

a) DOV/16/01356 - Change of use of land for the keeping of horses, the formation of a vehicle access and the erection of a gate (retrospective application) - Land at Monkton Court Lane, Eythorne

Reason for report: Because of the number of contrary views (18).

b) Summary of Recommendation

Planning permission be approved.

c) Statutory Requirements, Planning Policies and Guidance

Statute

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications be determined in accordance with the Development Plan unless material considerations indicate otherwise.

Dover District Council Core Strategy (2010)

Policy DM1 (Settlement Boundaries) states that development will not be permitted outside of the urban/village confines unless specifically justified by other development plan policies, or if it functionally requires such a location.

Policy DM11 (Managing Travel Demand) Development that would generate travel will not be permitted outside the urban boundaries and rural settlement confines unless justified by development plan policies.

Policy DM15 (Protection of the Countryside) Development which would result in the loss of, or adversely affect the character or appearance, of the countryside will only be permitted if it is:-

- i. In accordance with allocations made in Development Plan Documents, or
- ii. justified by the needs of agriculture; or
- iii. justified by a need to sustain the rural economy or a rural community;
- iv. it cannot be accommodated elsewhere; and
- v. it does not result in the loss of ecological habitats.

Policy DM16 (Landscape Character) Development that would harm the character of the landscape, as identified through the process of landscape character assessment will only be permitted if:

- i. It is in accordance with allocations made in Development Plan Documents and incorporates any necessary avoidance and mitigation measures; or
- ii. It can be sited to avoid or reduce the harm and/or incorporate design measures to mitigate the impacts to an acceptable level.

Dover District Council Local Plan (saved policies) (DDLDP)

Policy DD21 (Horse Related Development) will be granted provided:

- i. It provides for the safety and comfort of horses in terms of the size of the accommodation and land for grazing exercise.
- ii. Ease of access to suitable riding country can be demonstrated;

- iii. Buildings are of a high standard of design and do not adversely impact the character of the area, appearance of the countryside or historic areas.
- iv. The nearby amenity of neighbours are not adversely affected.

Land Allocations Local Plan (LALP)

None relevant to this proposal.

Worth Neighbourhood Plan

None relevant to this proposal.

National Planning Policy Framework (NPPF)

Paragraph 6: Recognises that the purpose of the planning system is to contribute to the achievement of sustainable development.

Paragraph 7: Outlines the three dimensions of sustainable development, which has an economic role, social and environmental role.

Paragraph 14: states that at the heart of the National Planning Policy Framework is a presumption in favour of sustainable development, which should be seen as a golden thread running through both plan-making and decision taking.

Paragraph 58: states that it is important to plan positively for the achievement of high quality and inclusive design for all development, including individual buildings, public and private spaces and wider area development schemes.

Paragraph 109: of the NPPF states that the planning system should contribute to and enhance the natural and local environment.

Paragraph 112: states that Local Planning Authorities should take into account the economic and other benefits of the best and most versatile agricultural land. Where significant development of agricultural land is demonstrated to be necessary, local planning authorities should seek to use areas of poorer quality land in preference to that of higher quality.

Paragraph 132: of a heritage asset, great weight should be given to the assets conservation. The more important the asset, the greater the weight should be.

Paragraph 133: where a proposed development will lead to substantial harm to or total loss of significance of a designated heritage asset, local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or loss is necessary to achieve substantial public benefits that outweigh the harm or loss.

Paragraph 134: Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use.

Paragraph 137- states that Local Planning Authorities should look for opportunities to for new development within Conservation Areas and World Heritage Sites and within the setting of heritage assets to enhance or better reveal their significance.

d) **Relevant Planning History**

The sites planning history is listed below:

14/00477: Erection of 20 dwellings with associated car parking, access, garaging and landscaping. Appeal Dismissed.

16/00675: Outline application for the erection of a detached dwelling (with all matters reserved). Land adjacent to 2 Kennel Hill, Eythorne, CT15 4BQ. Refused.

e) **Statutory Consultee and Third Party Comments**

KCC Highways responded by saying that the development proposal does not meet the criteria to warrant involvement from the Highway Authority in accordance with the current consultation protocol arrangements.

Environmental Health had no observations or comments to make on the application.

Eythorne Parish Council strongly object to the application due to concerns over a previous application made by Pentland Homes in 2014 for an application for the erection of 20 dwellings with associated access and landscaping. The Parish feel that changing the use of the land for the grazing of horse would downgrade the level of agricultural land (currently grade 1). The overriding implications voiced by the Parish are that the applicant is attempting to 'shape the site' in order to facilitate future development unrelated to the keeping of horses.

