

REPORT SUMMARY

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| REFERENCE NUMBER: 23/504118/FULL | | |
| APPLICATION PROPOSAL: Change of use of 1 hectare (2.5 acres) of agricultural land to use as a dog walking paddock with associated 1.8metre height fencing, gates, and parking. | | |
| ADDRESS: Hook Farm Kings Lane Marden Kent TN12 9PP | | |
| RECOMMENDATION: GRANT PLANNING PERMISSION subject to planning conditions in Section 8 of this report. | | |
| SUMMARY OF REASONS FOR RECOMMENDATION: <ul style="list-style-type: none"> • Minimal level of harm to the character and appearance of this rural area. • Acceptable in relation to neighbour amenity and access and parking arrangements. • Whilst a departure from the Local Plan, material considerations indicate that planning permission should be approved. | | |
| REASON FOR REFERRAL TO COMMITTEE: The application is a departure from the development plan. | | |
| WARD: Marden And Yalding | PARISH COUNCIL: Collier Street | APPLICANT: Wood & Wedgwood AGENT: BTF Partnership |
| CASE OFFICER: Chloe Berkhauer-Smith | VALIDATION DATE: 02/10/23 | DECISION DUE DATE: 23/02/24 |
| ADVERTISED AS A DEPARTURE: Yes | | |

Relevant planning history

No relevant planning history.

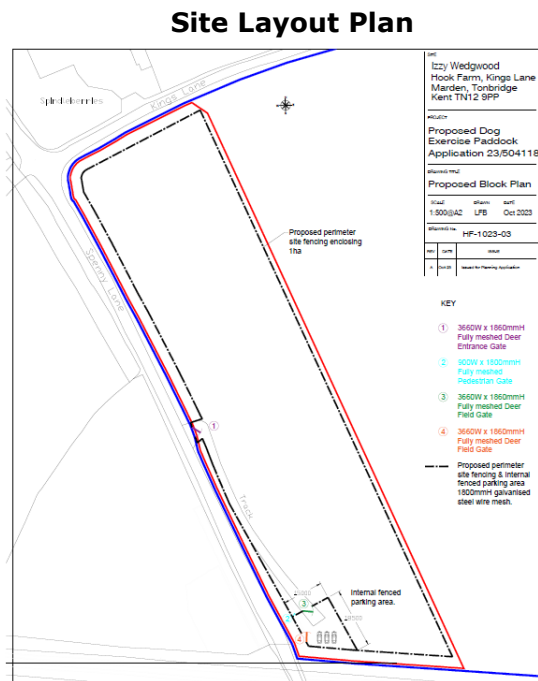
MAIN REPORT

1. DESCRIPTION OF SITE

- 1.01 The application site is rectangular covering approximately 1.1 hectares of agricultural land located within the countryside as defined by the Local Plan. The site lies approximately 2.7km west of the Marden settlement boundary. The site has no special landscape designation.
- 1.02 The site has an existing vehicular access to Spenny Lane in the centre of the western boundary. There is an existing internal track leading to the south-west corner of the site that is proposed to be a parking area. The rest of the site is open land.
- 1.03 Kings Lane is to the north and Spenny Lane to the west with boundary treatments consisting of hedgerows. A short boundary hedgerow separates the site from the railway track to the south.
- 1.04 The wider area is characterised by open countryside with varying field patterns and sporadic built development. To the north there is an existing large polytunnel development.

2. PROPOSAL

2.01 This application seeks the change of use of 1 hectare (2.5 acres) of agricultural land to use as a dog walking paddock with associated 1.8metre high fencing, gate, and parking.



2.02 The proposed 1.8 metre high fencing would be situated around the perimeter of the site and constructed of galvanised steel wire mesh. The posts would be round timber stakes, 2.5m in height and 0.75m in diameter, placed approximately 10m apart. There would be straining posts every 400m and on every corner which are proposed to be 2.8m in height and 1.25m in diameter.

2.03 There would be 3 fully mesh deer gates, one located at the entrance along Spenny Lane, and two field gates adjacent to the proposed parking area.

