of existing ponds and lakes, and lakes under construction on a man-made plateau of land some 4m to 6m above the original ground levels of the site.
- 5.1.2 The site lies north of the A229 Staplehurst Road between the villages of Linton and Staplehurst. The site contains a number of lakes used for recreational fishing, an access road leading to a car park, and a complex of both permanent and temporary or mobile buildings used as a shop, canteen, toilets and storage, and an extensive area of both raised land and other land under development with lakes that are proposed to be used for recreational fishing. The application site extends to some 35 hectares, although the Monks Lakes facility is larger due to the adjacent lakes to the east.
- 5.1.2 The nearest residential properties to the appeal site lie along Hertsfield Lane immediately to the west of the appeal site and are Hertsfield Farm Cottages, Old Hertsfield Farmhouse, Hertsfield Barn and Hertsfield Oast. These properties are a minimum of 20 metres from the boundary with the application site.
- 5.1.3 Old Hertsfield Farmhouse is a Grade II listed building as is the barn about 50 metres to the east of the farmhouse and it is considered that the application site,

(or that part of it close to these listed buildings) forms part of the setting of the listed buildings.

- 5.1.4 The application site lies in pleasant, generally flat countryside consisting of fields and hedgerows interspersed with small to medium sized woodlands.
- 5.1.5 The northern boundary of the site is along the River Beult which here is a Site of Special Scientific Interest (SSSI). Beyond the River Beult the land rises steeply upwards to the Greensand Ridge. On the northern side of the River Beult there is a public footpath KM129 that runs generally on an east west axis.
- 5.1.6 To the south east of the application site is the extensive Riverfield Fish Farm complex of ponds and lakes which has past associations with the application site.
- 5.1.7 The site is in an unfinished state. Following the issuing of the Enforcement Notice the work ceased on the site and as a result the site appears as an incomplete development. The result is an incongruous landform with steep sided slopes around the perimeter and a deep hole approximately 70 metres from Staplehurst Road where clay has been excavated to line the lakes that have been completed. The banks currently have a harsh visual impact being of a significant height and devoid of significant landscaping. These banks have a particularly harsh appearance from views along Staplehurst Road and also create harm to the residential amenity of nearby residents by their overbearing nature.

5.2 Proposal

- 5.2.1 The application is a full application for a proposed scheme submitted as a response to the Enforcement Notice. The application seeks to retain the two below ground lakes known as 'Bridges' and 'Puma' in the northern part of the site. In addition the application seeks permission for the creation of three additional above ground lakes in the southern part of the site. The application also includes the erection of a clubhouse facility and associated works including an extensive landscaping scheme and ecological enhancement measures.
- 5.2.2 The general layout of the site would be similar to that permitted under application MA/03/0836. The numbers of lakes differ but the general location of the lakes and the above/below ground location is similar i.e. the above ground lakes are outside the flood zone.
- 5.2.3 The proposed lakes would be of a significant size to enable a recreational fishing use, the sizes are set out below:-

