

REFERENCE NO: 19/505949/FULL		
APPLICATION: Amendments to planning application 17/504038 (Change of use of land for keeping of horses and stable block) to include repositioning of stable building and waste pile; laying of Type 1 hardcore; and sand school (Section 73A application).		
ADDRESS: Land to back of Cherry Orchard Court Lodge Farm The Street Boxley ME14 3DX		
RECOMMENDATION: GRANT planning permission subject to conditions		
SUMMARY OF REASONS FOR RECOMMENDATION: It has been established the development would not result in unacceptable harm to the character and appearance of the countryside hereabouts that falls within the Kent Downs AONB; and there are no objections to the development in terms of residential amenity, highway safety, environmental health, and heritage. The development is therefore acceptable with regard to the relevant provisions of the Development Plan and all other material considerations such as are relevant.		
REASON FOR REFERRAL TO COMMITTEE: Boxley Parish Council wish to see application reported to Planning Committee if case officer is minded to recommend approval.		
WARD: Boxley	PARISH COUNCIL: Boxley	APPLICANT: Mr L. Lundie AGENT: DKM Consultants Ltd
TARGET DECISION DATE: 02.03.20		PUBLICITY EXPIRY DATE: 07/02/20

Relevant planning history

- 17/504038/FULL - Change of use for keeping of horses and erection of stable block (2 stables and 1 storage hay barn), hardstanding in front of stable block – Approved
- 19/500162/FULL - Erection of dwelling – Refused and dismissed at appeal

MAIN REPORT

1.0 Site description

1.01 The application site is located to the east of Boxley village, adjacent to a Grade II listed property known as The Pump House. A public footpath (KH14) runs along the northern edge of the site, in a general east/west direction; and a public footpath (KH15), runs along the eastern boundary of The Pump House in a general north/south direction. For the purposes of the Local Plan the application site falls within the Kent Downs Area of Outstanding Natural Beauty. The site is accessed via a private track from Boxley village.

2.0 Development description

2.01 Under 17/504038 planning permission was granted for the change of use of the land for the private keeping of horses and for the erection of a stable block and associated hardsurfacing. There are discrepancies in what has been built on the site and the approved plans. In summary:

- Stable building and waste are in different location
- Waste area is in different location
- No concrete has been laid but instead Type 1 hardcore (part grass seeded)
- Stable building has a type of plastic corrugated roof instead of metal
- External lighting has been installed on the stable building
- Sand school has been created

2.02 This application has been submitted to regularise these differences and is being treated as an application under 73A of the Town and Country Planning Act 1990 (i.e. to consider the development as carried out on site). The applicant has also confirmed that the waste is collected generally every 6 months (and not every month as stipulated in condition 6 of 17/504038); and the outer boundaries of the site have been planted with a mix of Laurel, Hawthorn, and Hornbeam (as shown on the submitted plans). It should be noted that 17/504038 was considered under the 2000 Maidstone Borough-Wide Local Plan and the then emerging Local Plan that is now adopted.

3.0 Policy and other considerations

Maidstone Local Plan (2017): SP17, SP18, DM1, DM4, DM8, DM30, DM41
National Planning Policy Framework (NPPF)
National Planning Practice Guidance (NPPG)
Kent Downs AONB Management Plan (2014-2019)

4.0 Local representations

4.01 Representations have been received from 4 local residents raising the following (summarised) issues:

- *Visual impact of proposal on countryside and AONB*
- *Impact upon setting of listed buildings*
- *Overdevelopment/commercialisation of site*
- *Impact of external lighting*
- *Impact upon residential amenity*
- *Errors in application*
- *Existing development is not in accordance with previous planning approval*

5.0 Consultations

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

5.01 **Boxley Parish Council:** Wish application to be reported to Planning Committee if minded to recommend approval for following (summarised) reasons:

- *Development is harmful to distinctive character and appearance of countryside and AONB and does not conserve or enhance scenic beauty of AONB*
- *Development is overdevelopment and commercialisation of site*
- *Impact upon setting of listed buildings*
- *Sand school surfacing is shredded carpet which blows fine fibres causing a nuisance*
- *Existing development is not in accordance with previous planning approval and external lighting has been installed*

5.02 After further consultation Boxley Parish Council made the following (summarised) comments: Siting of muck heap is closer to neighbouring property, if removed every 6 months it will encourage rats and flies. Sand school surfacing results in fibres being blown around.

