

**REPORT SUMMARY**

<b>REFERENCE NUMBER:</b> 24/502741/FULL		
<b>APPLICATION PROPOSAL:</b> Retrospective application for the change of use of 0.87 hectare (2.15 acres) of agricultural land for a dog walking paddock together with 1.8 metres high fencing, an area of hardstanding for car parking and permeable access track.		
<b>ADDRESS:</b> Land at Manor Farm, Laddingford, Maidstone, ME18 6BX		
<b>RECOMMENDATION: GRANT PLANNING PERMISSION subject to conditions</b>		
<b>SUMMARY OF REASONS FOR RECOMMENDATION:</b> 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 “ <i>must be determined in accordance with the development plan, unless material considerations indicate otherwise</i> ”.  The proposal will result in some harm to the character and appearance of the countryside contrary to policy LPRSP9 and there are no Local Plan policies that directly support the use. 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.  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 biodiversity. The access and parking arrangements are all acceptable.  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.		
<b>REASON FOR REFERRAL TO COMMITTEE:</b> Departure from the Local Plan.		
<b>WARD:</b> Marden And Yalding	<b>PARISH/TOWN COUNCIL:</b> Yalding	<b>APPLICANT:</b> Mr Oakes <b>AGENT:</b> BTF Partnership
<b>CASE OFFICER:</b> William Fletcher	<b>VALIDATION DATE:</b> 17/07/24	<b>DECISION DUE DATE:</b> 22/11/24
<b>ADVERTISED AS A DEPARTURE:</b> Yes		

**Relevant Planning History**

24/501028/FULL

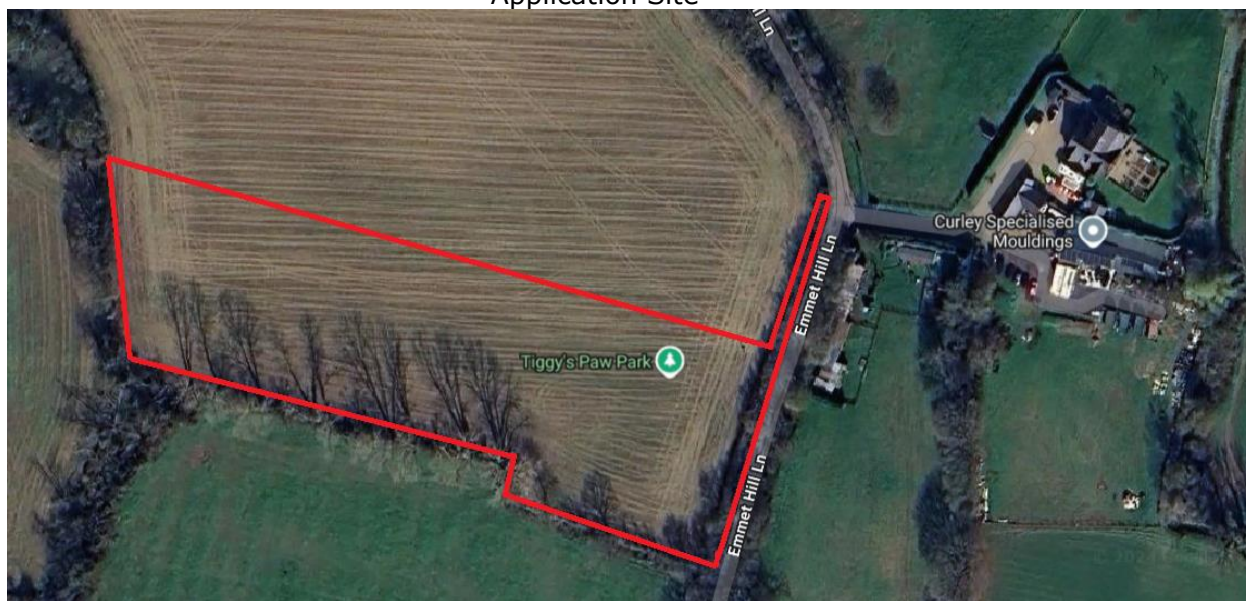
Erection of a general purpose agricultural storage building for machinery and crops.  
Approved 31.05.2024