Lake 1 28000m²
Lake 2 36000m²

Lake 3 20000m²
Bridges lake 49000m²
Puma lake 38000m²

- 5.2.4 The creation of the 3 lakes would involve the reduction of the height of the material on site and a remodelling of the landscape in order to create the resultant scheme. However, in order to complete the scheme there would be a requirement to import an additional 51,000m³ of material onto the site. The lakes would cascade in height from the southern most lake (lake 1) at 21.4m AOD (normal water level) down to 17.9m AOD (normal water level) at the northern most lake of the 3 (lake 3).
- 5.2.5 The proposed lakes would have a maximum depth of 2m in depth in order to provide the best habitat for fish for angling and to encourage aquatic bird and insect habitat.
- 5.2.6 The ground level in the vicinity of the car park would be lowered by between 0.5m and 1.6m from the existing levels in order to provide additional compensatory flood storage capacity and the material used in the construction of the identified lake 1. The existing access arrangements that were permitted under reference MA/09/1380 will be retained as part of the application with no changes proposed to the access onto Staplehurst Road.
- 5.2.7 The proposal would also include the erection of a clubhouse building with an eaves height of approximately 2.5 metres and a maximum ridge height of 5.3 metres. The building would incorporate toilet facilities, a small shop area, kitchen and dining area. The gross floor area of the proposed building would be 266m². The materials would be timber clad walls and a plain clay tiled roof. Permission was granted under the 2003 permission for a clubhouse on a similar site to that now proposed. This clubhouse was smaller with a 5m height to ridge and a floor area of 75m². In addition, temporary planning permission was granted for the existing buildings on the site under reference MA/09/2027. These buildings include an office/shop/dining area, a hot food trailer, a equipment store/shed and WC's.

5.3 Principle of Development

- 5.3.1 The proposal involves the creation of lakes for recreational fishing with an associated clubhouse building. The principle of recreational fishing use is already established on the site with the Mallards Lakes land to the east of the application site and part of the Monks Lakes site. The scheme would expand that use to a wider area and would allow the retention of 'Puma' and 'Bridges' lakes and the creation and use of three additional lakes. The surrounding area is to some extent characterised by lakes with the adjacent Riverfield fish farm and although

the use is farming rather than recreational, the principle of the creation of lakes is accepted in the surrounding area. Whilst the site is covered by an Enforcement Notice the Council has to consider the current application on its own merits and in accordance with the Development Plan and any other material considerations.

5.3.2 The proposal is not dissimilar to that permitted under MA/03/0836. The principle of such a development on this site was considered acceptable in 2003 when the Council granted planning permission. It is the Council's view that the 2003 permission has not been implemented and is not a fallback position. However, the decision to approve the 2003 application was a decision of the Council and is a material consideration in the determination of this application to which I give some weight.

5.3.3 The Development Plan has changed in some respect with the adoption of the South East Plan (2009) and the loss of the Kent Structure Plan (1996), however, the Maidstone Borough-Wide Local Plan (2000) remains in force. The National Planning Policy Framework 2012 ('Framework') has replaced almost all of the Planning Policy Guidance Notes and Planning Policy Statements to provide the current national planning guidance.

5.3.4 The creation of fishing lakes for recreational fishing by virtue of the land area required is a use that demands a rural location and clearly cannot be located within a town or village boundary. Furthermore, the Mallard Lakes area is now an established and lawful land use for recreational fishing. Policy ENV28 of the Maidstone Borough-Wide Local Plan (2000) seeks to prevent harm to the countryside and indicates that development will be confined to certain exceptions. One of these exceptions is criterion 3:-

Open air recreation and ancillary buildings providing operational uses only;

Therefore I consider that, subject to the detail of the application in terms of specific impacts, the proposal is in conformity with Development Plan policies.

5.3.5 Government guidance contained within the 'Framework' allows for such development within rural areas. The key considerations of the application are; the impact of the development on flood risk and flooding, the impact of the development on the local ecology and biodiversity including the River Beult SSSI, the impact of the development on the land form of the area and its visual impact within the countryside and the impact on the residential amenity of nearby occupiers.

