

MC/14/1731

Date Received: 16 June, 2014

Location: Land To South Of 179-183 Bush Road, Cuxton, Rochester,  
Kent ME2 1HA

Proposal: Change of use of land to paddock and erection of new stables

Applicant: Mr & Mrs M J Wise

Agent: Mr K Wise Kevin Wise Town Planning The Old Estate Office  
Ewell Lane West Farleigh Maidstone, Kent ME15 0NG

Ward Cuxton & Halling

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**Recommendation of Officers to the Planning Committee, to be considered and determined by the Planning Committee at a meeting to be held on 8 October, 2014.**

**Recommendation - Approval with Conditions**

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: To comply with Section 91 of the Town and Country Planning Act 1990 (as amended).

- 2 The development hereby permitted shall be carried out in accordance with the following approved plans:

KWTP-01 and 02 received 7 August 2014.

Reason: For the avoidance of doubt and in the interests of proper planning.

- 3 No more than one horse/pony shall be kept on the land at any one time.

Reason: To ensure that the development does not prejudice conditions of amenity.

- 4 No jumps, open storage, training areas, additional buildings, sand maneges, field shelters, horse boxes, lighting or other structures shall be erected and/or installed except in accordance with details, which shall include measures for the storage of equipment when not in use, that have first been approved in writing by the Local Planning Authority.

Reason: To ensure that the development does not prejudice conditions of amenity.

- 5 The site shall only be used for the private stabling of a horse/pony by the occupiers of 183 Bush Road, Cuxton, and for no other purpose. When the land ceases to be used for this purpose, the stables hereby permitted shall be removed from the site and the land restored to its former condition within three months.

Reason: To ensure that the development does not prejudice conditions of amenity.

**For the reasons for this recommendation for approval please see Planning appraisal section and conclusions at the end of this report.**

### **Proposal**

This application seeks planning permission for the change of use of land to paddock and erection of a new building comprising a stable and tack room/feed store. This application is identical to MC/10/1987 that was allowed on appeal, which has not been implemented.

The stable will be approx. 5.5m wide and 3.5m deep. It will be approx. 3.8m high with a pitched roof. It will be located in the south-western corner of the site.

### **Site Area/Density**

0.24ha (0.59 acres).

### **Relevant Planning History**

MC/10/1987 Proposed change of use of land to paddock & erection of a new building comprising a single stable, tack room & feed store  
**Decision:** Refused 27 October 2014  
**Appeal:** Allowed, subject to conditions 24 June 2014.

Applications adjacent to the site to the south have been made:

MC2008/1423 Erection of one field shelter  
**Decision:** approved 10/11/2010

MC2007/0718: Part retrospective change of use of land from agricultural to the grazing of horses and the construction of two wooden stables  
**Decision:** approved 9/08/2007

ME/86/24: Proposed resiting of access road  
**Decision:** approved 11/03/1986

## Representations

The application has been advertised on site and by individual neighbour notification to the owners and occupiers of neighbouring properties.

**3 letters** of objection have been received raising the following concerns:

- there are covenants on the land restricting use
  - the area is residential and not livestock farming land and there will be smells from the storage of manure
  - horses require at least 1.5 acres
  - the land is within 20m of a watercourse
  - noise due to the proximity to rear gardens of Demelza Close
  - how will the horse enter and exit the plot and deliveries be made?
- the owner does not have access to the land via the track

**1 Representation** indicating that it is neutral has been received stating:

- removal of manure should be frequent
- conditions imposed on MC2007/0718 should be imposed
- Mr Wise needs to prove legal right of way over the track
- Electric fencing rope should be used as well as stock proof fencing as this can be dangerous for horses.

**Cuxton Parish Council** have written raising no objection provided that the building is temporary and demountable, only one horse is allowed, excrement is not allowed to accumulate, right of access is proven and supplementary food is provided when necessary.

## Development Plan Policies

The Development Plan for the area comprises the Medway Local Plan 2003. The policies referred to within this document and used in the processing of this application have been assessed against the National Planning Policy Framework, 2012 and are considered to conform.

