

REPORT SUMMARY

REFERENCE NO - 14/506180/FULL			
APPLICATION PROPOSAL Retrospective - Change of use of land from agricultural land residential garden (used as garden since approx. 1980s) - Reduced site area			
ADDRESS Roughlands Goudhurst Road Marden Kent TN12 9NH			
RECOMMENDATION Approve with conditions			
SUMMARY OF REASONS FOR RECOMMENDATION			
<ul style="list-style-type: none"> - No objection to the continued use of this land for residential garden purposes based on any material harm to rural character of the area or loss of high quality farmland. - Considered to accord with the provisions of policy H13 of the adopted local plan 			
REASON FOR REFERRAL TO COMMITTEE Contrary to the views of Marden Parish Council			
WARD Marden And Yalding Ward	PARISH/TOWN COUNCIL Marden	APPLICANT Mr Nigel Bowles AGENT Kent Design Studio	
DECISION DUE DATE 09/02/15	PUBLICITY EXPIRY DATE 09/02/15	OFFICER SITE VISIT DATE 8 th January 2015	

MAIN REPORT

1.0 DESCRIPTION OF SITE

1.01 The application site is partly occupied by a detached house fronting an unmade track and one of a loose scatter of dwellings fronting the track on this side.

1.02 The main part of the application site lies to the east of the house and comprises an irregular shaped area of grassland traversed by a wide stream running in a broadly north to south direction.

1.03 The wider area is rural in character.

2.0 PROPOSAL

2.01 Retrospective planning permission is sought to continue to use of the area for garden purposes in connection with the existing house.

2.02 The applicants advise that the land has not been used for agriculture for many years and have submitted aerial photographs dating from 2006 – 2011 to show the use of the land.

2.03 The application has since been amended to include only the area to the west of the stream.

2.0 RELEVANT SITE HISTORY:

2.1 None

3.0 POLICY AND OTHER CONSIDERATIONS

The National Planning Policy Framework (NPPF 2012)
National Planning Practice Guidance (NPPG 2014)
Development Plan: ENV28, H31

4.0 LOCAL REPRESENTATIONS

4.01 **Marden Parish Council: Object :** While noting amendments to the site area could not see any evidence for this change of use and queried why a full planning application had been received rather than applying for a lawful development certificate. It was noted that PROW KM252 was not acknowledged on the plan nor on any accompanying documentation. If the application is to be judged on its own merits recommend refusal by virtue of harm to the open countryside

4.02 Two neighbouring properties notified of the proposal. No representations received

5.0 CONSULTATIONS

5.01 **Rural Advisor:** The site lies in the Low Weald where soils locally are naturally wet lying loams/clays with a high ground water level. Does not consider it likely that this land would be graded higher than 3b (moderate quality) , i.e. not in the best and most versatile category.

5.02 **EA:** No objection

- 5.03 **KCC PROW:** The proposed development site is in the vicinity of several Public Rights of Way including KM250 and KM252. The development does not directly affect any rights of way . As such **no objection** is raised.

6.0 APPRAISAL

- 6.01 Section 38(6) of the Planning and Compulsory Purchase Act 2004 provides that all planning applications must be determined in accordance with the Development Plan unless other material considerations indicate otherwise.
- 6.02 The site falls within open countryside and therefore subject to policy ENV28 and the specific provisions of policy H31.
- 6.03 Policy H31 states that planning permission will not be granted for the change of use of agricultural land to a domestic garden if it would harm the character or appearance of the countryside and/or result in loss of high quality farmland.

Lawful Use:

- 6.04 Regarding whether the use of the land for garden purposes is lawful the submitted aerial photographs are inconclusive while the Council's own aerial photographs dating from 2003 are equally inconclusive. On the available evidence it is therefore not considered that the site benefits from a lawful use for garden purposes.

Impact on rural character:

- 6.05 Following amendments to the site area, the outer (east) line is now defined by the stream. Though this still results in a spacious plot the stream clearly differentiates the domestic use running along its western bank from the open land to the east. As such the stream represents a clear, defensible and well defined transition between domestic and other open/agricultural land.
- 6.06 In addition as the area is (a) still reasonably close to the existing dwelling and (b) its boundaries either well enclosed by planting or defined by the stream, it does not appear as an intrusion into adjoining open countryside from any key vantage point.
- 6.07 Subject therefore to the removal of permitted development rights for outbuildings in order to maintain the open character of the site, it is considered that the impact on the rural character of the area is limited. As such there is considered to be no sustainable objection to the continued use of the land on visual amenity grounds.

Loss of agricultural land:

- 6.08 The comments of the agricultural advisor make clear that the land does not constitute the best and most versatile farmland. As such there is considered to be no sustainable objection to the continued use of the site on these grounds.

7.0 CONCLUSION

7.01 Notwithstanding the concerns of the Parish Council, it is considered that there are no sustainable grounds for objecting to the continued use of this land for garden based on harm to rural character of the area or loss of high quality farmland. The proposal is therefore considered to accord with the provisions of policy H13 of the adopted local plan and it is recommended that planning permission be granted accordingly.

8.0 RECOMMENDATION – GRANT Subject to the following conditions:

(1) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification) no development within Schedule 2, Part 1, Class E to that Order shall be carried out without first obtaining the permission of the Local Planning Authority.

Reason: In the interests of visual amenity.

INFORMATIVES

(1) You are reminded that this planning permission only relates to the redline area shown on drawing no:208-100B.

(2) The applicant may need to apply to the Environment Agency for other consents . The term 'consent' covers consents, permissions or licenses for different activities (such as water abstraction or discharging to a stream), and it has a regulatory role in issuing and monitoring them.

The applicant should contact 03708 506 506 or consult its website to establish whether a consent will be required.

<https://www.gov.uk/environmental-permit-check-if-you-need-one>

Note to Applicant

In accordance with paragraphs 186 and 187 of the NPPF, Maidstone Borough Council (MBC) takes a positive and proactive approach to development proposals focused on solutions. MBC works with applicants/agents in a positive and proactive manner by:

Offering a pre-application advice and duty desk service.

Where possible, suggesting solutions to secure a successful outcome.

As appropriate, updating applicants/agents of any issues that may arise in the processing of their application.

In this instance:

The application was acceptable as submitted.

Planning Committee Report

Case Officer: Graham Parkinson

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

The conditions set out in the report may be subject to such reasonable change as is necessary to ensure accuracy and enforceability.