5.4 Flood Risk

- 5.4.1 Development that is within an identified flood zone and/or would impact on the amount of flood water storage in the flood zone has to be considered carefully in terms of the impact on flooding and flood risk. The 'Framework' requires applications located in flood zones to be accompanied by a site specific Flood Risk Assessment (FRA). The purpose of the FRA is to demonstrate that the development is appropriately flood resilient and resistant and where possible reduce flood risk overall.
- 5.4.2 The application includes a detailed site specific Flood Risk Assessment (FRA) that has been carried out on behalf of the applicant. The majority of the site falls outside any identified area at risk from flooding (therefore zone 1), however, some of the site, the northern portion, including the area where 'Bridges' and 'Puma' is located within the flood plain (zone 3).
- 5.4.3 The entire proposal involves significant raising of land but much of this work is located outside the flood plain. The FRA acknowledges that part of lake 3 would be constructed within the flood plain and would remove some flood storage from this area (approximately 30,200m³). The compensatory measures include the lowering of the ground level by the car park area and the lane between lake 3 and the river. This would provide an additional 15,600m³ of flood storage in the site. There would be further flood storage capacity from the normal water level of 'Bridges' and 'Puma' lakes and the original level. This would amount to 41,200m³ of additional flood storage, which would mean a total gross increase of approximately 46,800m³ of flood storage and a net gain of 16,600m³ of flood storage. The submissions include measures within the FRA and the proposed development that would increase the flood storage available within the site.
- 5.4.4 The FRA indicates that the measures proposed would ensure that there are no adverse effects outside the site. There would also be an increase in flood storage at the 25 year level and above as a result of the proposals and this would give a marginal benefit in flood levels downstream and some beneficial effects in the rate of local run-off in storm conditions.
- 5.4.5 The drainage from the site, due to the impact on the flood plain would need to be carefully considered. The existing drainage channel between the site and the residential properties in Hertsfield Lane would be upgraded to accept a 100 year run off level from the western slopes of the lakes. This would be a separate drainage channel from the existing highway drainage channel. In addition, overflow pipes would be constructed to pass storm water from lake 1 down to lake 3. The drainage system would be 150mm diameter pipes installed 500mm below the crest elevation of each lake at an incline of 1%. These matters would ensure that the drainage from the site is dealt with adequately and would

prevent any harm to the neighbouring properties. Full details of these systems shall be secured by way of a condition.

5.4.6 There has been concern raised by objectors with regard to the risk of flooding and adequacy of drainage arrangements. However, the Council has consulted with the Environment Agency who are the statutory consultee on flood matters and following the receipt of a revised FRA the Environment Agency have raised no objections to the proposal.

5.5 Biodiversity and Impact on SSSI River Beult

5.5.1 The site is immediately adjacent to the River Beult a Site of Special Scientific Interest (SSSI) for its biological interest and the impact of any proposal on this designation would need to be carefully considered because of the potential impact on the river Beult habitat. The River Beult has a wide range of plant life, which in turn influences the insect and bird life and these characteristics should be protected.

5.5.2 The submissions include an ecological assessment that assesses the habitat on site currently and any likelihood of protected species on the site and the impact of the development on the SSSI.

5.5.3 Following the initial assessment a further presence/absence reptile survey was undertaken on behalf of the applicant.

5.5.4 The results of the initial assessment and the subsequent reptile assessment indicate that there would be no significant impact on protected species from the development and mitigation measures are included in the submissions that could be conditioned. In addition, there are measures proposed to ensure that there would be no significant impact on the SSSI with run off and surface water to be directed to 'Puma' lake, the extension of the existing fish fence around the new lakes and foul water being passed through a Klargester system to discharge to 'Puma' Lake. These measures would ensure that the habitat of the River Beult, including its plant and wildlife, is safeguarded.

5.5.5 Concern was initially raised by both Natural England and the Environment Agency with regard to the impact of the development on the River Beult through additional abstraction of waters from the River Beult and the removal of significant quantities of water. However, a Water Resource Management Strategy was submitted, which indicates that the site would not require water resource above the level of the existing abstraction licence. The Environment Agency and Natural England raise some questions with regard to the strategy but note that this would be a commercial decision for the applicant rather than a planning consideration.

- 5.5.6 The proposal would include a significant level of new landscaping with a mix of native species and areas including dense woodland mixes, wet woodland mixes, aquatic mixes and wildflower meadow mixes. This landscaping combined with the bodies of water would enhance the habitat available and the effective management of this landscape would result in biodiversity improvements.
- 5.5.7 It is my view that the applicant has demonstrated that the proposal would have no significant impact on the habitat of the SSSI and the proposals themselves including the native landscaping would result in some biodiversity enhancements in accordance with guidance contained within the 'Framework'.
- 5.5.8 Consultations have been undertaken with Natural England, the Kent Wildlife Trust and KCC Ecology and all have responded stating that they have no objections to the proposed development.

