

REPORT SUMMARY

REFERENCE NO: - 23/503100/FULL		
APPLICATION PROPOSAL: Change of use from equestrian to dog exercise area and erection of stock fencing.		
ADDRESS: Lovehurst Paddock Goudhurst Road Staplehurst Tonbridge Kent TN12 0HQ		
RECOMMENDATION: GRANT PLANNING PERMISSION subject to planning conditions in Section 8 of this report and subject to no new material considerations being raised because of the departure press notice expiring on the 12 th October 2023.		
SUMMARY OF REASONS FOR RECOMMENDATION: <ul style="list-style-type: none"> • The proposal is acceptable in relation to the minimal level of harm that will be caused to the character and appearance of this rural area. The proposal is acceptable in relation to neighbour amenity and the access and parking arrangements are all acceptable. • The application brings a vacant equestrian site back into beneficial use and supports the aims of NPPF and the Local Plan in achieving a prosperous rural economy. • It is concluded that these material considerations indicate that planning permission should be approved. 		
REASON FOR REFERRAL TO COMMITTEE: The application is a departure from the development plan.		
WARD: Staplehurst	PARISH/TOWN COUNCIL: Staplehurst	APPLICANT: Mrs D Leyland AGENT: CLM Planning
CASE OFFICER: Chloe Berkhauer-Smith	VALIDATION DATE: 12/07/23	DECISION DUE DATE: 29/09/23
ADVERTISED AS A DEPARTURE: Yes		

Relevant Planning History

04/0513: Change of use of agricultural land for the keeping of horses and erection of a block of two stables, tack room and adjoining hay store as shown on drawing numbers A3 plans and elevations and A4 site location plan received on 10/03/04. Refused 07.05.2004 for the following reasons:

The proposed development provides inadequate supervision/security arrangements for the horses in that the application site is physically remote from the owner’s dwelling, contrary to policy ENV46 (part 7) of the Maidstone Borough-Wide Local Plan 2000.

An appeal against refusal of 04/0513 allowed the permission to be granted. The appeal inspector noted that the main issue was the appropriateness of the site for the proposed building. The appeal inspector concluded:

While I understand the Council’s concern, I have assessed the application before me on its own merits. In particular, I have had regard to the scale of the proposal and to the fact that the Council would have control over any future applications affecting the site. In the light of these considerations. I conclude that it would not, subject to appropriate conditions, be contrary to the objectives of the quoted policy to grant permission for the building.

09/0606: An application to discharge conditions relating to MA/04/0513 - (Change of use of agricultural land for the keeping of horses and erection of a block of two stables, tack room and adjoining hay store) being details of Condition 4 as shown on drawing no. PLAN 2 received 04/06/09 Approved 05.06.2009

16/502801/FULL: Construction of sand school Approved 22.06.2016

MAIN REPORT

1. DESCRIPTION OF SITE

- 1.01 The site is located within the open countryside as defined in the Local Plan. It is situated to the south-west of the Staplehurst settlement boundary. The site has no special landscape designation. The lawful use of the land is equestrian as approved by the allowed appeal on application 04/0513.
- 1.02 The site has an existing vehicular access to Goudhurst Road in the centre of the western boundary. There is an existing area of hardstanding adjacent to the existing access, the rest of the site is open land (approx. 0.8 hectares). Also within the applicants ownership but not part of this application is a stable block adjacent to the entrance situated to the south, a sand school located to the south of the entrance and an open field (approx. 1.4 hectares) to the north of the entrance.
- 1.03 The site is bound by a high hedgerow to the west where the site adjoins Goudhurst Road. To the east the site is bound woodland, to the north it is bound by a hedgerow and to the south there is existing stock fencing along the boundary. There is a public right of way (KM318) which runs parallel to the southern boundary.

