
Report of 9 January 2008

Shipbourne **561036 152211** **7 November 2007** **TM/07/03880/FL**
Borough Green And
Long Mill

Proposal: Use (part retrospective) of land and buildings for the training of horses, and the construction of an alternative means of access from Puttenden Road, and the erection of 3 x timber stables and feed store for keeping horses ancillary to the domestic use of Puttenden Manor.

Location: Puttenden Manor Puttenden Road Shipbourne Tonbridge Kent TN11 9QY

Applicant: Mr And Mrs Bull

1 Description:

1.1 Members will recall that a similar application relating to this site under ref TM/07/01128/FL was refused at the Area 2 Committee meeting of 12 September 2007 for the following reasons:

1 *The Local Planning Authority does not consider that the amendments that have been introduced are sufficient to satisfactorily overcome the reason for refusal cited in respect of application reference TM/06/02415/FL. The commercial use, as proposed to be operated, would still introduce activities of a different character, creating unacceptable noise and disturbance to local residents by virtue of the scale and nature of that activity. The development is thereby contrary to Policies SS8 and EP7 of the Kent and Medway Structure Plan 2006 and Policies P4/11, P6/13 and P6/4 of the Tonbridge and Malling Borough Local Plan 1998.*

2 *The Local Planning Authority does not consider that suitable conditions could be imposed that would sufficiently ameliorate the impact of the development upon residential amenity.*

1.2 That decision followed the decision of the Area 2 Committee of 13 September 2006, to refuse planning permission and authorise enforcement action with respect to a similar development on this site for the following reason:

1 *The commercial use that operates introduces a significantly different character to the use of the stables and manege with increased noise and disturbance to local residents due to the extra activity and the extra traffic including horseboxes or trailers using the shared access. The development is thereby contrary to Policies SS8 and EP7 of the Kent and Medway Structure Plan 2006 and Policies P4/11, P6/13 and P6/4 of the Tonbridge and Malling Borough Local Plan 1998.*

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- 1.3 The enforcement notice was dated 25.10.2006. The appeal that was lodged against the enforcement notice has been postponed, as it was due to be heard at a Public Inquiry on 18 September 2007. The Inspectorate intends to set a new date shortly, likely to be early in 2008.
- 1.4 This resubmitted proposal is similar to that refused in September but the applicants' agent wishes to address certain matters, confusion over which he considers may have led to the refusal and which he wishes to clarify or provide further comfort to Members.
- 1.5 The application can be summarised as follows:
- The regularisation of the existing use of 8 brick built stables, sand school and yard as commercial training stables. This also involves an associated livery service.
 - Retention of the existing timber stable only for domestic storage related to the use of Puttenden Manor as a dwelling. This element of the proposal therefore seeks to overturn condition (x) imposed on planning permission TM/92/00307/FL which required the cessation of use of that building for the stabling of horses (NB the condition did **not** require its demolition).
 - As a replacement, it is proposed that 3 domestic timber stables and a feed store will be constructed on the far side of and abutting the commercial brick built stables. This to be of timber construction with the roof shown to be reconstituted slate and eternit profiled sheeting. The new stables will be built close to 3 trees and an arboricultural report has been submitted which concludes that a slab base set on pads will ensure that the new timber stables can be built such that the impact on the root protection area is within acceptable limits in accordance with BS 5837:2005.
 - A new access track from Puttenden Road, utilising an established farm gate with a width of 3.7m, no formal passing places and a gate set back with the access widened at the junction. This is to serve the training establishment and the agricultural buildings. It is to be of type 1 compressed gravel. It will be fenced with 1.3m high post and rail, this being permitted development.
 - An acoustic report has been submitted by the applicant, together with details of an acoustic fencing 2m in height. This concludes that the proposals to erect acoustic fencing opposite Longcroft and also along the edge of the sand school will satisfactorily ameliorate noise arising from turning of horse boxes and use of the sand school to below background noise levels for neighbouring residents.

- Lighting to the sand school is currently from 2 floodlights on tall columns. This is to be altered to low level lighting of 14 lamps each of 70 watts, to be attached to the post and rail fence. It is stated that this type of lighting is preferable for this use as it reduces shadows which may disturb the horses in training.
- The maximum number of horses associated with the training stables is 16 (including foals). However, only 11 of these would be “actively” trained using the manege. The others would be horses not in training, including mares and foals.
- There are some grass liveryes unconnected with the training stables
- Potentially there will be another 3 horses to be stabled and grazed domestically by the residents of Puttenden Manor.

1.6 The agent has submitted a supporting statement summarised as follows:

- *The committee report for TM007/1128/FL stated that it was not the case that commercial uses should not be permitted in the Green Belt or AONB; Policy P3/5 only relates to major commercial development, not a change of use of this scale; the alternative access track achieves significant amenity benefits to neighbouring properties; cessation of the use of the timber stables by the commercial element will take that activity further from the neighbouring residential properties; KHS said improved access for heavier vehicles; DHH had no objections on balance; the acoustic fencing will achieve its desired objective; officers suggested that the use of timber and reconstituted slate for the new stables is acceptable and BS standard can be met for root protection during construction.*
- *At the committee meeting of September 2007, in my view, Members did not appreciate that only the stable and manege were subject to the “private use” condition of the 1992 planning permission and that the rest of Puttenden Manor Farm is a registered agricultural holding and not the subject of these planning applications.*
- *Clarification is hereby provided of the maximum numbers of horses which will be using the manege and training facilities: 11 commercial horses using the manege for training, of which 8 would be stalled in the brick stables, and 3 would be “at grass”..*
- *Other use of the agricultural holding (outside the redline application site) may include grazing of horses not in training such as mares and foals.*
- *The grass liveryes is agricultural grazing, which does not require planning permission and the number cannot be controlled by planning condition.*