5.6 Visual and Landscape Impact

- 5.6.1 The site falls within the Valley landscape character type and area 58 (Beult Valley) of the new Maidstone Landscape Character Assessment, March 2012. It is within a prominent location immediately adjacent to the A229 a main route into and out of Maidstone and through the southern part of the Borough. There are clear views of the site from vantage points along this road and also from Hertsfield Lane. The site is also visible from longer distances on the slope up to the Greensand Ridge.
- 5.6.2 As the site is immediately adjacent to the River Beult it is located at the bottom of the river valley where the surrounding character of the area is flat fields typical of a flood plain location. The majority of the area is in agricultural use with sporadic development the fields rise steeply to the north on the opposite side of the River Beult up to the Greensand Ridge. Given the predominantly flat landscape the creation of man made above ground lakes would have an impact on the landscape.
- 5.6.3 However, it is a material consideration that the Council previously accepted that man made above ground lakes were acceptable in this location under application references MA/00/1162 and also MA/03/0836. Even if that were not the case, I consider that some change to the landscape profile of the site and the area in general from the original land levels is acceptable.
- 5.6.4 The site falls within the Valley landscape character type and area 58 (Beult Valley) of the new Maidstone Landscape Character Assessment, March 2012. Paragraph 58.7 makes specific mention of the site as follows:

'In the middle of the area, at Monk Lakes and Riverfield Fish Farms there is an extensive system of man made rectangular ponds. As part of this development, there has been extensive land raising and earth modelling along the A229 and the artificial sloping landform appears rather incongruous on the valley side.'

It also mentions that extensive planting of weeping willow adds to the artificiality of the landscape.

- 5.6.5 As part of the submissions a landscape and visual assessment has been carried out by Furse Landscape Architects. This assessment shows that there would be a positive impact on the surrounding landscape from the proposals. However, this assessment looks at the proposed scheme in relation to the current situation (which in the Council's view is unauthorised).
- 5.6.6 The correct approach to assess the application is to examine the proposal and assess the impacts of this proposal on viewpoints and the landscape character in general. It must be borne in mind that the only lawful fishing-related development in the immediate area is the Mallard Lakes area; ancillary car parking and site access and the temporary planning permissions for angling buildings (see Planning History above). In addition, there are other man made lakes in the vicinity being the Riverfield fish farm lakes to the east/south east of the Monks Lakes site. There is no doubt that the proposal would have an impact on the landscape character in the area since prior to the unauthorised works the land was predominantly flat in nature. It would result in a man made landscape including three above ground lakes within a valley. The proposed height of the banks would be 5m from the road to the crest adjacent to lake 1 (the lake closest to the A229) over an approximate distance of 40m from the road. This would be a 1 in 8 slope from the boundary with the A229. There is a 2.5m high hedge alongside the A229, which would have some mitigating impact. In addition there would be additional softening of the landform from the proposed landscaping. I do not consider that the slope of 1 in 8 over an approximate distance of 40m would result in sufficient visual harm that would warrant refusal. Incidentally the approved drawing for MA/03/0836 indicates a maximum slope of 1 in 8 for a distance of 50m between the road and the edge of the closest lake. Therefore I consider that from viewpoints along the A229 the visual impact of the current scheme would be less than the scheme approved under MA/03/0836 but would also be acceptable when assessed in landscape terms against the context of pre-2003 levels, the lawful fishing related development and nearby residential development.
- 5.6.7 The views from the public footpath to the north side of the River Beult would be mainly of the two below ground lakes 'Bridges' and 'Puma'. These lakes would be in excess of 50m from the public footpath and being below ground would not

result in a harmful impact. The land raising to create the above ground lakes would be in excess of 250m from the public footpath and would not result in significant visual harm.