## **MAIN REPORT**

### **1. DESCRIPTION OF SITE**

- 1.01 In policy terms the application site is in the countryside.
- 1.02 Manor Farm covers 61.18 acres (25 hectares) of which 44.83 acres (18.14 hectares) is arable land, used for the production of combinable crops.
- 1.03 The current application site covers approximately 0.87 hectare (2.15 acres) within the larger farm.

Application Site



- 1.04 The site is a grass covered field and benefits from an existing access from Emmet Hill Lane. The site itself is almost completely flat in terms of its topography.
- 1.05 The site is located within Flood Risk Zones 2 and 3.

### **2. PROPOSAL**

- 2.01 This application seeks retrospective full planning permission for the change of use from agricultural land to a dog walking paddock together with 1.8 metre height fencing, car park and permeable access track.
- 2.02 The field will only be available for pre-booked sessions (typically 1 hour long) during daylight hours. The opening times will also be restricted to the hours of 8am – 6pm in the summer months.

### **3. POLICY AND OTHER CONSIDERATIONS**

Maidstone Local Plan Review 2024

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  
LPRQD4 - Design principles in the countryside

The National Planning Policy Framework (NPPF):  
Section 2 – Achieving Sustainable Development  
Section 4 – Decision Making  
Section 12 – Achieving well Designed Places

National Planning Practice Guidance (NPPG):  
Maidstone Landscape Character Assessment 2012 (Updated 2013)

#### **4. LOCAL REPRESENTATIONS**

##### Local residents

4.01 No representations received.

##### Yalding Parish Council

4.02 No comment.

#### **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 conditions on:

- Noise management
- Restrictions on times of use

##### KCC Highways

5.03 Application does not meet the criteria to warrant involvement from the Highway Authority

##### KCC Ecology

5.04 No objection. Recommend that if planning permission is granted a landscaping plan is submitted demonstrating that a native species hedgerow will be planted along the outside boundary of the site.

#### **6. APPRAISAL**

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

- Spatial strategy
- Character and appearance
- Residential amenity
- Access and highways
- Ecology and Biodiversity Net Gain
- Rural economy

##### **Spatial Strategy**

6.02 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”.

- 6.03 The application site is in the countryside and the starting point for assessment of all applications in the countryside is LPR Policy SP9. Policy SP9 states:  
"Development proposals in the countryside will not be permitted unless they accord with other policies in this plan and will not result in significant harm to the rural character and appearance of the area."
- 6.04 There are no Local Plan policies (equestrian, rural worker dwelling etc) that permit dog walking uses in the countryside. The following section of this report makes an assessment as to whether the harm resulting from the dog walking use is significant.

### **Character and appearance**

- 6.05 LPRSP15 states that development must "Respond positively to, and where possible enhance, the local, natural, or historic character of the area. Particular regard should be paid to scale, height, materials, detailing, mass, bulk, articulation and site coverage". Policy LPRQD4 has similar aims and objectives.
- 6.06 The application site is in the Laddingford Low Weald character area. The key characteristics of the area set out in the Landscape Character Assessment include:
- Landscape forms part of the wider Low Weald landscape.
  - 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.
- 6.07 The Maidstone Landscape Character Assessment (2013) notes that this landscape is in 'Moderate' condition and of 'Moderate' sensitivity with guidelines to 'Conserve and Improve'. With the following guidelines.
- Consider the generic guidelines for the Low Weald.
  - Conserve the frequency of willow.
  - 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.
  - Improve the sense of arrival and individuality of separate settlements by avoiding further infill development.
  - Soften the visual impact of large agricultural barns and silos with native planting.
- 6.08 Wire mesh fencing (galvanised steel - 1.8 metre high) with timber posts) is around the perimeter of the site. The open, mesh design will ensure that the fencing is not visually intrusive or visually prominent. If the use were to cease the fencing could be easily removed.
- 6.09 The parking area and access are well contained at the eastern end of the application site. Most of the application site and the surrounding fields which make up the character of the area will be visually unaffected by the proposal.
- 6.10 The application seeks retention of the use, hardstanding, fencing and associated parked vehicles. Whilst these works have been introduced into this location, they are all located with minimal visual impact on the surrounding area.