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- *Planning permission TM/92/0307, permitted the construction of a new brick built stable complex at Puttenden Manor Farm, to include 11 stables, and shavings, tack, wash and feed rooms, along with an outdoor riding arena with unrestricted hours of use, traffic movements or the size of vehicles to be used.*
 - *Since 2004 the premises of 8 brick stables, 3 timber stables and the manege have been used by an individual trainer and her assistant to principally bring on and train horses belonging to other third parties who do not ride.*
 - *At a lower level, specialist training for problem horses has also been taking place - the horse is kept at the yard on a temporary basis to facilitate school training with or without its owner/rider present for individual sessions.*
 - *The tenant's lorry is a HGV horse lorry which resides at the yard when not in use. It measures 9.35m long, 2.6m wide and 3.75m high. It can turn in the yard.*
 - *Schooling of horses in the sand school takes place most of each day depending on weather conditions.*
 - *Apart from the tenant there is one groom working full time at the yard with several other temporary staff to cover during competition (event) days or days off etc.*
 - *The normal working hours are 8 am to 6 -7 pm (depending on season) although there are earlier starts and late returns during the eventing season.*
 - *The 2 staff cars are parked on site.*
 - *Lorry/horsebox movements are determined largely by the Calendar for events March – October and the degree of success. With the more distant locations, the practice is to stay over for 1 or 2 night(s) at the event. The timing of the movements of the horsebox leaving varies but it is rarely before 6am and arrival back at the yard is rarely after 10pm. Staff cars arrive and leave about an hour before or after this time.*
 - *For external training (cross country, show jumping and dressage etc where other facilities are required) there would be 2-3 outings per week, normally within the working day.*
 - *There are occasional requirements for veterinary treatment when a horse can be taken to the veterinary surgery. Owners' lorries visit the yard to collect or drop off horses for training or going to or from off- season grazing; variable, but on average, no more than 2 per week.*

- *Other visits include; Feed deliveries (once weekly or bi weekly as per season and more often in winter months); Farrier every 5-6 weeks; an equine Dentist every 6 months; an equine Physio once a month; the Vet, on average 4 visits per month plus emergencies; Owners of horses being ridden by the tenant; out of season 4-5 visits per horse by distant owners (during season most owners see their horses at events); Owners of horses in for specialist training; this can be up to 5-6 visits per month depending on problem.*
- *Traffic movements for an average week in July, being one of the busiest weeks in the Eventing Calendar, have amounted to average of 10-14 vehicle movements from the site a day. This comprises arrivals and departures per day by staff, the horsebox, and sundry other movements, including a visit by the Farrier.*
- *Traffic generated by lawful farm etc uses should be so distinguished.*
- *The alternative means of access will serve agricultural use and the training establishment with adequate visibility, to be type 1 compressed gravel and single track.*
- *The existing hedgerows are gappy comprised of hawthorn and quickthorn and will be replanted and supplemented with native whips and feathered tree stock. The existing trees are to be retained.*
- *Other means of attenuation will include a new gate and fence to screen activities and attenuate noise.*
- *The 2 existing floodlights are lawful through the passage of time although a revised lighting scheme to be subject to a condition is proposed.*
- *Most activity will be centered on the southern part of the premises.*
- *A precedent has been set at Silverhill Cottages, close to this site where a planning permission in 1998 (TM/98/1179/FUL) allowed non-compliance with a restriction on commercial use, allowing the facility to be leased on a commercial basis for private use/livery.*
- *Monitoring of the site will be facilitated by the use of DEFRA equine passports detailing horse name, breed, unique markings and age. Regular lists will be supplied to the Council and the Council will be able to monitor compliance at any time.*

2 The Site:

2.1 The site is associated with a Grade II listed dwelling known as Puttenden Manor.

- 2.2 It comprises a brick built stable block of 8 stables and a tack room/office and storage shed. This building is 70m south from the nearest neighbouring residential dwelling of Longacre House.
- 2.3 There are 3 mature trees on the south side of the brick built stables.
- 2.4 There is a timber stable block comprising of 4 timber loose boxes, one used as a storage area. This is 7m from Longacre House.
- 2.5 There is a manege and a horse walker approx. 55m and 70m from Longacre House respectively.
- 2.6 Existing vehicular access is to Puttenden Road, close to its crossroads junction with Hamptons Road. This passes by Longacre House, the Old Stables and the Coach House (all converted farm buildings) and the host dwelling of Puttenden Manor itself.
- 2.7 The land to the south is downward sloping grazing land. There is an existing double width gated access to Puttenden Road. Either side of this access is a row of mature Horse Chestnuts set approx. 4-6m from the edge of the carriageway. There is a hawthorn hedge edging the roadside verge, the verge to the north of the access point being more banked.

3 Planning History (selected):

TM/81/182 Approved 2 June 1981

Change of use and conversion of barn to provide residential accommodation ancillary to Puttenden Manor.

TM/82/381 Approved 29 July 1982

Conversion of part of stable block to one dwelling.

TM/83/1296 Approved 12 March 1984

Demolition of barns/outbuildings.

TM/85/489 Approved 8 July 1985

Details of conversion of part of stable block to dwelling submitted pursuant to outline permission TM/82/381.

TM/87/1151 Approved 28 August 1987

Use of residential accommodation as independent dwelling unit (removal of occupancy condition (ii) of permission TM/81/182).

TM/87/1296 Approved 30 December 1987

Conversion of barn to dwelling.

TM/87/1297 Approved 7 January 1988

Conversion of barn to dwelling (Listed Building Application).

TM/88/1315 Approved 31 August 1988

Conversion of part of stable block to dwelling.