5.6.8 There are longer distance views of the site from the slope up towards the Greensand Ridge. Due to the distance on these longer views and the resultant development of bodies of water within a valley location I do not consider that the 2.5m high slope from the level of the flat flood plain to the crest of lake 2 would be significantly intrusive in the landscape.

5.6.9 There would be some views of the proposed clubhouse from public vantage points along the A229. However, these views would be across a distance of between 300 and 350 metres. This distance combined with the scale of the clubhouse, in particular the eaves level of approximately 2.5m would result in a development that would not cause significant visual harm.

5.6.10 The banks would be lower and the gradient less steep and there would be a significant landscape scheme, therefore the proposal is a considerable improvement on the existing situation. The crests of the banks near the road would be reduced by in excess of 1.5m in many places and the crest of the bank would be approximately 5m further back from the road (40m). Whilst it would be an improvement, the existing landform is unauthorised and I give the comparison between the proposal and the existing unauthorised landform no weight in the considerations.

5.6.11 I note that the Council's Landscape Officer raises no objections to the proposal in terms of the impact on the landscape. It is considered by the landscape officer that in this area sites would need to conserve, and manage as appropriate, the dominance of willow as a key species along the river, and avoid planting new species of willow that are not considered to be locally appropriate species. In this regard a revised schedule of species is sought by way of a condition.

5.7 Residential Amenity

5.7.1 The nearest residential properties to the application site are located in Hertsfield Lane to the west of the site.

5.7.2 The dwellings most affected by the application site are on the eastern side of Hertsfield Lane and have the rear of the properties and private garden areas facing the site.

5.7.3 The crest of the land adjacent to lakes 1 and 2 would be in excess of 40 metres from the site boundary. The nearest residential properties are a further 20 metres from the application site boundary. The area closest to the boundary with

the residential properties would be relatively flat for the first 15 metres. On the western side of the drainage ditch the land would increase in height at a 1 in 8 slope resulting in a 4 metre rise over a 32 metre distance. This area would be landscaped to soften the bank as opposed to the harsh banking that currently occurs from the unauthorised development. As a comparison, rather than the banks exceeding a height of 5.5m a minimum of 30m from the boundary of the application site the reformed land would be almost a metre lower and at least 42m from the site boundary. This lowering and re-grading of the land would move the banks further back from the boundary and reduce the oppressive nature. Although the determination of the application is not based on the comparison between the existing unauthorised banks and the proposed development it serves as an illustrative comparison to assist in the visualisation of the proposal.

- 5.7.4 The height of the proposed bank when considered alongside the distance between the properties (both the dwellings and the private gardens) and the gradient of the bank are such that the development would not result in a significant loss of light to the properties that would justify a reason for refusal. These circumstances also mean that there would not be a significant oppressive outlook for the residents. I accept that the view from these properties would change from the pre 2003 consent position; however, the loss of a private view is not a reason to refuse this application.
- 5.7.5 The crest of the bank nearest the residential properties would be approximately 60 metres away from the nearest dwellings and this distance would be sufficient to prevent any loss of privacy to the occupiers. The proposed planting would further filter any potential overlooking.
- 5.7.6 There are conditions that can be imposed to secure an acceptable level of amenity that would prevent night fishing near the boundary with residential properties and prevent car parking around the lakes near residential properties by the users of the lake. These requirements would prevent undue disturbance to the nearby residents from the users of the fishing lakes.

5.8 Other Matters

- 5.8.1 The Environment Agency has raised issues identifying that the applicant would require a bespoke environmental permit for the importation and deposition of the additional material. They have also identified the requirement for the development and the future management to conform to the Reservoirs Act. These aspects can be dealt with by way of informatives on any approval and to ensure the proposed landscaping does not prejudice conformity with the Reservoirs Act a fully detailed landscaping scheme could be required by way of a condition.

