

4.3 23/00915/CONVAR Revised expiry date 24 July 2023

Proposal: Removal of condition 6 (no fencing or other means of enclosure) of 21/00106/FUL for sand school, parking area and tree planting.

Location: Land South East Of Broadhoath Wood, Rooks Hill, Underriver Kent

Ward(s): Seal & Weald

#### **Item for decision**

This application has been called to Development Management Committee by Councillor Hogarth due to concerns regarding the harm to the Metropolitan Green Belt.

**RECOMMENDATION:** That planning permission be GRANTED subject to the following conditions:

1) The development hereby permitted shall be begun before the expiration of the time limit imposed on application SE/21/00106/FUL

In pursuance of section 91 of the Town and Country Planning Act 1990.

2) The proposed parking spaces and turning area shall be implemented on the site in accordance with the details approved under application number 21/02158/DETAIL and retained as such thereafter, unless otherwise agreed in writing with the local planning authority in accordance with the requirements of this condition. Any scheme shall include the details of the proposed two parking spaces at a scale of no less than 1:100, details of the proposed hard standing to be used in connection with the parking. The approved parking shall be installed on site prior to bringing the sand school into first use and retained as such thereafter.

In the interest of openness of the Green Belt in accord with the aims and objectives of paragraph 134 of the National Planning Policy Guidance and in the interests of highway safety.

3) The proposed hardstanding shall be implemented on site in accordance with the details approved under application number 21/02282/DETAIL and retained as such thereafter, unless otherwise agreed in writing with the local planning authority in accordance with the requirements of this condition. Any scheme shall include the details of the proposed hardstanding for both the approved sand school and any further hard standing to be located within the red line plan 1819 03A. The details shall include a comprehensive list of hard standing and a site plan at a scale of no less than 1:200 indicating the location of the proposed hard standing.

In the interest of conserving the character of the Area of Outstanding Natural Beauty landscape in accord with policy EN5 of the Sevenoaks District Council Allocation and Development Management Plan.

4) No external storage of vehicles shall occur on the site within the red line plan, 1819 03A, without the prior written consent of the local planning authority. For the purposes of the condition storage of vehicles would equate to a vehicle sited on the land within the red line for two or more consecutive nights.

In the interests of the openness of the Green Belt in accord with paragraph 145 (b) of the National Planning Policy Framework.

5) No external lighting shall be installed onto the site as outlined in red on plan 1819 03A unless the local planning authority has first approved in writing details of the position (beam angle), height, design, measures to control light spillage and intensity of illumination. Only the approved details shall be installed and maintained thereafter.

In the interests of the dark skies of the Area of Outstanding Natural Beauty in accord with policies EN5 and EN6 of the Sevenoaks District Council Allocation and Development Management Plan.

6) No mobile or temporary structures, buildings or chattels shall be placed on the land outlined in red on drawing number 1819 03A without the prior approval in writing of the Council.

To protect the openness of the Green Belt and the character of the landscape as supported by policy LO8 of the Sevenoaks District Council Core Strategy.

7) No part of the land shall be used for open storage including the storage of items associated with the use of the land for the keeping of horses and jumps.

To protect the openness of the Green Belt and the character of the landscape as supported by policy LO8 of the Sevenoaks District Council Core Strategy.

8) The sand school hereby permitted shall not be used for any form of equestrian competitions or other related forms of competitions and shall be used for lessons and training purposes only.

To protect the openness of the Green Belt and the character of the landscape as supported by policy LO8 of the Sevenoaks District Council Core Strategy.

9) Within one month of development hereby approved details of ecological enhancements shall be submitted to and approved in writing by the local planning authority. The approved ecological enhancements shall be implemented prior to first use of the sand school hereby approved.

To ensure ecological net gain in accord with policy SP11 of the Sevenoaks District Council Core Strategy.

10) The development hereby permitted shall be carried out in accordance with the following approved plans and details: 1819 03A.

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

11) The proposed soft landscaping shall be implemented in accordance with the details approved under application number 21/02283/DETAIL and retained as such thereafter, unless otherwise agreed in writing with the local planning authority in accordance with the requirements of this condition. Any landscaping scheme shall include:- planting plans (identifying existing planting, plants to be retained and new native species planting);- a schedule of new plants (noting species, size of stock at time of planting and proposed number/densities), which shall include the provision of replacement trees;- proposed buffer zone planting; and a programme of implementation. The soft landscaping shall be designed to screen the development and the earthworks should blend with the land contours to limit the visual impact of the sand school. If within a period of five years from the completion of the development, any of the trees or plants that form part of the approved details of soft landscaping die, are removed or become seriously damaged or diseased then they shall be replaced in the next planting season with others of similar size and species.

To enhance the visual appearance of the area as supported by EN5 of the Sevenoaks Allocations and Development Management Plan.