- 2.04 The applicant states:
- *The field will be available for pre-booked sessions (typically 1 hour long) during daylight hours 8am – 6pm with variation to these hours during winter months.*
 - *The facility will generally be single occupancy for up to 4 dogs (more than 4 dogs would require prior permission).*
 - *As an upper limit 10 dogs may use the site to enable group training and lessons, however this would be infrequent.*
 - *The proposed Acuity Scheduling booking system would 55-minute sessions to start on the hour. The final 5 minutes of the booking slot is to provide enough time for you to retrieve your dog, to put them on lead and to return to your vehicle and vacate the car park prior to the next appointment. Dogs must be back in the car to allow for the next dog to enter at their allotted time.*

3. POLICY AND OTHER CONSIDERATIONS

- Maidstone Borough Local Plan 2017
- 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

Emerging Draft Policy: Maidstone Draft Local Plan:

The Regulation 22 Local Plan Review (LPR) submission comprises the draft plan for submission (Regulation 19) dated October 2023, the representations and proposed main modifications. It is therefore a material consideration and attracts some weight. The LPR has been through Stage 1 and 2 Hearings and the main modifications the Inspector considers are required to make it sound are out to public consultation, so it is at an advanced stage. However, responses to the consultation need to be considered by the Inspector along with him producing his Final Report so the LPR is considered to attract moderate weight at the current time. The relevant policies in the Maidstone Draft Local Plan are as follows:

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

The National Planning Policy Framework (NPPF):

Maidstone Landscape Character Assessment 2012 (Updated 2013)

4. LOCAL REPRESENTATIONS

Local residents:

- 4.01 8 representations received objecting to the application for the following (summarised) reasons:
- Visual impact of the proposed fence
 - Location
 - Noise
 - Increase in traffic.
 - Parking concerns
 - No local need for the facility
 - Wildlife impact
- 4.02 9 representations received in support of the application for the following (summarised) reasons:
- Ideal location
 - Improving local amenities by providing a safe and secure environment
 - Local need

Collier Street Parish Council

- 4.03 Wish to see the application refused but do not request the application is reported to the Planning Committee (NB: reported as a departure from the plan)
- Highways
 - Location or entrance and exit
 - Visual impact of the proposed fencing

5. CONSULTATIONS

(Please note that summaries of consultation responses are set out below. Comments are discussed in more detail in the appraisal section where considered necessary)

Environment Agency

5.01 No objection

Environmental Health

5.02 No objection subject to a condition requiring noise management of plant.

Kent Police

5.03 No objection

KCC Highways

5.04 Does not meet the criteria to warrant involvement from the highway authority.

KCC Flood and Water Management

5.05 No objection

Southern Water

5.06 No objection

Upper Medway Internal Drainage Board

5.07 No objection

6. APPRAISAL

6.01 The relevant material considerations in this case include assessing the impact of the proposal in the following areas:

- Countryside location and policy SP17.
- Character and appearance
- Residential amenity
- Site location, access, parking and highways
- Rural economy
- Other matters

Countryside location and policy SP17.

6.02 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

6.03 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.

6.04 Other Local Plan policies permit development in the countryside in certain circumstances and subject to listed criteria. 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.

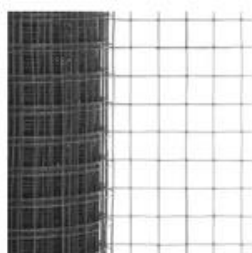
- 6.05 The application does not involve the conversion of agricultural land to domestic garden so DM33 is not relevant. The application does not involve the expansion of an existing business on the application site so policy DM37 is not relevant.
- 6.06 The proposal will result in harm to the character and appearance of the countryside and there are no Local Plan policies that support the application. The recommendation to grant planning permission would as a result be a departure from the adopted Local Plan.
- 6.07 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”.
- 6.08 The following assessment considers the material considerations that are present that justify permission being granted contrary to the Local Plan.

Character and appearance

- 6.09 Policies SP17 and SP21 state that development in the countryside should not result in harm to the character and appearance of the area. DM30 requires new development to be located adjacent to existing buildings or unobtrusively located and well screened with appropriate vegetation. It also states that account should be taken of the Maidstone Borough Landscape Character Guidelines SPD.
- 6.10 In the council’s published Landscape Character Assessment, the application site is just within the boundary of the Laddingford Low Weald which is part of the wider Lower Weald Landscape. The key characteristics of this area are:
- Low lying landform
 - Intricate network of ditches, ponds and reservoirs
 - Small and mostly broadleaf woodland blocks
 - Orchards, hops and pasture surround settlements
 - More expansive arable land within surrounding landscape
 - Much linear settlement with clusters of development at road junctions
- 6.11 The summary of actions within this area are as follows:
- Consider the generic guidelines for the Low Weald which include conserving the intimate small scale Medieval field pattern, and species rich hedgerow boundaries.
 - Conserve the network of ponds and improve habitat connectivity with native vegetation corridors
 - Reinstate traditional hedgerow boundaries and gap up existing hedgerows where they are in poor condition
 - Conserve and where possible extend native woodland blocks
 - Soften the visual impact of large agricultural barns and silos with native planting
- 6.12 The application seeks to largely maintain the open character of the site, although a new boundary will be created to the east through the proposed division of the existing large open field. Whilst the proposal seeks to divide the field, the proposed dog walking area would be contained to one end of the field (closest to Spenny Lane), and this would minimise visual impact.
- 6.13 Galvanised steel wire mesh fencing (with timber posts) is proposed around the perimeter of the site which would be 1.8m tall. The open, mesh design ensures that the proposed fencing would not be visually intrusive or visually prominent.