TM/88/1316 Approved 31 August 1988

Listed Building Application Conversion of part of stable block to dwelling including removal of parts of stables and barn.

TM/88/1784 Approved 30 November 1988

Conversion of stables to garage.

TM/88/1785 Approved 30 November 1988

Listed Building Application: Conversion of stables to garages.

TM/92/307 Approved 22 May 1992

Erection of stable and creation of manege.

TM/93/0085RM Approved 24 March 1993

Details of materials submitted pursuant to condition (ii) of permission TM/92/0307 (erection of stable and creation of manege).

TM/06/02415/FL Refused and Enforcement action taken 19 September 2006

Change of use (part retrospective) of land and buildings as Equine Training establishment, and use of 4 no. timber loose boxes for the stabling of horses in association with the use of Puttenden Manor as a dwelling, with access from Puttenden Road

TM/07/01128/FL Refused 14 September 2007

Change of use (retrospective) of land and buildings for the training of horses, and the construction of an alternative means of access from Puttenden Road and erection of 3 timber stables and feed store for keeping horses ancillary to the domestic use of Puttenden Manor.

4 Consultees:

- 4.1 KCC (Highways): (This application follows a previous similar application that was refused, but not on highway grounds; comments will therefore be similar.) The proposal has tried to address the main concerns suggested with the previous application that shared the main entrance. This application proposed to create a new access into the site by improving an existing gated field access, which is located some distance from other residential dwellings. The existing entrance and boundary fronting Puttenden Road will be realigned to provide suitable visibility splays 2.4m x 120m and gates will be set back 12m from the highway boundary. The access will be improved with a suitable rolled stone construction, suitable drainage to be provided on site to help stop surface water run off from the site discharging onto the public highway. New acoustic fencing is also proposed together with new low wattage replacement lighting for the sand school: lighting to be suitably controlled so as not to cause inconsiderate or excessive light spillage. Three new timber stables with storage are proposed and will be attached to the existing domestic use. Therefore, based on the proposed changes and supporting details of the current usage, traffic movements are likely to be fairly low even based on one of the busiest times. I would therefore on balance, support this proposal subject to relevant conditions/informatives.
- 4.2 KWT: No response.
- 4.3 PC: Objects to any commercial use of this site as no changes or differences are material enough in this application to overcome the previous objections or concerns of both the PC and the Planning Committee. The previous view dated 20.08.07 is material and entirely relevant to this latest application. The current, ongoing use of the site is in breach of existing permission.
- 4.4 The previous PC objections are summarised below for information:
- Planning permission was granted in 1992 for the erection of stables and the creation of a manege to replace the original stables that had been converted to residential use, solely and specifically for the private stabling of a maximum of eight horses by the owner of Puttenden Manor and not for commercial stabling. A previous application for permission for commercial use has been refused.
 - Contrary to Policy 3/5.3 of TMBLP: within AONBs, commercial development with no proven national interest and several alternative sites in the locality.
 - Contrary to Policies P4/11 and P6/4 of the TMBLP : application is not only for retrospective use of land and buildings for training horses but it is also an increased use. Fifteen horses are now expected to be on site, in September 2006, stated that there was a maximum of eight horses. This new figure is a considerable increase and means that traffic, lessons, use of the sand school, associated services and visitors to the site will also increase considerably.

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- When planning permission was given for the brick stables, the timber stables were to be removed as more than ten horses was an over-intensive use of the site.
 - The two 'passing places' shown on the plans along the proposed new driveway give an indication of how much traffic is expected for this commercial enterprise. This driveway, with wide 'passing places' is to be cut through fields and its use of the driveway would not make a positive contribution to enhancement of the area. *(NB passing places on the track are no longer included in this application.)*
 - Commercial use of the site would damage the character and amenity of the established residential use. Contrary to Policies P6/13/2 and 6/4 as some of the loose boxes are close to Longacre House harming its residential amenity. No guarantee that the boxes will not be used at unsocial hours.
 - Measures to reduce noise are cosmetic: a fence will not ameliorate noise to any extent.
 - The sand school with 15 horses on site could be in constant use.
 - The outdoor lighting causes unacceptable light pollution from several miles away and causes nuisance to close residential properties. They cannot be adjusted so as not to be of nuisance and cause light pollution impacting on the rural night sky due to the raised and exposed site. Light pollution is now an offence that should be dealt with under The Environmental Pollution Act.
 - The horse boxes have noisy diesel engines that will be clearly heard at 6am and 10pm, at night, or earlier in the mornings. Vehicle doors banging shut, ramps being lowered and general loading and unloading add to this noise nuisance. This will happen frequently during the eventing season which constitutes two thirds of the year.
 - Concern about the proposed turning circle that could not facilitate the turning of a large horse box (and one in use is over twenty feet long). The HGVs would therefore have to come closer to the residential dwellings of Puttenden Manor; The Old Stables and Longacre House in order to do a three point turn.
 - Proposed alternative means of access: the site is on the brow of a hill in an exposed site: the increased traffic with HGV entering and leaving the site through the proposed alternative access off Puttenden Road will have to travel up and down the slope of this hill. The car and lorry lights will be clearly visible across the fields below the site from 5 am and up to 11pm. When there are no leaves on the trees these will shine directly into Hookwood House and affect other properties beyond it in Puttenden Road and Claygate Lane.

