

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) **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) (DDLPP)

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 weighted 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.

Dover District Council 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 previously sought permission for the creation of a new access and gate, (which was also retrospective) but this has now been removed from the application.

Assessment

6. At the Planning Committee Meeting on the 26 October 2017 members resolved to defer this application, for the following reason:

'That, notwithstanding the Officer's recommendation, Application No DOV/16/01356 be DEFERRED to allow Officers to negotiate with the applicant regarding the removal of the access gate and reinstatement of the hedgerow.'

7. At the meeting, Members expressed the view that the use of the field for the keeping of horses was acceptable in principle, however, they were concerned about the position of the access gate, and the impact that this had on both vehicular movements, and also the character and appearance of this lane. As such, they expressed a view that should the gate be removed from the proposal, then the proposal would be acceptable, however, as they were unable to issue a split decision, requested more time for negotiations to take place.
8. The original committee report and minutes from the committee are attached at appendix 1.
9. Negotiations have taken place with the applicant, who has agreed to remove the gate from the application, in accordance with Members' wishes. Clearly, as this is retrospective, there will be a requirement for the gate to be removed, and for the hedge to be reinstated. Given that we are now entering the winter months, I consider it appropriate to allow for three months for the closure of the gate, and for the hedge to be re-instated within the next planting season – to allow it to have the best possible chance of survival. It is proposed that a condition be imposed to ensure that this occurs in a timely fashion.
10. It is therefore now considered that the proposal is acceptable, and that the applicant has complied with Member's instructions. For this reason it is recommended that Members give the application favourable consideration and grant planning permission in accordance with the conditions set out below. Suggested wording is as follows:

"Within 3 months of the date of this decision notice, the gate (shown on drawing no.21530B/11) shall be removed and the access permanently sealed

in accordance with details to be submitted to and approved in writing by the Local Planning Authority, and hedgerows shall be re-instated /replanted within the opening to a similar species and planting spacing to the existing hedgerow. No further vehicular or pedestrian access shall be achieved through this sealed off and replanted opening at any time.”

g)

Recommendation

Grant planning permission subject to conditions to include:

- I i) Carried out in accordance with the approved plans (notwithstanding the removal of the gate); ii) no temporary structures within the application site; iii) details of the storage of disposal of manure; iv) used for private use only; v) limit the number of horses; vi) no events/livery/commercial use vii) close and seal off access and replant hedgerow.
- II Powers be 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