2. PROPOSAL

- 2.01 This application seeks the change of use from equestrian to dog exercise area and erection of stock fencing.
- 2.02 A 1.8m high stock fence is proposed along the western boundary of the site. This fence will match the existing stock fence situated along the eastern and southern boundaries. Parking provision is included within the site.
- 2.03 The applicant states: *"The proposal is to use the southern part of the site for the exercising of dogs in a secure environment. Dog walkers would be able to rent the field for dog exercising at hourly intervals during the day on an appointment only basis. It is envisaged that the field would be available 7 days a week during daylight hours.*

Not more than 3 dogs would exercise in the field at any given time. The existing hard stand near the site's entrance would be used for customer parking. A 1.8m high stock fence is proposed along the site's frontage set alongside the existing stock fence behind the established frontage planting. The proposed fence would match the height and appearance of the stock fence on the other boundaries of the field."

3. POLICY AND OTHER CONSIDERATIONS

Maidstone Borough Local Plan (2011-2031):

SS1: Maidstone Borough spatial strategy

SP17: Countryside

SP21: Economic development

DM1: Principles of good design

DM3: Natural environment

DM23: Parking standards

DM30: Design principles in the countryside

Maidstone Borough Council – Local Plan Review, draft plan for submission (Regulation 22) dated October 2021.

The Regulation 22 draft is a material consideration however weight is currently limited, as it is the subject of an examination in public that commenced on the 6 September 2022 (Stage 2 concluded on the 9 June 2023). The relevant policies in the draft plan are as follows:

LPRSS1 Maidstone Borough Spatial Strategy

LPRSP9 Development in the Countryside

LPRSP11 - Economic development
LPRSP12 - Sustainable transport
LPRSP14 - Environment
LPRSP14(A) - Natural environment
LPRSP15 - Principles of good design
LPRTRA2 - Assessing transport impacts
LPRTRA4 - Parking
LPRQ&D 4 Design principles in the countryside

Neighbourhood Plan: Staplehurst Neighbourhood Plan 2016

The National Planning Policy Framework (NPPF):

National Planning Practice Guidance (NPPG):

4. LOCAL REPRESENTATIONS

- 4.01 32 representations were received. 30 in support of the application and 2 objections raising the following (summarised) issues:
- Flooding and boggy and therefore not fit for purpose.
 - Highway safety concerns
 - There are numerous dog walking facilities within the area, the addition of another is unnecessary.

5. CONSULTATIONS

(Please note that summaries of consultation responses are set out below with the response discussed in more detail in the main report where considered necessary)

Staplehurst Parish Council

- 5.01 No objection. Councillors recommend that the application be approved, but do not request the application to be referred to MBC Planning Committee.

KCC Rights of Way

- 5.02 No objection. The Public Right of Way Footpath KM318 runs to the south of the application site. The applicant is advised that no works can be undertaken on the Public Right of Way without express consent of the Highways Authority.

6. APPRAISAL

- 6.01 The starting point for assessment of all applications in the countryside is Local Plan Policy SP17. Policy SP17 states that development proposals in the countryside will only be permitted where:
- a) there is no harm to local character and appearance, and
 - b) they accord with other Local Plan policies
- 6.02 Policy SP17 does not specify an acceptable level of harm and all proposals in the countryside are likely to result in some harm to local character and appearance. In this context all development outside the designated settlements does not accord with this part of SP17.
- 6.03 Other Local Plan policies permit development in the countryside in certain circumstances and subject to listed criteria. The earlier application (04/0513) for the existing stables on the application site if submitted now would be considered against criteria in policy DM41 equestrian development. If development accords with one of these other Local Plan policies, this compliance is weighed against the harm caused to character and appearance with a proposal assessed against policy SP17 overall.
- 6.04 The application does not involve the conversion of agricultural land to domestic garden so DM33 is not relevant. Nor does it involve the expansion of an existing business on the application site so policy DM37 is not relevant.