- The increase of traffic would affect ecology contrary to Policies P6/12/6; P6/4 and P3/5 of TMBLP due to car and lorry lights clearly visible across the fields below the site from 5 am and up to 11pm (*sic*). The Biodiversity Action Plan (BAP) includes nightingales, bats, owls and badgers: all protected species. The habit and possibly the habitats of these species will be detrimentally affected.
- Moving hedges and pruning or removal of trees will further have an adverse impact on ecology and the local environment. Strong objection to any removal or damage to trees forming the avenue of Red Chestnut Trees along Puttenden Road, one of the salient amenity features of the area.
- The site is not an HGV Operating Centre nor does the applicant or user have an Operators Licence to use qualifying Heavy Goods Vehicles there. Should any application be made, the PC requests that TMBC objects to the applications to VOSA for all of the above reasons.
- At Silverhill, the owner of the stables keeps her personal horses there; the current use of it is not as extensive as that proposed at Puttenden Manor; that site is not in a prominent, exposed location.
- Should permission be granted: Waste should not be burnt on site; outdoor lights should not be permitted until the design and siting of them can be proven to cause no pollution or loss of amenity; the planting of the hedges should be In line with nature conservation and the Kent Bio-diversity Action Plan. Permitted development rights for Puttenden Manor and Puttenden Manor Farm should be removed.

4.5 Private Reps (Art 8 and Departure/setting of Listed Building Press/Site Notice (11/3R/0X/2S): 3 letters of objection make the following summarised points:

- This is materially the same as the recent refusal and should be refused at officer level without delay.
- DEFRA advises that horses that graze are not agricultural animals unless farmed for their hides, meat or to work the land.
- The new figures gives potentially 24 horses, this is a full scale livery yard.
- The 1992 planning permission was for a maximum of 10 horses, all for private use.
- The monitoring conditions cannot be enforced.
- These are vexatious applications extending a use that has been unlawful since 2004, blighting the lives of those directly affected.

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- Previous objections apply- there should be a final decision and the matter brought to a swift conclusion.
 - Would still be light spillage and ineffective acoustic fencing which would also be a blot on the AONB.
 - The Broadlands traffic figures are a gross underestimate of the traffic for an eventing yard of the stated calibre.
 - There would be 6am starts and 10am finishes, much earlier and later on competition days.
 - Essential for 24 hour supervision for all these horses of this value - accounts for the ambiguous dual use of the timber stables.
 - New access is on a dangerously narrow part of Puttenden Road, it has a lay-by/passing place opposite and the widening of the sight line would entail the removal of horse chestnut trees.
 - The present owners bought the stables in the knowledge that the stables and facilities were for personal use only.
 - Commercial use is contrary to policies for the Green Belt, AONB and SLA.
 - Too close to family dwellings.
 - Proposed access will adversely affect the local environment- no independent ecological survey- likely to be dormice in the hedge.
 - Driveway will mar the landscape.
 - The domestic stables will add to the overuse - 8 horses were considered to be the maximum suitable in 1992, anything over 10 horses would be unsuitable.
 - Proposed acoustic fence will not ameliorate noise from the sand school.
 - Lights will harm AONB and SLA and disturb nocturnal wildlife, contrary to law and core policies.
 - Conditions would have to be wide ranging, stringent and enforceable.

4.6 One letter of support makes the following points: I wish to point out that the land the proposed new "L" shaped access track goes across is not at the brow of the hill but starts at an existing gateway between the stables and manege part way down the slope which runs from the top of Silverhill, above Puttenden. That slope ends in a dip just before the centre of Manor field and then rises up again to a ridge at the southern edge of Manor field where there is a 25 foot wide copse. Beyond the copse the land falls away again down to the stream below Great Oaks

field and rises again going up to Hookwood. Any vehicle lights will be "buried" in the upward slope of Manor field as vehicles travel south. As they travel north coming into the stables the large hay barn will block the onward movement of light from reaching the premises beyond. The track itself will go less than one quarter of the way down Manor field following existing fence lines before turning west towards Puttenden Road and again, at this point, the land slopes down so any lights will be "buried" in the hedges and topography around Puttenden Road. For vehicles moving in the opposite direction, there are no premises, residential or otherwise or roads within a kilometre to the east (really until the nursery along Hamptons Road - after further undulations) from which headlights of the small amount of traffic moving in darkness hours could possibly be seen. For the greater part of the year when the hedges are in leaf (which coincides with the Eventing season, March-September) the track itself will be barely visible from beyond the property itself unless one stops on Puttenden Road to look over the entrance gate or views the property from the air! Views are obscured from all the nearby footpaths or private premises due to the local topography. Even then, with the materials proposed for the surface, it will be totally in keeping with the rural environment looking like any other of the many farm tracks in the neighbourhood.

- 4.7 A second letter of support from the event rider states; all the horses I own and ride or ride for third party owners based at Puttenden Manor have Equine passports also sometimes known as Equine Identity Documents. These have detailed descriptions of the colour and age of the horses and give written and most usually diagrams showing individual markings, scars and whorls. I have agreed to keep a register of horses on site which the enforcement officer can inspect against the horses present at any time and I am also prepared to forward copies of this register to you at any reasonable interval you may suggest if this will give added reassurance that it is not intended to keep any more horses in training than as stated in the correspondence from Broadlands. Even an officer who is inexperienced with horses will be able to tell one from the other with the use of these passports. I will attend the meeting of the Area 2 Planning Committee and will bring examples of the horse passports for Committee members to see.
- 4.8 DHH: Previous comments apply, namely that the principal problem would be noise pollution and disturbance from vehicular comings and goings of horse lorries and riders needing lessons; from riding lessons; owners visiting their horses; eventer and groom who both live off site; and owners taking their horses away temporarily. This revised proposal takes away many of these sources of noise by moving the access road to a point furthest away from residential properties and on balance this may be an acceptable solution. A complaint has been received alleging noise nuisance, but the noise was of such short duration that it was not deemed to be Statutory Nuisance. The report submitted by Capita Symonds dated 26 July 2007 indicates that further noise problems are unlikely, assuming that matters are organized as assumed in the report (e.g. vehicle movements, use of sand ring, etc). However, I feel that a temporary one-year permission would be appropriate from an EH perspective to assess the impact of the proposed use. Light Pollution

has relatively recently become capable of being a Statutory Nuisance and it is thus in the applicant's best interests to ensure that lighting does not unduly affect any nearby neighbours.