Agricultural Advisor comments that the land appears to have been used for grazing for many years, rather than any more intensive agricultural use. There appears to be no detailed report of the agricultural quality of the land, but in any event this retrospective application for the change of use to the keeping of horses would not, of itself, represent any permanent or irreversible development, such that the land could not revert to an agricultural use, if so required. Consequently it is not considered that the proposal would represent a significant loss of agricultural land, in terms of the relevant advice in paragraph 112 of the NPPF.

Representations

A site notice was displayed notifying neighbours and local residents of the proposed development. A total of 18 responses were received which all object to the application. The reasons for objection are outlined below:

- Loss of the best and most versatile agricultural land;
- Concerns over the access in term of highway safety and whether it is needed given the use of the land and the existing access;
- Applicant is "shaping the ground" for a future bid for residential development on the site. For example, by attempting to lower the agricultural grade and soften the sites eastern boundary with hedging to essentially expand village confines;
- Anxiety over future use of the site in light of previous planning history;
- Lack of community engagement from the applicant with regards to their intended use with the land;

- Inaccuracies present within the application, particular reference is made to hedgerows and trees on site.

f) The Site and the Proposal

The Site

1. The application site comprises an irregular rectangle shaped parcel of land on the east side of Monkton Court Lane, located outside of the built confines of Eythorne and adjoining the Eythorne conservation area.
2. The land is an undeveloped green field site classified as grade 1 agricultural land which forms the start of a clear distinction between the edge of the village of Eythorne and open countryside.
3. The application site is situated opposite residential dwellings on the west side of Monkton Court Lane, and adjoins further residential development on Kennel Hill beyond its southern boundary.
4. This application is retrospective and the site is currently used for the keeping of horses and the new access and gate is in use.

The Proposal

5. The application seeks retrospective planning permission to change the use of the land for the keeping of horses. The application also seeks permission for the creation of a new access and gate, which is also retrospective.

Main Issues

6. The main issues in the determination of this planning application are as follows:
 - The principle of development;
 - The impact on the countryside;
 - Heritage impact;
 - The impact on residential amenity;
 - Suitability of the site for keeping horses;
 - Access and Highways.

Assessment

Principle of Development

7. The application site comprises undeveloped land located on the eastern edge of the village confines of Eythorne. The Eythorne conservation area is situated to the south west of the application area and adjoins the south west corner of the site boundary. The proposal seeks retrospective planning permission to use the land for the keeping of horses and the formation of a vehicular access.
8. Policy DM1 states that development will not be permitted outside of the defined settlement boundaries unless the proposal is justified by other development plan policies or if it functionally requires such a location. In this

case, the keeping of horses is best suited to and functionally requires a rural location.

9. Policy DD21 of the Dover Local Plan saved policies states that horse related development will be granted provided that; the site is safe and of a suitable size; it is easy to access suitable riding country and; the character of the area and neighbouring amenity is not adversely affected as result. It is considered that the site allows space for horse related development in line with development plan policy DD21.
10. Officers note that the site is grade 1 agricultural land, however this is not considered to be an issue in this instance as the grade of land is easily reversible from the keeping on horses. There is therefore no conflict with Paragraph 112 of the NPPF. This has been confirmed by the Councils agricultural advisor.
11. In light of the above, officers consider the principle of keeping of horses on this site to be acceptable, with planning permission subject to the proposal adhering with the requirements outlined within policy DD21 and the other material considerations set out below.

Impact on Character and Appearance of Countryside and Landscape

12. The site is in a rural location outside of the village confines of Eythorne and is characterised by sporadic residential development, open countryside and agricultural land.
13. Policy DM15 of the Core Strategy outlines how development which would result in the loss of, or adversely affect the character or appearance, of the countryside will only be permitted if it is:
 - i. In accordance with allocations made in Development Plan Documents, or*
 - ii. justified by the needs of agriculture; or*
 - iii. justified by a need to sustain the rural economy or a rural community;*
 - iv. it cannot be accommodated elsewhere; and*
 - v. it does not result in the loss of ecological habitats*
14. The keeping of horses functionally requires a rural location and is therefore acceptable as a matter of principle, in line with the requirements of policy DM1 as well as DM15. The development would also not interfere with or result in a loss of ecological habitats. The use of the land for the keeping of horses is a therefore considered to be a compatible use in the rural area.
15. Policy DM16 of the Core Strategy sets out how development that would harm the character of the landscape will only be permitted if:
 - i. It is in accordance with allocations made in Development Plan Documents and incorporates any necessary avoidance and mitigation measures; or*
 - ii. It can be sited to avoid or reduce the harm and/or incorporate design measures to mitigate the impacts to an acceptable level.*
16. The use of the land for the keeping of horses upholds the rural character of the area given that that the openness of the countryside is retained. The

keeping of horses is also a rural land based activity and therefore is an acceptable use of the site.