## Planning Appraisal

### *Background*

Members will have noted from the Planning History section above that an identical application, under planning reference MC/10/1987, was previously refused by the Council but allowed at appeal, subject to planning condition. The Council refused that application on two grounds being:

*"1) The proposed development would have an adverse affect on the appearance of the land and character of the area designated as green belt, an area of outstanding natural beauty and a special landscaped area due to the restricted plot size that would lead to unacceptable levels of poaching and breaking up of the surface layer*

*of land caused by the keeping of a horse and movement of a trailer for storage and removal of animal waste using a towing vehicle in conflict with policies BNE1, BNE25, BNE32, BNE30, BNE33 and BNE51 of the Medway Local Plan 2003; and*

*2) The proposed siting of the stabling block and storage of animal waste trailer caused by the proposed use of the land for the keeping of a horse would likely lead to Proliferation of outbuildings detrimental to the character and appearance of the area designated as green belt, an area of outstanding natural beauty and a special landscaped area in conflict with policies BNE1, BNE25, BNE32, BNE30, BNE33 and BNE51 of the Medway Local Plan 2003."*

However, on appeal the appointed Planning Inspector stated that the proposed use was recreational and therefore did not conflict with the purposes of including land within the Green Belt. He felt the structure was modest and the low key use would not detract from the site's rural character. He found that the proposal would not amount to inappropriate development and would not otherwise harm the Greenbelt and AONB. He concluded that there was no conflict with policies BNE1, BNE25, BNE30, BNE32 or BNE51 of the Medway Local Plan 2003. The Planning Inspector imposed a number of conditions, but due to the nature of the proposal being "*minor development*" he did not consider that it was necessary to control means of storage and disposal of animal waste.

With the exception of the introduction of the Government National Planning Policy Framework in 2012 (NPPF) and the National Planning Practice Guidance in 2014 (NPPG) there have been no material changes in site circumstances or planning considerations since the Planning Inspectors previous considerations.

The applicant's planning agent has confirmed that the previous consent granted under reference MC/10/1987 has not been implemented.

### *Principles of Development*

The main issues in the consideration of this application are as follows:

- The design and impact on the countryside, the Area of Outstanding Natural Beauty (AONB), the Special Landscape Area (SLA) and the Greenbelt;
- Whether the proposal would cause harm to the amenities of neighbouring residential properties; and
- The planning history, including the previous appeal decision letter.

### *Impact on the surrounding countryside, AONB, the SLA and the Greenbelt.*

The appeal relates to a parcel of land, currently given over to rough pasture, to the rear of existing residential development fronting Bush Road. The site is within the countryside, Metropolitan Greenbelt, where development is strictly controlled. Additionally, the surrounding landscape is part of the Kent Downs AONB, a most attractive landscape of rolling hills, fields and copse woodland and the Northdowns SLA.

As the proposed use of the land is for outdoor recreation, there is no conflict with the purposes of including land within the Greenbelt. (See Paragraphs 81 and 89 of the NPPF). The proposed stable / tack room are considered to be modest in scale and an acceptable form of development in terms of the guidance in the NPPF, NPPG and the adopted development plan policy, as it is considered to be reasonably necessary for the purposes of outdoor recreation and proportionate to the size of the site. The use of the land for keeping horses is not dissimilar to an agricultural use and the land can easily be returned to agriculture providing any building erected are not laid on permanent foundations. The principle of the change of use of land to the keeping of a horse together with the erection of a stable is considered to be acceptable, as the use and related building essentially demands a rural location and accords with the policy BNE25(iii) of the adopted Local Plan.

The proposed stable is to be sited in the southwestern corner close to an existing stable in the adjacent field. There is vegetation along the boundaries adjacent to this corner of the site and this will result in some screening of the development. This proposed stable, however, is higher than that which exists adjacent to the site at approx. 3.8m high at its highest point (compared to 2.8m high in the neighbouring field). However, this structure would not be isolated but seen in the context of the nearby residential development and certain other existing stables and field shelters. The proposed development, in the light of the previous Appeal Planning Inspectors decision and current material planning considerations, is not considered to cause any significant harm to the character, appearance or amenities of the surrounding countryside, AONB, SLA and the Greenbelt. Given the above, it is considered that the proposed development would not amount to inappropriate development, and would not otherwise harm the Greenbelt, the AONB or the SLA. Bearing in mind all of the above, it is not considered that the proposed development will conflict with Policies BNE1, BNE25, BNE30, BNE32, BNE33 or BNE51 of the adopted Medway Local Plan 2003, insofar as these policies seek to ensure that development is appropriate to its environment and the character, amenity and functioning of the countryside and the landscape, natural beauty and heritage value of the AONB, whilst maintaining the open character and amenities of the Green Belt.