5 Determining Issues:

- 5.1 This proposal in one form or another has been the subject of 4 committee reports. I will focus my discussion on determining issues related to the reasons for refusal of TM/07/1128/FL.
- 5.2 The site is outside settlement confines. It lies in the MGB and AONB. The host dwelling and a number of outbuildings are listed grade II.
- 5.3 PPG2 (Green Belts) refers to re-use of rural buildings and requires that there be no greater impact on the openness of the Green Belt and the purposes of including land in it, compared to the previous use. It states that recreational uses in the MGB can be supported by small-scale essential facilities.
- 5.4 PPS7 (Sustainable Development in Rural Areas) notes that equestrian activities are popular forms of recreation in the countryside that can fit in well with farming activities and help to diversify rural economies. In some parts of the country, horse training and breeding businesses play an important economic role. Local planning authorities should support equine enterprises that maintain environmental quality and countryside character and they should also facilitate the re-use of farm buildings for small-scale horse enterprises (nominally up to 10 horses) that provide a useful form of farm diversification.
- 5.5 Policy SS8 of the KMSP requires development in the countryside deriving from a re-use of a building to be acceptable on environmental, traffic and other planning grounds. Policy EP7 of the KMSP refers to development of employment uses in the countryside but only where this accords with Policy SS8.
- 5.6 Policy CP24 of the TMBCS requires development to not harm the particular character and quality of the local environment. Saved Policy P6/13 of the TMBLP requires equine development to have no adverse impact on residential amenity due to excessive noise, traffic generation or activity at unsocial hours. Policy P6/14 requires re-use of rural buildings to be acceptable in terms of residential and rural amenity and in terms of highway impacts.
- 5.7 The planning permission for the stables and manege in 1992 was granted on the basis of private use of the then owners of Puttenden Manor who had a school aged daughter who was interested in eventing. The horses were to be cared for by the parents and groom(s) who would live on site.
- 5.8 Puttenden Manor is now owned by different parties to those who obtained the 1992 planning permission and who have allowed use of the premises commercially for several years.

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- 5.9 It is necessary to look at the 1992 planning permission to assess the degree of change that results from the commercial use that is now proposed. Members will note that the use which **currently** takes place differs from what is **proposed** in this application in that the current use includes the commercial use of the timber stable block which is now intended to cease in favour of domestic storage only.
- 5.10 The 1992 permission was granted on the basis of the stables accommodating up to 10 horses and being used by an amateur eventer and her family and live-in staff. There would have been traffic visits by farriers, vets, equine dentists etc in broadly the same manner as is now the case. The PC is incorrect when it states that the 1992 limited the use to 8 horses. It is true that 8 stables were built but the planning permission granted consent for 10.
- 5.11 However, it is accepted that the 1992 planning permission was granted on the basis that the eventer and the groom(s) would have been resident at the host premises and all of the horses used would be owned by her or by her immediate family. The use was private and hence the commercial riding lessons and the schooling of "problem horses" that now occur would have been prevented from taking place by conditions imposed on that planning permission. However, it is realistic to anticipate that the intensity of use of the stables for eventing under that planning permission would have increased had the daughter continued that hobby after leaving school, had she not been injured and this factor needs to be taken into account.
- 5.12 Commercial use typically introduces a significantly different character to the use of the stables and manege compared to a hobby use that is ancillary to residential occupation.
- 5.13 In the current instance, this change of character might, I think, be reasonably described as arising from the following factors:
- Vehicular traffic of eventer and her grooms, all of whom live off site.
 - Vehicular comings and goings and additional noise and disturbance associated with owners visiting the site to look at their horses.
 - Vehicular traffic and additional noise and disturbance associated with owners' horse lorries visiting the site up to twice a week to temporarily take their horses elsewhere.
 - Vehicular comings and goings associated with the training of problem horses, namely, the arrival and departure of horse lorries and the arrival and departure of the owners needing riding lessons.
 - Additional noise and disturbance from riding lessons associated with the training of problem horses.

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- 5.14 In summary, comings and goings and overall activity are likely to increase with a commercial use, giving rise to noise and disturbance from other factors apart from the manoeuvring of vehicles themselves, including car doors slamming, car radios, conversations between the various personnel involved and raised voices during riding lessons etc. Vehicular traffic levels are likely to increase overall. The type of traffic will change with proportionally more horse lorries visiting the site.
- 5.15 Based upon the representations of objectors summarised above, the commercial use as currently operated has resulted in more activity and disturbance overall; more activity and disturbance at unneighbourly hours; additional traffic using the access; more frequent use of the access by large vehicles and traffic at unneighbourly hours.
- 5.16 Hence those with an intimate local knowledge and experience of the site as it now operates confirm that the problems identified above have occurred at this site. The application before Members seeks to amend the current situation with various mitigation measures.
- 5.17 The vehicular comings and goings resulting from the current use are particularly problematic in terms of immediate neighbours' amenities as the existing access used passes close to 3 residential properties and also that of the applicant. Due to the location of the gates, it appears that there is a tendency for vehicles, including diesel horseboxes, to "idle" close to bedroom windows at unsocial hours whilst gates are being operated. However Members will note that this revised application retains a proposed solution to this particular problem by the creation of an alternative access to Puttenden Road to serve the commercial aspects of the stables. Members will need to consider whether this alternative access has a similarly undesirable juxtaposition with residential dwellings.
- 5.18 The creation of an access track to serve a commercial development in the Green Belt is normally considered to be inappropriate development by reason of being engineering operations that might impact on the openness of the MGB. However, in this particular case, the dimensions and surfacing of the track will give the appearance of a typical farm track and potentially achieves amenity benefits to neighbouring properties. This element of the proposal was not cited as contributing to the refusal of TM/07/1128/FL.
- 5.19 The hedgerow that will need to be removed is proposed to be replanted with a more diverse species mix. Any removal of the hedgerow that may affect protected species will need to be the subject of discussions between English Nature and the applicants. The concerns from consultees over impact on the hedge and on Horse Chestnut trees in order to achieve the necessary vision splays were not cited in the refusal of TM/07/1128/FL.
- 5.20 The applicant's intention to replace 2 existing high level floodlights with a low level lighting scheme is, I believe, a positive step, and this was not cited in the refusal of TM/07/1128/FL.