5.03 **Conservation Officer:** Raises no objection.

5.04 **KCC Highways:** Raises no objection.

5.05 **Environmental Protection Team:** Raise no objection.

5.06 **Kent Downs AONB Unit:** No representations received.

5.07 **KCC Archaeological Officer:** No representations received.

6.0 APPRAISAL

Main issues

Maidstone Local Plan

6.01 The development is subject to the normal constraints of development in the countryside as designated under the Maidstone Local Plan, in that it should not be permitted unless (inter alia) it accords with other policies in the Local Plan, and would not result in unacceptable harm to the character and appearance of the area, and will respect the amenities of occupiers of neighbouring properties. Development should maintain, or where possible, enhance the local distinctiveness of an area; it should seek to ensure that development affecting heritage assets conserves and where possible enhances the significance of the heritage asset, and where appropriate its setting; and as an exception to the general themes of

constraint in the countryside, Local Plan policy DM41 allows for equestrian development in the countryside subject to certain criteria.

- 6.02 The development site is within the AONB and the statutory duty of the local planning authority requires any proposal to have regard for the purpose of conserving and enhancing the natural beauty of this nationally important designation; and great weight should be given to the conservation and enhancement of the Kent Downs AONB.

National Planning policy Framework

- 6.03 The NPPF is also clear that good design is a key aspect of sustainable development; and that permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions. Paragraph 170 of the NPPF also states that planning decisions should contribute to and enhance the natural and local environment by recognising the intrinsic character and beauty of the countryside. Paragraph 172 of the NPPF also states the following:

Great weight should be given to conserving & enhancing landscape & scenic beauty in AONBs, which have highest status of protection in relation to these issues. Conservation and enhancement of wildlife & cultural heritage are also important considerations in these areas. Scale & extent of development in these designated areas should be limited.

- 6.04 As set out in the NPPG, it is clear that the scale and extent of development in an AONB should be limited, in view of the importance of conserving and enhancing its landscape and scenic beauty. All development in the AONB needs to be located and designed in a way that reflects its status as a landscape of the highest quality.
- 6.05 For the purposes of paragraph 172 of the NPPF, planning judgment has taken into account all of the circumstances of the application (in light of its nature, scale and setting) and the site's local context, and this proposal is not considered to be a 'major development', which is to be given its ordinary meaning, as established in *High Court judgement Aston v SoS for Communities and Local Government [2013] EWHC 1936 [Admin]*.

Other relevant matters

- 6.06 Section 85 of the Countryside and Rights of Way Act 2000 places an explicit duty on relevant authorities to have regard to the purpose of conserving and enhancing the natural beauty of an AONB when exercising or performing any functions in relation to or so as to affect land in an AONB: *85(1): In exercising or performing any functions in relation to, or so as to affect, land in an area of outstanding natural beauty, a relevant authority shall have regard to the purpose of conserving and enhancing the natural beauty of the area of outstanding natural beauty.*
- 6.07 The Kent Downs AONB Management Plan does not form part of the statutory Development Plan, but the Council has adopted it and it is a material consideration when assessing any planning application. The AONB Management Plan helps to set out the strategic context for development; it provides evidence of the value and special qualities of this area; it provides a basis for cross-organisational work to support the purposes of its designation; and it details how management activities contributes to its protection, enhancement and enjoyment. In short, its policies seek to conserve and enhance the natural beauty and distinctiveness of the AONB, which is recognised as the primary purpose of designation; and development or changes to land use will be opposed where they disregard or run counter to the primary purpose of Kent Downs AONB.
- 6.08 It is a material planning consideration that the site does benefit from an extant permission for the use of the land for the keeping of horses and for the erection of stables and hardstanding (17/504038). Whilst this permission has not been implemented correctly, the applicant could still revert back to what was approved.

Therefore, the main issue for this application is whether or not the submitted details are significantly more harmful in planning terms than the previous approval that could still be rectified on the site.