#### *Amenity Considerations*

The location of the stable is over 77m away from properties to the northeast and approx. 22m away from residential properties to the northwest. It is considered that the structure is too far away to cause any loss of outlook, privacy, sunlight or daylight or create a significant level of noise and disturbance. In terms of waste and loss of amenity resulting from the management of animal waste on the site, the Council's Environmental Health Section have advised that they would ordinarily seek a planning condition requiring such details to be submitted and agreed with the Local Planning Authority. However, the previous Planning Inspector considered that the nature of the proposal was "*minor development*" and that it was not necessary to control means of storage and disposal of animal waste on the site. The Planning Inspector has clearly indicated that such a condition in this instance is not necessary and this being the case the imposition of such a condition would not be reasonable, as it would fail the test of necessity in relation to planning, as set out in the NPPG on the Use of Planning Conditions (See NPPG Ref: ID: 21a-003-20140306 and ID: 21a-004-20140306).

Bearing in mind the above, due to the distance from adjoining occupiers the proposed development is not considered to be likely to result in a loss of amenity arising from noise, vibration, light, heat, smell or airborne emissions and as such the development is considered to be acceptable in regard to impact on general amenities of occupiers located in close proximity to the site and the amenities of the surrounding area in general. The proposal is therefore considered to comply with the requirements of the NPPF, the NPPG and Policy BNE2 of the Local Plan.

### Highway Considerations

The proposed development would be for the use of the occupiers of 183 Bush Road only and a condition is recommended to ensure that this is the case. As such, bearing in mind the close proximity of the property to the site, it would not be necessary for the owners of the horses to access the site by vehicle. Whilst this may present an issue should an animal fall ill on site, this is not a planning consideration and should not influence Members decision in regard to the proposal before them. The previous Planning Inspectors decision did not consider there to be any highway concerns related to the proposed development when he allowed the previous appeal. The circumstances of the site have not changed in this regard and there is not considered to be a highway grounds of refusal. In the light of this, when the development is accessed against the relevant criteria in Policy BNE51 of the adopted Local Plan the proposal is considered to be acceptable. It is noted that the applicant claims to have right of way over the track adjoining the site and neighbours deny this. However, this is a civil issue and has no bearing on the planning merits of this application.

### *Other matters*

Due to the relatively small area of land related to the development it is recognised that there is unlikely to be adequate grazing land for more than 1 horse and that supplementary feed may need to be used. The applicant's agent has agreed to a condition to limit the number of horses to one, as in the previously approved application allowed on appeal, and to a condition that ties the use to the applicant's property, which adjoins the site.

### **Conclusions and Reasons for this Recommendation**

The change of use of the land to the keeping of horses and the erection of one stable with a tack and feed room will not result in any detrimental impact on the character of the rural landscape, the AONB, the SLA or the Greenbelt. Additionally, it is not considered that the development will adversely impact on residential amenity or highway and pedestrian safety. This being the case, the development is considered to be acceptable, subject to the imposition of appropriate conditions, and is considered to comply with policies BNE1, BNE2, BNE25, BNE30, BNE32, BNE33 and BNE51 of the adopted Local Plan.

The application would normally fall under Officer delegated powers of determination, but is being reported to Committee due to the number of representations received contrary to the recommendation on the papers.

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## **Background Papers**

The relevant background papers relating to the individual applications comprise: the applications and all supporting documentation submitted therewith; and items identified in any Relevant History and Representations section within the report.

Any information referred to is available for inspection in the Planning Offices of Medway Council at Gun Wharf, Dock Road, Chatham ME4 4TR and here <http://planning.medway.gov.uk/dconline/AcolNetCGI.gov>