

Hildenborough **554698 149801** **14 September 2011** **TM/11/02545/FL**
Hildenborough

Proposal: Removal of Condition 10 of planning permission
TM/06/01849/FL and Condition 5 of planning permission
TM/08/01904/FL to allow the stables and sand school to be
used for commercial purposes
Location: Land South East Of Gracelands Nizels Lane Hildenborough
Tonbridge Kent TN11 9NU
Applicant: Mrs A Allingham

1. Description:

- 1.1 Planning permission TM/06/01849/FL allowed the construction of a stable block, condition 10, restricting its use to the private stabling of horses owned by the owner/occupier of the application site and not for commercial stabling or in connection with a riding school/livery. Similarly, planning permission TM/08/01904/FL related to the construction of a sand school, with condition 5 restricting its use to the private enjoyment of horses owned by the owner/occupier of the application site and not for commercial use or in connection with a riding school/livery.
- 1.2 In both cases, the reason for the imposition of the conditions was that commercial use could harm significantly the amenities of the locality and the free and safe flow of traffic on local highways.
- 1.3 The application is supported by evidence which claims, in summary, that the land in question historically formed part of Nizels Ridge Farm which has a lawful use as a commercial livery yard. [DPTL: It is my understanding that the ownership of the farm was subsequently sub-divided. As such, the land has retained its established commercial use but the decision was taken (outlined above) to restrict use of the stables and sand school specifically to be used on a private basis only.]
- 1.4 The application is accompanied by a Design, Access and Planning Statement and a Transport Statement.

2. Reason for reporting to Committee:

- 2.1 High degree of local interest.

3. The Site:

- 3.1 The site lies within the Metropolitan Green Belt, outside any rural settlement confines. The site itself lies on the east side of Nizels Lane and benefits from extensive screening in the form of a dense line of well-established trees which line the boundary with the highway.

provided. It is understood that the current arrangement has been in operation since 2008. It would further be helpful however, if a statement from the applicant regarding a review of the condition of these materials and assurances regarding reconditioning could be given if necessary over time to minimise the risk of accumulations of mud on the highway.

5.3.1 Whilst a description of hay and straw deliveries is given, it is unclear where or how any 'waste' materials are managed. A statement regarding this would also be helpful as this potentially is another trip generator. I would be grateful for updates from the applicant regarding these issues.

5.4 Private Reps + Article 13: 2/0X/4R/0S. Objections raised on the following grounds:

- Transport Assessment is misleading; relevant part of Nizels Lane is between 10 and 12ft wide, passing place photographed is a driveway;
- Access and road is unsuitable for larger vehicles;
- Congestion and highway safety risks by another commercial business in Nizels Lane;
- Use of sand school should be restricted only to those in livery at the site;
- Site is messy and untidy, car parts and rubbish is stored; no confidence that a commercial stabling venture will be properly operated;
- Site owners do not live locally – concern that the next step will be requiring a house on site;
- Nizels Lane already has 4 livery yards;
- Land in question only amounts to five acres and is already overused.
- Site is unprotected, and therefore lacks security.

6. Determining Issues:

6.1 The planning policy context is enshrined within PPS4: Planning for Sustainable Economic Growth and allied documents. It states that LPAs should ensure that the countryside is protected for the sake of its intrinsic character and beauty, the diversity of its landscapes, heritage and wildlife, the wealth of its natural resources and to ensure it may be enjoyed by all. Additionally, policy EC6.2 of PPS4 states that in rural areas, LPAs should: where appropriate, support equine enterprises, providing for a range of suitably located recreational and leisure facilities and the needs of training and breeding businesses that maintain environmental quality and countryside character. This stance is supported by policy CP14 of the TMBCS and policy DC4 of the MDE DPD. Additionally, PTAB on 27.07.2011 recommended

that the Managing Land for Horses: A Guide to Good Practice be adopted as a material consideration for DC purposes throughout the Borough not just the AONB.