- 6.11 As detailed in paragraph 6.03 of this report the threshold for unacceptable visual harm in the countryside in policy LPRSP9 is 'significant' harm. It is concluded that the visual impact of the parking area, access and the use in general does not meet the threshold of significant harm.

### **Neighbouring amenity**

- 6.12 LPRSP15 states proposals must "Respect the amenities of occupiers of neighbouring properties and uses and provide adequate residential amenities for future occupiers of the development by ensuring that proposals do not result in, or its occupants are exposed to, excessive noise, vibration, odour, air pollution, activity or vehicular movements, overlooking, or visual intrusion, or loss of light to occupiers".
- 6.13 There are residential dwellings approximately 50m northeast of the dog exercise area with significant vegetation screening the site from these properties.
- 6.14 The application also includes 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 use is low intensity with a maximum of 10 dogs at any one time which would be controlled by an online booking system.
- 6.15 As set out by Environmental Health, a planning condition is recommended seeking a noise management plan which shall include:
- control of the number of dogs using the site at any one time
  - details of the booking mechanism and crossover of customers,
  - details of the number of sessions and their length.
- 6.16 With the use restricted in terms of the maximum number of dogs allowed at any one time, the hours of use and the noise management plan, it is concluded that the proposal is acceptable in terms of residential amenity.

### **Access and highways**

- 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 any settlement, the site is a 3 minute (1.3 miles – source Google Maps) drive from Yalding. 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 site vehicle access located at the north eastern boundary that would be retained. The existing site access can accommodate the traffic generated by the 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 use.
- 6.20 The application includes a parking area (3 cars) and turning area. 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.

- 6.21 As discussed above, the intensity of the use is low and controlled via a booking system limiting the number of visitors to the site at any given point. A planning condition would also restrict the total number of dogs at any one time. Sufficient parking is provided for the limited number of visitors.
- 6.22 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.
- 6.23 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.

### **Ecology and Biodiversity Net Gain**

- 6.24 Unless in the list of specified exemptions, biodiversity net gain (BNG) is required for all non-major planning applications made after the 2 April 2024 (and for major applications made after 12 February 2024).
- 6.25 Where exemptions don't apply, there is a 'statutory' requirement for 10% BNG and where residential use is proposed a 'policy' requirement for an additional 10% (total of 20%). The method of calculating BNG for small sites (small sites metric) was first published by DEFRA in February 2024 and updated in July 2024.
- 6.26 In applying a consistent approach, officers have been seeking BNG to meet both 'statutory' and 'policy' requirements from the commencement dates listed above. In this instance the application is a retrospective application which is exempt from the BNG requirements. A planning condition is recommended seeking on site ecology enhancements.

### **Rural economy**

- 6.27 Although not directly relevant, Local Plan Review policies LPRSP11 and LPRCD6 (no existing lawful 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.

### **Flood Risk**

- 6.28 The application site is located within Flood Zones 2 and 3. The use is not residential and other than the open fencing there are no structures involved in the use. The use of this field does not result in any increase in flood risk or hazard elsewhere.

### **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 use results in harm to the character and appearance of the countryside but this harm does not reach the threshold of 'significant' as set out in Local Plan Review policy LPRSP9. There are no Local Plan policies that directly support the use. 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 use is found to be acceptable in relation to the minimal level of harm to the character and appearance of this rural area. The proposal is acceptable in relation to its impact upon neighbour amenity, and biodiversity. The access and parking arrangements are all acceptable.
- 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.