- 5.8.2 The importation of additional material would result in a significant level of lorry movements into and out of the site. These movements have been assessed by Kent Highway Services who conclude that subject to conditions that would limit the times and number of lorry movements per day there are no objections on highway grounds. The access arrangements and visibility are acceptable and the application would not be detrimental to highway safety or capacity.
- 5.8.3 It will be desirable to ensure that the approved scheme is implemented fully within a timely manner. This would ensure that the harm caused by the current unauthorised development on the site would cease. To this end the recommendation includes the completion of a Section 106 legal agreement to secure the full implementation of the scheme within a timetable agreeable to the Local Planning Authority. This would include a detailed phasing and implementation plan. This legal agreement would be subject of consultation with Counsel prior to its completion and any breaches of the legal agreement would be dealt with appropriately.
- 5.8.4 There are listed buildings nearby, however, the proposal would have no significant impact on the setting of the listed buildings. The Conservation Officer has examined the proposals and agrees with this assessment.

6 CONCLUSION

- 6.1 The proposed scheme would result in a development for recreational fishing for the Monks Lakes facility. It would sit alongside existing lawful recreational fishing at Mallard Lakes with an existing car park and access road.
- 6.2 The scheme would not result in any significant planning harm in particular in relation to flooding, biodiversity, landscape impact or residential amenity.
- 6.3 There are no objections from statutory consultees on the proposal and the Council will ensure full implementation within an agreed timescale through a Section 106 agreement.

7. RECOMMENDATION

I BE DELEGATED POWER TO GRANT PLANNING PERMISSION subject, in so far as deemed necessary and appropriate, to the completion of a section 106 agreement to secure the full implementation of the approved scheme in accordance with an agreed timetable of works including a phasing implementation plan and subject to appropriate additional planning conditions including, in so far as necessary and appropriate, the following:

1. The development hereby permitted, including the re-grading of the embankments and the implementation of the submitted planting and management scheme, shall be implemented strictly in accordance with the approved plans.

Reason: The completion of the scheme in accordance with the consent is in the interests of the character and amenity of the countryside and the residential amenity of neighbours, in accordance with policy ENV28 of the Maidstone Borough-Wide Local Plan (2000).

2. The development hereby permitted, including re-profiling of ground levels and re-grading of the embankments, shall be implemented in accordance with approved Method Statement received on 10/11/11.

Reason: The completion of the scheme in accordance with the consent is in the interests of the character and amenity of the countryside and the residential amenity of neighbours, in accordance with policy ENV28 of the Maidstone Borough-Wide Local Plan (2000).

3. The importation of material to achieve the ground profiles hereby approved shall be carried out in accordance with the approved Method Statement received on 10/11/11

Reason: To ensure the protection of the residential amenity of neighbours in accordance with policy ENV28 of the Maidstone Borough-Wide Local Plan (2000).

4. Prior to the importation of any material a fully detailed landscape plan, including planting consistent with the requirements of the Reservoirs Act the reduction in the prevalence of weeping willow, fencing and the protection of existing landscape features, shall be submitted to and approved in writing by the Local Planning Authority and the scheme shall be completed in accordance with the approved details.

Reason: To ensure a satisfactory appearance to the development and to protect the nearby residents from loss of privacy associated with the permitted use of land, in accordance with policies ENV6 and ENV28 of the Maidstone Borough-Wide Local Plan (2000).

5. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out implemented prior to the use starting on any of lakes 1, 2 and 3 and in the first available planting season after the completion of lakes 1, 2 and 3, whichever is the sooner; and any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with

others of similar size and species, unless the Local Planning Authority gives written consent to any variation;

Reason: To ensure a satisfactory setting and external appearance to the development in accordance with policies ENV6 and ENV28 of the Maidstone Borough-Wide Local Plan (2000).