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- 5.21 In terms of the design and materials of the replacement domestic stables, in the context of the mix of buildings in the farm (which includes a modern barn) I remain of the opinion that the use of timber is acceptable provided the roof is tiled in reconstituted slate as opposed to the fibre cement sheeting that was initially proposed.
- 5.22 In terms of the impact on trees, the timber stables will be a lightweight structure that can be supported on pads and will comply with the relevant British Standard for tree root protection during construction.
- 5.23 The scheme retains an intention to provide fencing and gates to the northern boundary which will help to visually screen commercial activities from the nearest residential properties. On the basis that the fence and gates can be adequately designed for acoustic mitigation, this would further ameliorate the reason for enforcement action having been taken. Moreover, the cessation of use of the timber stables by the commercial element will take that activity further from the neighbouring residential properties.
- 5.24 The planning permission in 1992 granted consent for 10 stables and 1 isolation box, all for non-commercial use. I have no reason to disagree with the agent's submission that condition (x) which limited the use of the site for 10 horses only referred to the stables and manege - it did not refer to the wider grazing land as this was not included in the application site as identified in the submitted plans. This application is for a total of 11 loose boxes, 8 for commercial use and 3 for non-commercial use. However, as the applicant points out, there is currently no control over the total number of horses at Puttenden Manor Farm overall, as this includes horses that graze the land and are not associated either with the training establishment or with the residential occupiers. This situation will not change.
- 5.25 Contrary to the submission of one objector, it is not DEFRA which adjudicates on the definition of horse grazing from a **planning** point of view. Planning law includes the use of land as grazing land in the statutory definition of agriculture. The most pertinent planning case law is *Sykes v SOS. 1981* which held that if horses are on land with a view to feeding them from the land, clearly the land is in use for grazing. However if horses are on the land but being fed wholly or primarily by some other means so that such grazing as they do was completely incidental and perhaps achieved because there was no convenient way of stopping them doing it, then in that case the land was not being used for grazing and hence not agriculture.
- 5.26 Members will note that KCC (Highways) raises no highway objections and that DHH raises no objection on balance, based upon the alternative access being used for commercially related uses.
- 5.27 DHH is of the view that the acoustic fencing will achieve its desired objective although the design of the gates needs careful consideration with some form of rubberised plinth at the base. Members will be aware that fencing of this design

and height is permitted development in this location and in any event, can be screened by landscaping.

5.28 Members will be aware that this use as it is currently operated is one that has been refused planning permission and an enforcement notice has been served. It still clearly generates a lot of local opposition.

5.29 When the previous application was considered, Members were not satisfied that the use could be operated in a way that avoided unacceptable noise and disturbance for neighbours, and there was also added doubt that suitable conditions could not be devised to adequately address these concerns. In seeking to address these concerns, the applicant has reiterated and clarified certain aspects of the proposal, including the number of horses it is proposed to keep on the site in connection with the training establishment. This was, as I recall, in itself a question of some concern to Members previously. A specific concern that Members raised in debate was over how any restriction on this number of horses could effectively be monitored. In response, the applicant has explained how the "equine passport" scheme could be used to achieve this, and I believe that this would prove to be an effective monitoring tool, should this become necessary.

5.30 Members will, of course, need to be satisfied that the proposal as now amended and clarified adequately overcomes the previous reasons for refusal, and that the recommended conditions would be effective in restricting the perceived adverse impacts arising from the development. However, on balance, I believe the overall scale of the proposed use (as reflected in the number of horses concerned) and the measures offered for regulating this now render the application worthy of support.

6 Recommendation:

6.1 **Grant Planning Permission** as detailed by Letter dated 25.10.2007, Location Plan dated 25.10.2007, Drawing M326 SHEET 1 dated 25.10.2007, Drawing PM.01 dated 25.10.2007, Drawing TR-502-07 dated 25.10.2007, Drawing TR-502-07 dated 25.10.2007, Drawing TR-502-07 dated 25.10.2007, Drawing PM.04 dated 25.10.2007, Drawing PM.05 dated 25.10.2007, Arboricultural Assessment TR-540-07 dated 25.10.2007, Drawing 745/2/92(B) dated 25.10.2007, Drawing 745/1/92 dated 25.10.2007, Letter dated 07.11.2007, Design and Access Statement dated 07.11.2007 subject to the following conditions:

- 1 The use of the brick built stables for the commercial training of horses shall be limited to one eventing trainer/rider and their use and occupation shall remain at all times within the control of the occupiers of Puttenden Manor.

Reason: In the interests of neighbouring residential amenities and highway safety.

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- 2 Within 1 month of this planning permission, the equestrian use of the timber stables as shown on drawing PM.03A shall cease and thereafter they shall only be used for non-equestrian purposes ancillary and incidental to the residential enjoyment of Puttenden Manor.

Reason: In the interests of neighbouring residential amenities.