## **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 shall be carried out in accordance with the following approved plans and documents:  
Application for planning permission  
HF-1023-04 Gate and Fence Elevations  
Existing Block Plan  
Proposed Block Plan  
Site Location Plan  
Planning Statement  
Flood Risk Assessment  
Reason: To clarify the approved plans and to ensure the development is carried out to an acceptable visual standard.
- 2) The use hereby permitted shall cease and all structures, and materials brought onto the land for the purposes of such use shall be removed within 6 weeks of the date of the failure to meet any one of the requirements set out in (i) to (iv) below:
  - i) Within 6 weeks of the date of this decision a Site Development Scheme, hereafter referred to as the 'Scheme', shall have been submitted for the written approval of the Local Planning Authority. The Scheme shall include:
    - a) Submission of a maintenance and management plan for the use (see condition 3).
    - b) Submission of a noise management plan (see condition 4).
    - c) Details of the new native hedgerow and gapping up of existing hedgerows (see condition 5).
    - d) A timetable for implementation of the scheme including points a) to c) above, the new and relocated fencing, new hedgerows and gapping up of existing hedgerows with all details implemented in accordance with the agreed timetable and all details retained for the lifetime of the development.
  - ii) Within 11 months of the date of this decision the Scheme shall have been approved by the Local Planning Authority or, if the Local Planning Authority refuse to approve the Scheme or fail to give a decision within the prescribed period, an appeal shall have been made to, and accepted as validly made by, the Secretary of State.
  - iii) If an appeal is made in pursuance of (ii) above, that appeal shall have been finally determined and the submitted Scheme shall have been approved by the Secretary of State.

- iv) The approved Scheme shall have been carried out and completed in accordance with the approved timetable and thereafter maintained and retained as approved.  
Reason: To ensure the visual amenity, character and appearance of the open countryside location.
- 3) The maintenance and management plan required by condition 2 shall include the following:
- a) The booking system for use of the dog walking area.
  - b) How access will be restricted to only those with a booking.
  - c) The booking time intervals / slots including the length of time between them for each session throughout the year.
  - d) Details of procedures for the collection of dog waste from across the site and disposal of waste (including the details of the erection of dog bins in appropriate locations/ details of existing bins).
  - e) Policies on the supervision of dogs on site.
  - f) Site notices to be secured on site advising of steps to be taken in case of the escape of a dog.
  - g) Schedule of maintenance.
  - h) A grass (sward) cutting regime to achieve variation in grass lengths on different parts of the site to maintain a rural appearance.
- The site shall only operate in accordance with the approved plan thereafter.  
Reason: To protect neighbouring amenity, countryside impact and highway safety.
- 4) The noise management plan required by condition 2 shall include but not be limited to 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.
- 5) The details of the new native hedgerow and gapping up of the existing hedgerow, required by condition 2 shall:
- (a) be designed in accordance with the principles of the Council's landscape character guidance (Maidstone Landscape Character Assessment Supplement 2012)
  - (b) provide details of new on-site hedgerow planting in a planting specification (location, species, spacing, quantity, maturity) demonstrating that a native species hedgerow will be planted along the outside boundary of the site. All hedgerow planting to include double staggered planting with approximately 45cm spacing with 30cm between rows and consisting of 10% Alder Buckthorn, 80% Hawthorn/Hazel, Sallow 10%.
  - (c) provide landscape implementation details and timetable.
  - (d) 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.
- 6) Any of the approved hedgerow planting which fails to establish or any plants which, within five years from planting 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.
- 7) No external lighting shall be installed on the site.  
Reason: To safeguard the character and appearance of the countryside, protected species and in the interests of residential amenity.



- 8) No activity in connection with the use hereby permitted shall take place outside the hours of 8am and 6pm and within these 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.
- 9) The use shall only accommodate a maximum of 10 dogs at any one time and the land shall be used for as a dog walking 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 residential amenity.
- NB: For full details of all papers submitted with this application please refer to the relevant Public Access pages on the council's website.