- 6.05 The proposal will result in harm to the character and appearance of the countryside and there are no Local Plan policies that support the application. The recommendation to grant planning permission would be a departure from the adopted Local Plan.
- 6.06 The National Planning Policy Framework (NPPF) highlights that the planning system is plan-led. The NPPF reiterates The Town and Country Planning Act 1990 and The Planning and Compulsory Purchase Act 2004, which require by law that planning applications “must be determined in accordance with the development plan, unless material considerations indicate otherwise”.
- 6.07 The relevant material considerations in this case include assessing the impact of the proposal in the following areas:
- Character and appearance
 - Residential amenity
 - Parking, access, highways and site location
 - Rural economy
 - Other matters

Character and appearance

- 6.08 Supporting text to policy SP17 advises “The countryside has an intrinsic character and beauty that should be conserved and protected for its own sake”.
- 6.09 In the Council’s published Landscape Character Assessment, the application site is just within the boundary of Knoxbridge Arable Lowlands which is part of the wider Lower Weald landscape. The summary of actions within this area are as follows:
- Conserve the pastoral land and resist conversion to arable land
 - Conserve and enhance the small scale field pattern and sense of enclosure, encouraging restoration of historic field boundaries with new plantings
 - Conserve the archaeological features throughout this landscape, and their rural setting.
 - Soften the visual prominence of large agricultural buildings through native planting and encourage native hedgerows around commercial and housing developments.
 - Enhance habitat opportunities around water bodies and ditches by creating and managing a linked.
- 6.10 The application site has a lawful equestrian use with an existing parking area and vehicular access in the centre of the western boundary. The site is screened from Goudhurst Road by mature landscaping (as shown in the image below). A Public Right of Way (PROW KM318) runs parallel along the southern boundary of the site.



View looking towards the western boundary.

- 6.11 The application incorporates a new 1.8m high fencing along the western site boundary. The style and height of the proposed fencing would match that of the existing fencing found along the other perimeters of the site which is also 1.8m in height. The new fencing would be of a timber and metal wire mesh construction. Views of the proposed fencing from the PROW would be visible, however, the open mesh design of the fencing ensures that the visual impact is minimal, and the proposed fencing would be screened from the road by existing mature vegetation along the western boundary.
- 6.12 The proposal only seeks the change of use of the land and the erection of a 1.8m high stock fence along the western boundary and would not incorporate the conversion or addition of any buildings on site. The proposal therefore would involve minimal physical changes to the existing site. The open nature of proposed stock fencing ensures minimal visual impact, and it would match the existing fencing on site. Furthermore, it would be screened from the road by existing vegetation to the boundaries. I am therefore satisfied that the proposal would be visually acceptable.

Residential amenity

- 6.13 Local Plan policy DM 1 states that proposals will be permitted which create high quality design and where they respect the amenities of occupiers of neighbouring properties. Development should not result in, excessive noise, vibration, odour, air pollution, activity, or vehicular movements, overlooking or visual intrusion. Built form should not result in an unacceptable loss of privacy or light enjoyed by the occupiers of nearby properties.
- 6.14 The nearest residential properties are No.1 and 2 Mathurst Cottage, Goudhurst Road which are situated approximately 28m south-west of the site. The application site and these dwellings are separated by Goudhurst Road and mature landscaping on the application site. Given the nature of the application, whereby the proposal seeks a change of use of the land and no buildings are proposed to be added, I do not consider the proposal will result in any adverse impact on residential amenity in terms of a loss of light or overshadowing, or a loss of privacy or overlooking.
- 6.15 Other potential sources of nuisance would be noise. The applicant has stated "*Dog exercising can generate noise through dogs barking. Any one time, there would be up to 3 dogs exercising in the field. The nearest residential properties are located some 30m from the nearest part of the field. At this distance, any noise that may be generated by dogs exercising is unlikely to cause a nuisance to the occupants of those properties. In any event, the limited number of dogs exercising in the field are unlikely to concentrate their activity in one particular part of the site, particularly the furthest section of the field from the field's access*".
- 6.16 Overall, the proposal will not result in any significant adverse effects to the residential amenity of any neighbouring properties.