- 3 Within 1 month of this planning permission, full details of the design and construction of the proposed acoustic fence and gates and landscape screening thereof shall be submitted for the approval of the Local Planning Authority, and the work shall be carried out in strict accordance with the approved details within 3 months of the approval of those details and shall be so retained thereafter.

Reason: In the interests of neighbouring residential amenities.

- 4 Within 3 months of this planning permission, the existing lights and their supporting columns at the manege shall be removed from the site and the alternative external lighting of the manege shall be carried out in strict accordance with the approved details and the lighting shall thereafter be used only between the hours of 0800 to 1900.

Reason: In the interests of neighbouring residential amenities and the rural landscape.

- 5 Within 1 month of this planning permission, construction details of the alternative access at Puttenden Road (including gate set back, width and surfacing) shall be submitted for the approval of the Local Planning Authority, and the work shall be carried out in strict accordance with the approved details within 3 months of the approval of those details.

Reason: In the interests of highway safety and protection of trees.

- 6 The use of the existing access to Puttenden Road for any vehicular traffic associated with the commercial use of the stables hereby permitted shall cease upon completion of the alternative access or within 8 months of this decision, whichever is the earlier.

Reason: In the interests of neighbouring residential amenities.

- 7 Before the alternative access to Puttenden Road is first used, details of crown lifting or any other tree works to facilitate access by horse lorries shall be submitted for the approval of the Local Planning Authority, and the work shall be carried out in strict accordance with the approved details before the first use of the access.

Reason: Pursuant to Section 197 of the Town and Country Planning Act 1990 and to protect the appearance and character of the site and locality.

- 8 The alternative access hereby approved shall not be used until the area of land within the vision splays shown on the approved plans has been reduced in level as necessary and cleared of any obstruction exceeding a height of 1.05 metres above the level of the nearest part of the carriageway. The vision splay so created shall be retained at all times thereafter.

Reason: In the interests of highway safety.

- 9 The turning area shall be constructed in strict accordance with the approved details so that it is available for use at the time of the first use of the new access hereby permitted. The approved turning area shall be retained and kept available for such use at all times thereafter.

Reason: In order that a vehicle may enter and leave the site in a forward direction to ensure the safe and free flow of traffic.

- 10 The approved scheme of hedgerow replacement and maintenance shall be implemented during the first planting season following this planning permission. Any trees or shrubs removed, dying, being seriously damaged or diseased within 10 years of planting shall be replaced in the next planting season with trees or shrubs of similar size and species, unless the Authority gives written consent to any variation.

Reason: Pursuant to Section 197 of the Town and Country Planning Act 1990 and to protect and enhance the appearance and character of the site and locality.

- 11 The number of horses stabled on the site in connection with the commercial training of horses hereby approved shall not exceed 8.

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

- 12 The number of horses accommodated on Puttenden Manor Farm in connection with the commercial training of horses hereby approved shall not exceed 16 including foals. The applicant shall at all times maintain an up-to-date record of these horses. This record shall be kept at the site and, together with the "equine passports" of the horses concerned, shall be made available for inspection by or on behalf of the Local Planning Authority at their reasonable request.

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

- 13 Within 1 month of this permission, details of storage and disposal of stable waste shall be submitted for the approval of the Local Planning Authority, and the work

shall be carried out in strict accordance with those details within 1 month of approval.

Reason: In the interests of residential amenity.

- 14 There shall be no training, livery or riding lessons related to the commercial stables and the associated facilities other than as detailed in the supporting statement date stamped 25.10.07.

Reason: In the interests of neighbouring residential amenities and highway safety.

- 15 No development of the new stable block shall take place until details and samples of all materials to be used externally have been submitted to and approved by the Local Planning Authority, and the development shall be carried out in accordance with the approved details. (D001)

Reason: To ensure that the development does not harm the character and appearance of the existing building or the visual amenity of the locality.

- 16 The construction of the new stable block shall be carried out in full accordance with the method statement in the approved arboricultural report date stamped 30.07.07.

Reason: Pursuant to Section 197 of the Town and Country Planning Act 1990 and to protect the appearance and character of the site and locality.

Contact: Marion Geary

SUPPLEMENTARY REPORTS**AREA 2 PLANNING COMMITTEE****DATED 9 January 2008**

Shipbourne **TM/07/03880/FL**
Borough Green And Long Mill

Use (part retrospective) of land and buildings for the training of horses, and the construction of an alternative means of access from Puttenden Road, and the erection of 3 x timber stables and feed store for keeping horses ancillary to the domestic use of Puttenden Manor at Puttenden Manor Puttenden Road Shipbourne Tonbridge Kent TN11 9QY for Mr And Mrs Bull

Applicants' Agent: Open grazing amounts to 49 acres.

County Councillor: The County Councillor objects to the proposal for the same reasons as the PC; inappropriate use of the site for commercial development; highway safety concerns with regard to the crossroads, the Police Record of Accidents does not reflect the level of accidents incurred and raised with me by residents. KCC Highways has not taken sufficient note of the potential dangers of large horsebox exiting and entering the narrow entrance to the Puttenden site.

Private Reps: One of the objectors has written in to state that the 2 letters of support should be discounted because one is from the event rider and one is from the land agent, so they are both in receipt of benefit from the applicant, being connected parties. Hence their statements are not independent and are not credible.

A second objector reiterates previous objections made in May, June and August last year: the application is virtually the same and should be refused as the site lies too close to residential dwellings.

A third objector is the previous owner of the application site and a summary of the objection is as follows:

- The soil at Puttenden is heavy clay, and during the winter, equestrian use can cause irreparable damage to the grazing and to rare and important flora and fauna.
- Due to the selective way in which horses graze, with a lot of horses permanently grazing and without expert involvement, the grazing would soon be irreparably damaged.
- Horses kept "at grass" at Puttenden need at least four times the amount of acreage normally required for horses living permanently out: at least four acres per horse but there are times when the ground simply cannot support horses at all.