- 6.2 With these broad policies in mind, it is necessary to assess whether the use of the stable block and sand school for commercial purposes is acceptable and specifically whether a commercial use would harm significantly (a) the amenities of the locality and (b) the free and safe flow of traffic on local highways.
- 6.3 A key element of context of this application is the history of the land itself. It is now clear from the submissions in this application that the land itself already benefits from a commercial permission (subsequently separated from the farm by a change in ownership) and that this application relates solely to the stables and sand school in themselves to be used for livery purposes. I am satisfied that the use of the stables for commercial purposes will have no further impact on the landscape than could arise from the current arrangements on site. In this respect, local residents have expressed concern about how the site is cared for. Having inspected the site, I acknowledge that some open storage and parking of vehicles does exist on site presently, which is typical of such use of land. However, I do not believe that this causes any overall overt harm to the visual amenities of the rural locality. A condition controlling open storage within the site could be imposed on any planning permission granted which would bring this matter under greater control of the LPA should Members be minded to grant planning permission.
- 6.4 The application is accompanied by a Transport Assessment and in addition I note the technical representations made by KHS. An additional supporting statement has been submitted which states that the management of hay and straw deliveries and waste management are all to remain unchanged; one truck delivery per month on average. Their argument therefore again centres on the fact that vehicle movements will not alter in any significant way from the existing arrangement. There is little detail included regarding whether the commercial use will be undertaken on a DIY or full livery basis, which will have clear implications for the number of movements to and from the site. Again, I consider that restrictive conditions could have clear benefits in highway safety terms. For example, I consider it is necessary to restrict the use of the sand school so that only horses stabled/kept on site can be exercised or taught therein, as suggested by the PC. Additionally, a condition can be imposed ensuring that no competitions take place within the site. These conditions will prevent an overintensive use of the site and ensure that it remains only a small scale enterprise, with limited traffic movements to and from the site.
- 6.5 One further aspect raised by the private representations centres on the fact that four livery yards already exist along Nizels Lane. It is important to recognise that the planning system does not exist to protect private enterprise and commercial competition can not form a justification for a refusal in cases such as these.

6.6 Secondly, local residents have expressed some concern that if the site operates on a commercial basis, there is a strong likelihood that the applicants will require a house on site in the future for security purposes. There is no suggestion within the current application that this will be the case and it is not possible to refuse the scheme currently before Members on speculative grounds such as this. In the event that such a planning application is received, it would be assessed against the tranche of restrictive policies in place and the application would be required to demonstrate very special circumstances. This cannot be a consideration in this case.

6.7 In light of the above assessment, I consider that conditions 10 and 5 of planning permissions TM/06/01849/FL and TM/08/01904/FL can be removed, subject to a series of planning conditions restricting how the commercial use can operate. As such, the following recommendation is put forward:

7. Recommendation:

7.1 **Grant Planning Permission** in accordance with the following submitted details: Letter dated 14.09.2011, Notice dated 14.09.2011, Notice dated 14.09.2011, Design and Access Statement dated 14.09.2011, Transport Statement dated 14.09.2011, Location Plan dated 14.09.2011, Letter dated 21.11.2011, subject to the following:

Conditions:

1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission. (Z013)

Reason: In pursuance of Section 91 of the Town and Country Planning Act 1990.

2 The number of horses or ponies on the site shall not exceed 6 including those of the owner.

Reason: A more intensive use of the site could significantly harm the amenities of the locality and the free and safe flow of traffic on local highways.

3 The sand school shall be used only to exercise and/or teach those horses stabled at the livery stables hereby permitted and for the private exercising and/or teaching of horses.

Reason: To ensure that there is not an overintensive use of the premises that could harm the amenities of the locality and the free and safe flow of traffic on local highways.

4 No competitions, gymkhanas or similar events shall take place within the land hatched on the attached site location plan hereby approved.

Reason: In the interests of residential amenity and highway safety.

- 5 At no time shall any external lighting be installed on the site without the prior written approval of the Local Planning Authority.

Reason: In the interests of the visual amenity of the locality.

- 6 The location of the storage facility for stable waste shall be as approved under planning reference TM/06/02928/RD. All manure, bedding or other stable waste shall be removed from the site periodically in accordance with the details approved under ref TM/06/02928/RD.

Reason: To prevent nuisance to neighbours by virtue of smell, vermin and flies.

- 7 No mobile home, caravan or other similar chattel shall be brought onto the site outlined in blue on the approved site location plan without the prior written approval of the Local Planning Authority.

Reason: In the interests of the amenities of the Green Belt.

- 8 No materials or other equipment of any description shall be kept or stored in the open other than in areas and to such heights as may be approved in writing beforehand by the Local Planning Authority. (I006*)

Reason: In the interests of the visual amenities of the locality.

- 9 The vehicle parking area shown on plan number AA/06/20/01 approved under planning reference TM/06/01849/FL shall be kept available for such use and no permanent development, whether or not permitted by the Town and Country Planning (General Permitted Development) Order 1995 (or any order amending, revoking and re-enacting that Order) shall be carried out on the land so shown or in such a position as to preclude vehicular access to this reserved parking space. (P004*)

Reason: Development without provision of adequate accommodation for the parking or garaging of vehicles is likely to lead to hazardous on-street parking.

Informative:

- 1 The applicant is reminded that mud and debris should not be deposited on the public highway in contravention of Highways Legislation. Advice should be sought from Kent County Council Highways as to effective methods of control.

Contact: Emma Keefe