17. The agricultural buildings on site operate ancillary to the use of the land and are screened by mature vegetation along the western boundary, which minimise visual impact.
18. In light of the above, officers are satisfied that the change of use of the land for keeping horses is a suitable use of the land in this location and does not have an adverse impact on the character and appearance of the countryside or neighbouring conservation area, in line with Core Strategy policies DM15, DM16.

Heritage Impact

19. Paragraph 132 states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the assets conservation. Paragraph 134 states that where a development will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against public benefits of the proposal.
20. The Eythorne conservation area boundary adjoins the south-west corner of the application site, which extends to the west, away from the application site and south into the countryside. The conservation area begins on the southern corner of Monkton Court Lane and area incorporates a number of properties along 'The Street' stretching westward.
21. Views of the application site from the conservation area are limited, however the change of use of the land has not considerably changed these views and therefore it is not considered that there is any harm to the character and appearance of the conservation area. In this instance, the impact is considered to be neutral.

Impact on Residential Amenity

22. Policy DD21 states that horse related development will be permitted provided that there is no adverse harm on the residential amenity of neighbouring occupants. Likewise, paragraph 17 of the NPPF seeks to ensure that a good level of amenity is secured for all existing and future occupants of land and buildings.
23. The change of use of the land for the keeping of horses has not adversely affected the outlook of neighbouring residential dwellings. The presence of horses on site is the only notable change to the site, which is not considered to be unacceptably harmful to amenity.
24. Officers have read and understood the concerns raised by local residents with regards to the unpleasant smells that may arise. However, there is adequate space between the residential development and the land used for the keeping of horses. Environmental Health were consulted on the application and did not raise any concerns on this matter. Details of the muck heap location and disposal of waste will be secured by condition.

25. In light of the above, I am satisfied that the change of use of the land for keeping of horses has not resulted in harm to the neighbouring amenity of residents.

Suitability of Site for Keeping Horses

26. Policy DD21 states that horse related development will usually be permitted. However, for permission to be granted, sites for the keeping of horses must be safe, of a suitable size and have good access to riding country.
27. The site comprises 1.8 hectares (approximately 4.5 acres) of undeveloped land, which offers more than acceptable space for the keeping of horses. The site is enclosed by mature planting and a gate is installed to ensure that the horses are securely contained within the site. Good access to suitable riding country is provided.
28. The applicant has not submitted any information confirming how many horses are kept on the land. The British Horse Society sets out guidelines for the provision and grazing of horses, and states that average pasture will maintain approximately two horses per hectare as permanent grazing (1-1.5 acres per individual), provided that good pasture management is employed.
29. A condition will be imposed to the permission to ensure that the number of horses kept at the site is limited to 1 horse per acre, which is a maximum of four horses.
30. With the above in mind, it is considered that the sites characteristics conform to the requirements of Policy DD21.

Access and Highways

31. Access to the site is served by a vehicle crossover on Monkton Court Lane, which is concealed by a wooden gate measuring 3.5 metres in width and 1.25 metres in height.
32. KCC Highways were not required to comment on the application given that it does not meet the criteria to warrant involvement from the Highway Authority in accordance with the current consultation protocol arrangements.
33. Policy DM11 states that development that would generate travel will not be permitted outside the urban boundaries and rural settlement confines unless justified by development plan policies.
34. The site is outside of the settlement confines of Eythorne and the use of the site for the keeping of horses will generate some vehicle movements. However, as discussed previously the location of the site is justified because of functional requirements and also in line with Policy DD21. In any event, the number of vehicle trips generated will not have an unduly adverse impact on the existing highway network and the existing road infrastructure would be able to accommodate this.
35. The vehicle crossover from Monkton Court Lane, allows appropriate visibility splays and an entry point large enough to accommodate vehicles travelling to and from the site.

36. Officers are satisfied with access arrangements onto the site and that the change of use will not have an adverse impact on the highway network. The change of use therefore accords with Policy DM11 of the Core Strategy.

Conclusion

37. In summary, a change of use of this site does not cause harm to the character of the countryside or conservation area, does not harm the neighbouring amenity of residents and offers safe and suitable accommodation to horses. The change of use therefore accords with policies; DM1, DM11, DM15, DM16, DD21 as well as the aims and objectives of the NPPF, subject to appropriate management of the site.

Recommendation

Grant planning permission subject to conditions to include:

- I i) carried out in accordance with the approved drawings; ii) to temporary structures; iii) storage and disposal of manure; iv) used for private use only; v) maximum number of horses.
- II Powers delegated to the Head of Regeneration and Development to settle any necessary planning conditions in line with the issues set out in the recommendation and as resolved by Planning Committee.

Case Officer

Chris Hawkins