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- There is approximately 45 acres that can support 12 horses continually grazing
 - Between November and March, if horses are kept out at grass at Puttenden for extended periods they suffer mud fever, thrush, soft tissue damage, hoof damage from shoes being pulled off etc.
 - In summer the clay becomes like concrete, when horses galloping about risk bruising to the soles of their feet and concussion damage to legs etc.
 - The grass at Puttenden is too rich for horses, so in Spring and Autumn grazing needs to be strictly controlled and actually limited if it is not to cause mortality through "colic".
 - Horses (particularly competition Event horses, which have to be fit to gallop) cannot be competed "off grass"
 - In the summer it is often necessary to keep horses in during the day, and turn them out at night, to avoid the heat, and to allow protection from insects.
 - Horses are notoriously injury prone and injured horses often have to be stabled to be cared for, kept clean and/or immobilised.
 - It is vital for considerable period of the year for horses at Puttenden to be (stabled), which *necessitates* supplementary feeding to try to prove that a horse is, or is not, an agricultural animal, based upon what it eats is impossible and utterly absurd.
 - If the permission is restricted to Event Riders only it would be much more difficult to find someone else to rent the yard if all other sorts of riders are excluded.
 - The current lessee lives on the main driveway so she uses the driveway to get to the yard on foot. If commercial use were granted, she, and any other residents of the Coach House and working on the stable yard, would, I imagine, still be entitled, as of right, to access the stable yard - both with vehicles and on foot - from the driveway where the other residential properties are.
 - Concerning the use being made of the suggested world class potential of the current lessee, what the current lessee may or may not do is irrelevant. The greater the potential of the rider, the greater the adverse effect would be on the area: more horses; they travel further afield, necessitating earlier starts and later finishes; their increased absence necessitates the coming and going of more staff to stand in, there are more visits are required from more trainers, owners, owners' friends, relations and "hangers on", sponsors, press, fans and fan clubs and "yard open days": The horses require more careful, more specialized and more frequent attention by vets, physios, farriers, saddle fitters etc

- Regarding the hobby use of the original daughter, the time *did* come when the daughter wished to turn her private hobby into commercial activity, at which time she made arrangements to rent a yard elsewhere - because of the conditions attaching to the 1992 planning permission.
- In order for an Event rider to compete at top level it is virtually impossible to own all the horses that are needed, because of the cost of buying ready-made good horses; the high "wastage" factor and the limited availability of good horses at any price. It is therefore necessary for a rider to have "owners" (and lots of them) who send their horse to stay "at livery" with the rider who is paid to keep the horse, look after it, ride it and compete it. This then ceases to be a "private" activity and becomes "commercial".
- The Planning Committee should not, make any decision accompanied by conditions which cannot - *or will not in practice* - be properly monitored and enforced.

DPTL: Members are advised that the Planning Inquiry relating to the enforcement notice has been rescheduled for 20 May 2008.

For clarification, the first letter of support in the agenda is the land manager of the site. The second is the event rider herself.

The majority of the points made by the third objector relate to the use of the fields for grazing of horses and the problems relating thereto with regard to pasture quality etc. The principal issue for Members' determination relates only to the acceptability from a planning point of view as to the use of the stables etc for commercial use as opposed to private use. The commercial use does include 3 competition horses at grass, plus up to 5 extra non- competing mares and foals. Any additional horses kept on neighbouring agricultural land in grass liveries or grazed privately are not part of this application and for the reasons outlined in the main report, are not considered to require planning permission in any event. Development control decisions must have regard to High Court decisions made in relation to the Planning Acts and not non-statutory definitions from DEFRA. Part of the confusion over this issue arises from the planning definition necessarily having its starting point as the use of the land whereas DEFRA seems to be referring to the definition of the horse.

In regard to the number of horses related to the commercial use, Members are reminded that the condition on the 1993 planning permission restricted the number of horses on the stables etc - the application site did not include the wider agricultural land adjacent at that time and indeed does not include it in this application.

If the stables were to be used in the future by a different type of commercial equestrian activity, this would simply require an application to vary the relevant conditions. Hence the specific wording of the suggested conditions is intended to give the Council control over the particular type of use, considered on its merits.

There are typing errors in conditions 2 and 16.

AMEND RECOMMENDATION

Grant Planning Permission as detailed by Letter dated 25.10.2007, Location Plan dated 25.10.2007, Drawing M326 SHEET 1 dated 25.10.2007, Drawing PM.01 dated 25.10.2007, Drawing TR-502-07 dated 25.10.2007, Drawing TR-502-07 dated 25.10.2007, Drawing PM.04 dated 25.10.2007, Drawing PM.05 dated 25.10.2007, Arboricultural Assessment TR-540-07 dated 25.10.2007, Drawing 745/2/92(B) dated 25.10.2007, Drawing 745/1/92 dated 25.10.2007, Letter dated 07.11.2007, Design and Access Statement dated 07.11.2007 subject to the following conditions:

1. as main report

2. Within 1 month of this planning permission, the equestrian use of the timber stables as shown on drawing PM.04 shall cease and thereafter they shall only be used for non-equestrian purposes ancillary and incidental to the residential enjoyment of Puttenden Manor.

Reason: In the interests of neighbouring residential amenities.

3-15 as main report

16. The construction of the new stable block shall be carried out in full accordance with the method statement in the approved arboricultural report date stamped 25.10.07.

Reason: Pursuant to Section 197 of the Town and Country Planning Act 1990 and to protect the appearance and character of the site and locality