Visual impact

- 6.09 This application should be tested against the purpose of the AONB designation, which is to conserve and enhance its natural beauty (in accordance with Local Plan policy and the NPPF). The stables on site, in terms of scale and design, are the same as previously approved. The only differences are the change in roof material and its location. The stables are still sited close to the southern boundary of the site, albeit modestly shifted eastwards; and the roof is now of bitumen roof sheeting. The changed roof material is considered unobjectionable, and the stable building is still of a low key and traditional design that is set back and largely screened from any public vantage point. The external lighting on the stables is also not objectionable in amenity terms and a suitable condition will be imposed to ensure that no other external lighting is placed on the site.
- 6.10 The level of hardstanding on the site is not significantly different to what was shown on the previously approved plans; and the location of the manure heap, that is a modest area enclosed by sleepers, is not considered to be visually intrusive. The site also benefits from recent hedge planting along the outer boundaries, and in time this will help further screen the site from public view. This planting is a mix of Laurel, Hawthorn, and Hornbeam (as shown on the submitted plans). The sand school is grouped close to the stables and site entrance, and it is enclosed by traditional and low-level timber post and rail fencing. The sand school, given its low key nature and its separation distance from any public vantage point, would not appear visually harmful or incongruous in this countryside location.
- 6.11 It remains that the site is for the personal use of the applicant; the alterations made to the previously approved scheme are not now considered to be overdevelopment of the site; the development is low key and appropriate for its rural location, retaining an open feel; and it does not appear visually intrusive or dominant from any public vantage point. With everything considered, the proposal would not weaken the characteristics and qualities of the AONB hereabouts, but rather conserve and enhance its character and appearance in accordance with Local Plan policy and the NPPF.

Residential amenity

- 6.12 The closest dwelling to the application site is The Pump House. As accepted under 17/504038, the domestic keeping of horses on the site does not result in an unacceptable impact upon the living conditions of this neighbour. The shift in the stable building's location; the level of external lighting; and the relocation of the manure pile are considered to be modest alterations to what has been previously approved on the site; and the Environmental Protection Team has also raised no specific objection to the location of the manure heap, or to the surfacing of the sand school (which is not an uncommon choice providing low maintenance), in residential amenity terms. The sand school does allow for a greater intensity of use of the site, particularly through the winter months. However, the site is to be used by the applicant only and not as a commercial enterprise, where the scale and frequency of use would be significantly greater; the sand school is to the front of the site, away from the private amenity space of the occupants of The Pump House; and a condition will be imposed to ensure no external lighting for the sand school can be installed. It is therefore considered that the development would not have an adverse impact upon the residential amenity of the occupants of The Pump House, including in terms of general noise and disturbance, odours and fibres. The occupants of no other residential property would be adversely impacted upon by this development.

Other matters

- 6.13 Issue has been made over when the manure heap is collected/disposed of. The applicant has confirmed that the manure heap is on an impermeable base; and that it is usually collected every 6 months. The Environmental Protection Team states that the manure heap should indeed have an impermeable base, and furthermore for best practice it should be covered to avoid rain water causing potential run off and odour issues. The Environmental Protection Team also comment that the waste manure collection should be more frequently, as overflow could potentially cause run-off issues entering ground or surface waters. To ensure adequate drainage arrangements across the site, and to prevent the risk of polluting run-off entering either ground or surface waters, it is considered reasonable to impose a condition requesting further details on this issue. For reference, the Environmental Protection Team recommends that the waste is collected at least once every 2 months, depending on how much is produced.
- 6.14 The Conservation Officer considers the development to have a minimal impact on any near-by listed building, conservation area, or non-designated heritage asset, and so it does not result in any meaningful harm to their setting and significance. As such, no objection to the development is raised on heritage grounds.
- 6.15 The Highways Authority has commented that the track serving the development should be improved, however, it has been made very clear that this is not grounds for a highway safety objection and no recommendation for refusal has been made.
- 6.16 There is considered to be adequate provision made for the safety and comfort of horses in terms of the size of accommodation and the land for grazing and exercising; the site is in the countryside with easy access to bridleways etc; and there are less than 10 stables, so adequate provision for the security of the site in terms of the location of the proposed development in relation to the owner of the animals is not relevant here.
- 6.17 No representations have been made by the Kent Downs AONB Unit or the Archaeological Officer, and so it is assumed that no objection is raised to the development. The representations made by Boxley Parish Council and local residents have been considered in the assessment of this application.
- 6.18 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 would not undermine objectives of the Duty.
- 6.19 In accordance with national planning policy the issue of intentional unauthorised development has been a material consideration in the determination of this retrospective application. This does weigh against the development, but is not considered reason to refuse the development in this instance. This application is not considered to be EIA development.