6.14 A hedgerow is to the north (Kings Lane) and west (Spenny Lane) boundaries as shown in the site photos below. The existing hedgerow would therefore partially screen the proposed fencing from Spenny Lane (to the west) and Kings Lane (to the north). The south-west corner of the site is further screened from the road due to the ground level difference, with the Spenny Lane carriageway increasing in height to pass over the railway track.

6.15 The site has an existing access from Spenny Lane located in the centre of the western boundary. This access would be retained, and an existing track would be used which leads to an existing area of hardstanding located in the south-west corner of the site that would be used for parking provision. There would be no visual impact in this regard and the parking area would be further screened due to the ground level difference between the site and Spenny Lane. A planning condition is recommended seeking details of landscaping to gap up and strengthen existing hedgerow boundaries.



AT A GLANCE

| Technical Specification | |
|-------------------------|-------------------------|
| Material & Finish | Galvanised Steel |
| Construction | Square Apertures |
| Colour | Silver/Grey |
| Height | 90cm (3ft) - 1.8m (6ft) |
| Length | 6m (20ft) - 30m (98ft) |
| Wire Diameter | 23g (0.6mm) - 14g (2mm) |
| Manufactured In | Far East |



Proposed fence material specification and indicative fence image

6.16 The change of use of the land to allow for dog walking would not significantly alter the appearance of the existing agricultural field, which is already grassland. Subject to the retention of the existing hedgerows, the proposal would sit acceptably within the rural landscape and therefore accord with Local Plan Policies SP17 and DM30.



West boundary (Spenny Lane)



North boundary (Kings Lane)

Residential amenity

- 6.17 The site is an existing agricultural field, the closest neighbour to the application site is Spindleberries, Kings Lane. Spindleberries is approximately 37m away from the edge of the proposed site. Given this distance, I am satisfied that there would be no resulting loss of privacy or overlooking.
- 6.18 The parking area would be set away from the closest residential dwelling by approximately 83m. This is sufficient distance to ensure that the movements to and from the site would not have a detrimental impact. This is considered against the existing agricultural use of the site and the potential movements that this could generate.
- 6.19 The application has also proposed the following:
- Hours of use – the proposal would only be used during daylight hours and between the hours of 8am and 6pm at a maximum.
 - The proposal does not include any lighting which prevents light spill and disturbance to the neighbouring residential properties.
 - The proposed use would be low intensity with a maximum of 10 dogs at any one time which would be controlled by an online booking system.
- 6.20 To ensure that the field is not used to an excessive degree, it would be appropriate to require further detail of its operation so that the number of dogs using it at any one time can be controlled and to control the booking mechanism / crossover of customers, and the number / length of session that would take place each day. Provided these measures are understood and managed, the site could be used acceptably without detriment to neighbouring amenity.
- 6.21 Neighbouring concerns regarding the impact of the use have been considered, however the impact of 10 dogs must be considered against the impact of the activities that could lawfully be undertaken on the site, including as agricultural land. Based on the details listed above, which can be controlled by condition, the proposal would not cause an unacceptable impact on local residential amenity.

Site location, access, parking and highways

- 6.22 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..."
- 6.23 Whilst outside the settlement, the site is a 9 minute drive from Marden. 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.
- 6.24 There is an existing access located in the centre of the western boundary that would be retained. The proposed 1.8m mesh deer entrance gate would replace an existing 5-bar gate which is set back from the road and allows a car to pull off the road to open the gate. Furthermore, the access has good visibility onto Spenny Lane. It is therefore concluded that the proposed access would be of an adequate design to accommodate the proposed use.
- 6.25 The application includes a parking area (3 cars) and turning area in the south-west corner of the site. The applicant has stated that the parking area would make use of an existing area of hardstanding and the parking area will use the existing site entrance from Spenny Lane and the existing internal access track that runs alongside the western boundary. The proposed parking area would allow users of

the facility to park off the road and would enable vehicles to leave the site in a forward gear.

- 6.26 As discussed above, the use of the site would be low intensity and controlled via a booking system which would limit the number of visitors to the site at any given point. Sufficient parking is provided for the limited number of visitors. Further details of the booking system and the turnover of customers will be required by condition to ensure there is sufficient time between one group leaving and another arriving and to ensure there is no overspill onto the highway.
- 6.27 The existing site access can accommodate the traffic generated by the proposed use and with adequate sightlines the use of the access will not harm highway safety. The parking area and access to it are adequate for the nature of the proposed use.
- 6.28 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 115 NPPF 2023)". 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

- 6.29 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".
- 6.30 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.