Parking, access, highways and site location

- 6.17 The NPPF states that planning decisions "...should recognise that sites to meet local business...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 ... does not have an unacceptable impact on local roads...".
- 6.18 Whilst outside of a settlement, Staplehurst train station is 7 minutes by car from the site. In addition, due to the nature of the use it would be difficult to find a site in a settlement with the benefit of the large area of open space for dog exercising that this site offers.

- 6.19 There is an existing access for the site located in the centre of the western boundary. The access has good visibility onto Goudhurst Road and would be suitable for the limited increase in use considering no more than 3 dogs would exercise in the field at any given time.
- 6.20 The car parking standards for non-residential uses set out in Supplementary Planning Guidance SPG 4 Kent Vehicle Parking Standards July 2006. These standards are generally set as maximum (not minimum) and there is no standard provided for the proposed use (sui generis). However, although not directly relevant to this application, the SPG sets out that for outdoor sports facilities or playing fields there should be 1 space per 2 participants.
- 6.21 There is an existing parking and turning area which can accommodate visitor's cars with sufficient turning space to allow vehicles to leave the site in forward gear. The submitted proposed site plan indicates that there would be 2 visitor parking spaces. Given no more than 3 dogs would use the site at any given time, I am satisfied that there would be sufficient parking at the site to accommodate the proposal.
- 6.22 Local Plan policy DM1 states that proposals will be permitted, where they can safely accommodate the associated vehicular and pedestrian movement on the local highway network and through the site access.
- 6.23 The proposed change of use would likely increase vehicular activity at the site, given the proposal would not incorporate any more than 3 dogs using the field at any given time and the use of the field would be on an appointment only basis, I do not consider the proposal to significantly increase trip generation to the site.
- 6.24 The NPPF states "Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe (Paragraph 111)". It is concluded that the impact of the application on highway safety will be acceptable and the impact on the road network will not be 'severe'. The impact of the proposal is found to be acceptable.

Rural economy

- 6.25 Guidance in the National Planning Policy Framework is a material planning consideration. Under the heading "Supporting a prosperous rural economy" the NPPF states planning decisions "...should enable the sustainable growth and expansion of all types of business in rural areas...through conversion of existing buildings".
- 6.26 Although not directly relevant, Local Plan policies SP21 and DM37 (no existing business) are generally supportive of proposals for economic development in the countryside. With the nature of the use and the space required for dogs to be exercised, it would be difficult to find a suitable site for this use in a settlement.

Other matters

- 6.27 Concerns have been received regarding flooding at the site. The application site is within Flood Zone 1 which is the lowest risk of flooding.
- 6.28 Furthermore, the NPPF Annex 3: Flood risk vulnerability classification sets out that development such as amenity open space, nature conservation and biodiversity and outdoor sports and recreation are all considered to be water-compatible development. I therefore do not consider the proposal to result in any issues in terms of flooding.

PUBLIC SECTOR EQUALITY DUTY

- 6.29 Due regard has been had to the Public Sector Equality Duty, as set out in Section 149 of the Equality Act 2010. It is considered that the application proposals would not undermine objectives of the Duty.

7. CONCLUSION

- 7.01 The National Planning Policy Framework (NPPF) reiterates The Town and Country Planning Act 1990 and The Planning and Compulsory Purchase Act 2004, which requires by law that planning applications “must be determined in accordance with the development plan, unless material considerations indicate otherwise”.
- 7.02 The proposal will result in harm to the character and appearance of the countryside contrary to policy SP17 and there are no Local Plan policies that directly support dog exercise uses. In this context as the application is not in accordance with the adopted Local Plan, it needs to be determined as to whether there are other material considerations that justify granting planning permission.
- 7.03 The application involves a change of use of land that is currently in equestrian use. The proposal is found to be acceptable in relation to the minimal level of harm that will be caused to the character and appearance of this rural area. The proposal is acceptable in relation to neighbour amenity and the access and parking arrangements are all acceptable. A planning condition will require a further application for the display of any advertisements or signs.
- 7.04 The application brings a vacant equestrian site back into beneficial use and supports the aims of NPPF and the Local Plan in achieving a prosperous rural economy.
- 7.05 It is concluded that whilst the application is not in accordance with the development plan (a departure) these material considerations that have been outlined and the minimal level of harm indicate that planning permission should be approved.