6. The landscaping shall be maintained according to the approved landscaping management plan, boundary treatment plan and River Beult enhancement plan received on 10/11/11.

Reason: To ensure a satisfactory appearance to the development and to protect the nearby residents from loss of privacy associated with the permitted use of land, in accordance with policies ENV6 and ENV28 of the Maidstone Borough-Wide Local Plan (2000).

7. All vehicular access for the importation of material, vehicles for the re-profiling of the lakes and the embankments and the implementation of the planting proposals, will use the spur off the existing, access directly off the A229 (Staplehurst Road), as annotated on drawing number PDA-MON-103.

Reason: To protect the amenities of adjoining residents in accordance with policies ENV28 and T13 of the Maidstone Borough-Wide Local Plan (2000).

8. The development of the clubhouse shall not commence until, written details and samples of the materials to be used in the construction of the external surfaces of the building hereby permitted have been submitted to and approved in writing by the Local Planning Authority and the development shall be constructed using the approved materials;

Reason: To ensure a satisfactory appearance to the development in accordance with policy ENV28 of the Maidstone Borough-Wide Local Plan (2000).

9. The approved details of the parking/turning areas shall be completed before the commencement of the use of the land or buildings hereby permitted and shall thereafter be kept available for such use. No development, whether permitted by the Town and Country Planning (General Permitted Development) Order 1995 as amended by the Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2008 and the Town and Country Planning (General Permitted Development) (Amendment) (No.2) (England) Order 2008 (or any order revoking and re-enacting that Order, with or without modification) or not, shall be carried out on the areas indicated or in such a position as to preclude vehicular access to them;

Reason: Development without adequate parking/turning provision is likely to lead to parking inconvenient to other road users and in the interests of road safety in accordance with policies ENV28 and T13 of the Maidstone Borough-Wide Local Plan (2000).

10. The development hereby permitted shall be used for recreational angling and purposes ancillary only.

Reason: An unrestricted use could cause harm to the residential amenity of neighbours and the character and amenity of the countryside, contrary to policies ENV28 of the Maidstone Borough-Wide Local Plan (2000).

11. There will be no angling between the hours of 22:00 and 07:00 (night time) in the areas marked on the layout plan PDA-MON-103.

Reason: To protect the nearby residents from loss of privacy associated with the permitted use of land, in accordance with policies ENV28 of the Maidstone Borough-Wide Local Plan (2000).

12. There will be no parking on the lakeside in the areas around lakes 1, 2 and 3 as marked on the layout plan PDA-MON-103.

Reason: To protect the nearby residents from loss of privacy and potential disturbance associated with the permitted use of land, in accordance with policies ENV28 of the Maidstone Borough-Wide Local Plan (2000).

13. All access will be via the existing consented access directly from the A229. There shall be no vehicular or pedestrian access to the site shall from Hertsfield Lane, and the boundary fencing shown on plan D118024-101-1004P2 shall be implemented prior to the commencement of the use of lakes 1, 2 and 3.

Reason: To protect the amenities of adjoining residents in accordance with policy ENV28 of the Maidstone Borough-Wide Local Plan (2000).

14. There will be no overnight accommodation within the clubhouse and no persons shall sleep in the clubhouse at any time.

Reason: To prevent danger to human life in the event of a flood and to prevent inappropriate residential accommodation in accordance with policy ENV28 of the Maidstone Borough-Wide Local Plan (2000) and guidance contained within the National Planning Policy Framework (2012).

15. The clubhouse hereby approved will be for purposes ancillary to the use of the site for recreational angling and for no other purpose.

Reason: An unrestricted use could potentially cause harm to the residential amenity of neighbours and the character and amenity of the countryside, contrary to policy ENV28 of the Maidstone Borough-Wide Local Plan (2000).

16. No lighting shall be installed on the site without prior written consent from the Local Planning Authority.

Reason: To protect the character and appearance of the countryside in accordance with policy ENV28 of the Maidstone Borough-Wide Local Plan (2000).