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 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 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.

PUBLIC SECTOR EQUALITY DUTY

- 7.05 Due regard has been had to the Public Sector Equality Duty, as set out in Section 149 of the Equality Act 2010. The application proposal does not undermine the objectives of the Duty.

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 and/or informatives 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:
Application Form – Received 08/09/2023
Planning Statement – Received 08/09/2023
Fence Specifications - Proposed Dimensions Highlighted – Received 26/08/2023
Site Location Plan – Drawing No. HF-1023-01 – Received 02/10/2023
Proposed Block Plan – Drawing No. HF-1023-03 – Received 02/10/2023
Proposed Fence and Gate Elevations – Drawing No. HF-1023-04 – Received 02/10/2023
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:
 - a) be in accordance with the Institute of Lighting Professionals Guidance Notes for the Reduction of Obtrusive Light, GN01, dated 2011 (and any subsequent revisions) (Environmental Zone E1), and
 - b) follow the recommendations within the Bat Conservation Trust's 'Guidance Note 8 Bats and Artificial Lighting'.
 - c) 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, protected species and in the interests of residential amenity.
- 4) No activity in connection with the use hereby permitted shall take place outside the hours of 8am and 6pm and within these 10 hours, no activity in connection with the use hereby permitted shall take place outside of daylight hours.
Reason: To safeguard the enjoyment of their properties by adjoining residential occupiers and to protect the rural character of the locality.
- 5) Prior to commencement of the approved use, a maintenance and management plan shall be submitted to and approved in writing by the local planning authority. It shall include details of the following:
 - The booking system for use of the dog walking area
 - How access will be restricted to only those with a booking.
 - The booking time intervals / slots including the length of time between them for each session throughout the year.
 - Details of procedures for the disposal of waste

- Policies on the supervision of dogs on site
- Site notices to be secured on site advising of steps to be taken in case of the escape of a dog.
- Schedule of maintenance

The site shall only operate in accordance with the approved plan thereafter.

Reason: To protect neighbouring amenity and highway safety.

- 6) 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.
- 7) 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.
- 8) The use shall only accommodate a maximum of 10 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.
- 9) Prior to the commencement of the approved use, a noise management plan covering the operation shall be submitted to and approved in writing by the local planning authority. The plan shall include but not be limited to the hours of operation and measures to minimise potential noise nuisance. The plan should include procedures for responding to complaints from residents or the local authority. The noise management plan should include a review mechanism in response to justified complaints. The use shall only be carried out in accordance with the approved details.
Reason: To protect residential amenity.
- 10) The fencing hereby approved shall be as shown in the approved Proposed Fence and Gate Elevations – Drawing No. HF-1023-04, and retained as such.
Reason: To ensure a satisfactory appearance to the development.
- 11) At the end of the first planting season (October to February) following the commencement of the approved use, landscaping shall be in place that is in accordance with landscape details that shall have previously been submitted to and approved in writing by the Local Planning Authority. The landscape details shall
- (a) be designed in accordance with the principles of the Council's landscape character guidance (Maidstone Landscape Character Assessment Supplement 2012) <https://tinyurl.com/4a7uhhz5>
 - (b) show all existing trees, hedges, and blocks of landscaping on, and immediately adjacent to, the site.
 - (c) provide details of new on-site planting in a planting specification (location, species, spacing, quantity, maturity) and including the gapping up and strengthening of the existing hedgerow consisting of *double staggered hedgerow with approximately 45cm spacing with 30cm between rows and consisting of 70% Hawthorn or Blackthorn, 5% Dogwood, 10% Field Maple, 10% Hazel, 2.5% Holly and 2.5% Wayfaring Tree.*
 - (d) provide landscape implementation details and timetable.
 - (e) provide a [5] year landscape management plan.

Reason: In the interests of landscape, visual impact, and amenity of the area and to ensure a satisfactory appearance to the development.

- 12) Any of the approved landscaping which fails to establish or any trees or plants which, within five years from the commencement of the approved use are removed, die or become so seriously damaged or diseased that their long term amenity value has been adversely affected shall be replaced in the next planting season with plants of the same species and size as detailed in the approved landscape scheme.
Reason: In the interests of landscape, visual impact, and amenity of the area and to ensure a satisfactory appearance to the development.

INFORMATIVES

- 1) The applicant is advised to contact the Upper Medway Internal Drainage Board (planning@medwayidb.co.uk, 01622 934500) to find out if separate consent is required under separate legislation.
- 2) The applicant is advised to consult Designing out Crime Officers to address Crime Prevention Through Environmental Design and incorporate Secured by Design as appropriate.

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