8. RECOMMENDATION GRANT PLANNING PERMISSION subject to the following conditions with delegated powers to the Head of Planning and Development to be able to settle or amend any necessary planning conditions in line with the matters set out in the recommendation and as resolved by the Planning Committee.

- 1) The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: In accordance with the provisions of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

- 2) The development hereby permitted shall be carried out in accordance with the following approved plans:

Fence Plan and Elevation – Drawing No. LPS/5 – Received 04/07/2023
Covering Letter and Supporting Statement – Received 04/07/2023
Location of Block Plans – Received 12/07/2023
Proposed North Block Plan – Drawing No. LPS/3 – Received 12/07/2023
Proposed South Block Plan – Drawing No. LPS/4 – Received 12/07/2023
Tree Survey – Received 12/07/2023

Reason: To clarify which plans have been approved.

- 3) Any external lighting installed on the site (whether permanent or temporary) shall be in accordance with details that have previously been submitted to and approved in writing by the Local Planning Authority. The submitted details shall be in accordance with the Institute of Lighting Engineers Guidance Notes for the Reduction of Obtrusive Lighting, GN01, dated 2011 (and any subsequent revisions) and follow the recommendations within Bat Conservation Trust's 'Guidance Note 8 Bats and Artificial Lighting', and shall include a layout plan with beam orientation and a schedule of light equipment proposed (luminaire type; mounting height; aiming angles and luminaire profiles) and an ISO lux plan showing light spill. The

development shall thereafter be carried out in accordance with the subsequently approved details and maintained as such thereafter.

Reason: To safeguard the character and appearance of the countryside and in the interests of residential amenity and wildlife.

- 4) The use shall only accommodate a maximum of 3 dogs at any one time and the land shall be used for as a dog care facility only and for no other purpose (including any other purpose in Classes E of the Schedule to the Town and Country Planning (Use Classes) Order 1987 or permitted under the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 or any statutory instrument revoking and re-enacting those Orders with or without modification).

Reason: Unrestricted use of the land could potentially cause harm to the character, appearance and functioning of the surrounding area and/or the enjoyment of their properties by adjoining residential occupiers.

- 5) Prior to commencement of the approved use, the approved parking areas shall be provided, kept available for such use, and permanently retained.

Reason: To ensure that adequate off street car parking space is provided.

- 6) Prior to the commencement of the approved use, further details of the new fencing shall have been submitted to and approved in writing by the local planning authority. The details shall include:

* a layout plan indicating the location of the new fencing including post locations in relation to existing trees and hedges.

* measures taken to allow the passage of wildlife.

The fencing shall be constructed in accordance with the approved details and maintained as such thereafter.

Reason: To ensure a satisfactory appearance to the development.

- 7) Notwithstanding the provision of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 no advertisements or signage shall be displayed at the site without the consent of the local planning authority.

Reason: To safeguard the character and appearance of the surrounding area.

INFORMATIVE

The applicant is advised that no works can be undertaken on a Public Right of Way without the express consent of the Highways Authority. In cases of doubt the applicant should be advised to contact this office before commencing any works that may affect the Public Right of Way. Should any temporary closures be required to ensure public safety then this office will deal on the basis that:

- The applicant pays for the administration costs.
- The duration of the closure is kept to a minimum.
- Alternative routes will be provided for the duration of the closure.
- A minimum of six weeks notice is required to process any applications for temporary closures.

This means that the Public Right of Way must not be stopped up, diverted, obstructed (this includes any building materials or waste generated during any of the construction phases) or the surface disturbed. There must be no encroachment on the current width, at any time now or in future and no furniture or fixtures may be erected on or across Public Rights of Way without consent.

NB For full details of all papers submitted with this application please refer to the relevant Public Access pages on the council's website.