17. Prior to the importation of any material full details of the material and its origin shall be submitted to and approved in writing by the Local Planning Authority and the scheme shall be completed in accordance with the approved details.

Reason: To prevent pollution of the environment in accordance with guidance contained within the National Planning Policy Framework (2012).

18. The proposed imported material shall be used in the construction of lake 1.

Reason: To prevent unnecessary movement of material within the site and to safeguard the level of amenity enjoyed by nearby residents in accordance with policy ENV28 of the Maidstone Borough-Wide Local Plan (2000).

19. Prior to the importation of any material full details of the proposed drainage facilities to ensure that the surface water for the site is fully contained within the site are submitted to and approved in writing by the Local Planning Authority and the scheme shall be completed in accordance with the approved details.

Reason: In the interests of residential amenity in accordance with policy ENV28 of the Maidstone Borough-Wide Local Plan (2000).

20. Surface water run-off during the construction phase shall be directed to Puma Lake and/or the proposed temporary settling pond.

Reason: To ensure sediment does not flow into the River Beult SSSI in accordance with guidance contained in the National Planning Policy Framework (2012).

21. All surplus water from the new lakes shall be directed to Puma Lake.

Reason: To ensure sediment does not flow into the River Beult SSSI in accordance with guidance contained in the National Planning Policy Framework (2012).

22. Prior to the stocking of lakes 1, 2 and 3 full details of the fish to be stocked in the lakes including species and whether capable of breeding, and full details of a catch fence to prevent fish from entering the river system shall be submitted to and approved in writing by the Local Planning Authority and the approved measures shall be put in place prior to the use of the lakes and maintained thereafter;

Reason: To prevent damage to the River Beult SSSI as a consequence of a flood event in accordance with policy NRM5 of the South East Plan (2009) and guidance contained in the National Planning Policy Framework (2012).

23. Foul water shall be passed through a Klargester system, which is to discharge to Puma Lake unless otherwise agreed in writing by the Local Planning Authority.

Reason: To prevent damage to the River Beult SSSI in accordance with policy NRM5 of the South East Plan (2009) and guidance contained in the National Planning Policy Framework (2012).

Informatives set out below

Attention is drawn to Sections 60 & 61 of the COPA 1974 and to the Associated British Standard Code of Practice BS 5228:2009 for noise control on construction sites. Statutory requirements are laid down for control of noise during works of construction and demolition and you are advised to contact the Environmental Health Manager regarding noise control requirements.

Clearance and burning of existing woodland or rubbish must be carried without nuisance from smoke etc to nearby residential properties. Advice on minimising any potential nuisance is available from the Environmental Health Manager.

Reasonable and practicable steps should be used during any demolition or removal of existing structure and fixtures, to dampen down, using suitable water or liquid spray system, the general site area, to prevent dust and dirt being blown about so as to cause a nuisance to occupiers of nearby premises.

Where practicable, cover all loose material on the site during the demolition process so as to prevent dust and dirt being blown about so as to cause a nuisance to occupiers of nearby premises.

The importance of notifying local residents in advance of any unavoidably noisy operations, particularly when these are to take place outside the normal working hours is advisable.

Where possible, the developer shall provide the Council and residents with a name of a person and maintain dedicated telephone number to deal with any

noise complaints or queries about the work, for example scaffolding alarm misfiring late in the night/early hours of the morning, any over-run of any kind.

The developer will be required to produce a Site Waste Management Plan in accordance with Clean Neighbourhoods and Environment Act 2005 Section 54. This should be available for inspection by the Local Authority at any time prior to and during the development.

The proposed development, subject to the conditions stated, is considered to comply with the policies of the Development Plan (Maidstone Borough-Wide Local Plan 2000 and the South East Plan 2009) and there are no overriding material considerations to indicate a refusal of planning consent.