Conclusion

- 6.20 It is a material planning consideration that the site benefits from an extant permission for the use of the land for the keeping of horses and for the erection of stables and hardstanding. Whilst this permission has not been implemented correctly, the applicant could still revert back to what was approved. From this starting point, it has been demonstrated that the development would not weaken the characteristics and qualities of the AONB hereabouts, but rather conserve and enhance its natural beauty; and there are no objections to the development in terms of residential amenity, highway safety, environmental health, and heritage. The development is therefore acceptable with regard to the relevant provisions of

the Development Plan and all other material considerations such as are relevant. A recommendation of approval is therefore made on this basis.

7.0 RECOMMENDATION: GRANT planning permission subject to following conditions:

CONDITIONS

1. The external materials to be used for the stable building hereby approved shall be as indicated on the approved plans and shall be maintained as such thereafter.

Reason: To ensure a satisfactory appearance to the development.

2. The landscaping scheme shall be carried out in accordance with the details as shown on drawing reference: DKM/7825/01 Rev 04. Any planting which fails to establish or any trees or plants which, within five years from the first use of the building, 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: To ensure a satisfactory appearance to the development.

3. Within 2 months from the date of this decision notice, a scheme for the disposal of run-off from the stables (inc. washings), hardstanding, and manure heap, shall be submitted to the local planning authority for approval. Details shall include when the manure heap will be emptied; how the manure heap will be covered; and that the manure heap will be retained on an impermeable base at all times.

Reason: To ensure adequate drainage arrangements and to prevent the risk of polluting run-off entering either ground or surface waters.

4. Except for what is detailed in the submission, no external lighting, whether temporary or permanent, shall be placed or erected within the site at any time.

Reason: In the interest of residential amenity and to protect the amenity of the countryside.

5. The development hereby permitted shall only be used for the private stabling of horses and the storage of associated equipment and feed and shall at no time be used for any business or commercial purpose whatsoever, including for livery, or in connection with equestrian tuition or leisure rides.

Reason: In the interests of residential amenity and to prevent the introduction of a commercial use onto the site.

6. No manure or waste materials shall be burned on the land within application site.

Reason: In the interests of residential amenity.

7. The development hereby permitted shall be carried out in accordance with the following approved details: 4869 01; DKM/7825/01 Rev 04; and DKM/7343/02 Rev 01; 10 Rev 0; 11 Rev 0; 12 Rev 0; 13 Rev 0; and 14 Rev 0.

Reason: For the avoidance of doubt.

INFORMATIVES

1. It is the responsibility of the applicant to ensure, before the development hereby approved is commenced, that all necessary highway approvals and consents where required are obtained and that the limits of highway boundary are clearly established in order to avoid any enforcement action being taken by the Highway Authority. Across the county there are pieces of land next to private homes and

gardens that do not look like roads or pavements but are actually part of the road. This is called 'highway land'. Some of this land is owned by The Kent County Council (KCC) whilst some are owned by third party owners. Irrespective of the ownership, this land may have 'highway rights' over the topsoil. Information about how to clarify the highway boundary can be found at:

<https://www.kent.gov.uk/roads-and-travel/what-we-look-after/highway-land/highway-boundary-enquiries>

2. Manure should be stored at least 10m away from any watercourse and sited in accordance with the Code of Good Agricultural Practice for the protection of Waters in order that there is no risk of polluting run-off entering either ground or surface waters and causing pollution. It should be noted that any containers for the storage of animal waste should be sheeted to prevent nuisance from odour and/or flies. In addition, waste should be accumulated for a minimal time only before disposal and should be stored at a location on site which will minimise the likelihood of nuisance being caused to neighbours.

Case Officer: Kathryn Altieri