#### **National Planning Policy Framework**

In dealing with this application we have implemented the requirements in the National Planning Policy Framework to work with the applicant/agent in a positive, proactive and creative way by offering a pre-application advice service; as appropriate updating applicants/agents of any issues that may arise in the processing of their application and where possible and if applicable suggesting solutions to secure a successful outcome. We have considered the application in light of our statutory policies in our development plan as set out in the officer's report.

#### **Description of site**

- 1 The application site comprises of a parcel of land located within Rooks Hill. The site is surrounded by open field and is located within the parish of Seal.

#### **Description of proposal**

- 2 Removal of condition 6 (no fencing or other means of enclosure) of 21/00106/FUL for sand school, parking area and tree planting.

#### **Relevant planning history**

- 3 21/00106/FUL – Sand school, parking area and tree planting – GRANT 09.06.2021

## Policies

### 4 National Planning Policy Framework (NPPF)

Para 11 of the NPPF confirms that there is a presumption in favour of sustainable development, and that development proposals that accord with an up-to-date development plan should be approved without delay.

Para 11 of the NPPF also states that where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, permission should be granted unless:

- the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed<sup>7</sup>; or
- any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
- Footnote 7 (see reference above) relates to policies including SSSIs, Green Belt, AONBs, designated heritage assets and locations at risk of flooding.

### 5 Core Strategy (CS)

- SP1 Design of New Development and Conservation
- L01 Distribution of Development
- SP8 Economic Development and Land for Business
- L08 The Countryside and Rural Economy
- SP11 Biodiversity

### 6 Allocations and Development Management (ADMP)

- EN1 Design Principles
- EN2 Amenity Protection
- EN4 Heritage Assets
- EN5 Landscape
- EN6 Outdoor Lighting
- LT2 Equestrian Development
- T2 Vehicle Parking

### 7 Other

- Development in the Green Belt Supplementary Planning Document (SPD)
- Kent Downs Area of Outstanding Natural Beauty Management Plan
- Sevenoaks District Council Countryside Character Assessment 2011

## Constraints

- 8 The following constraints apply:
- Kent Downs Area of Outstanding Natural Beauty (AONB)
  - Metropolitan Green Belt
  - Area of Archaeological Potential
  - Ancient Woodland (adjacent to site)
  - Biodiversity Opportunity Area
  - Site of Special Scientific Interest (SSSI) (within vicinity)

## Consultation responses

9 Seal Parish Council

Condition should not be removed in order to protect the openness of the Green Belt, character of the AONB and highway safety. Condition 2 and 12 should be complied with if they have not been.

10 KCC Ecology

No comment. The addition of fencing would enable the use of the site to be restricted to the sand school.

11 KCC Highways

Justification has been provided into why the fencing has been provided, however no plans showing the extent of the fencing has been included. Visibility from the access should be maintained and should be below 1.5m within the existing visibility splays. Raises no objection.

12 Tree Officer

No objection.

## Representations

- 13 One letter of objection has been received. This representation agrees with the comments raised by Seal Parish Council.

## Chief Planning Officer's Appraisal

### Description of proposal

- 14 The application seeks the removal of Condition 6, which currently reads:

"Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order amending, revoking and

re-enacting that Order) no fencing or other means of enclosure permitted by Class A of Part 2 of Schedule 2 of the 2015 Order (as amended) shall be carried out or installed on the site without the grant of a further planning permission by the local planning authority.”

- 15 The reason for this condition is stated as ... “In the interests of the openness of the Green Belt in accord with paragraph 134 and 145(b) of the National Planning Policy Framework.
- 16 In summary, this Condition removes the power to erect fencing on the site without planning permission, with all fencing proposed on the site in the future requiring planning permission.
- 17 The application submission includes justification for the removal of the condition, confirming that fencing is needed on the site, around the sand school, as an essential operational requirement and due to licensing issues.

### **Principal Issues**

- 18 Section 73 of the Town and Country Planning Act (as amended) makes provision for applications to be made to develop land without complying with conditions attached to a previous planning permission. In this regard, it states that the local planning authority shall consider only the question of the conditions subject to which planning permission should be granted. Permission granted under Section 73 takes effect as a new, independent permission to carry out the same development as previously permitted subject to new or amended conditions.
- 19 The main planning consideration in respect of the current application is the acceptability of the removal of the condition. The Officer’s Report for planning permission 21/00106/FUL discusses the full reasons for the grant of planning permission of the original development, and its consideration against local and national policies.
- 20 I note that there have been no significant changes in planning policy since the grant of the original permission and the principle of development therefore remains acceptable and is not in question for the purpose of this application.
- 21 Taking the above into account, I consider that the main issues for consideration are:
  - **Impact on the Metropolitan Green Belt**
  - Impact on the character of the area and Area of Outstanding Natural Beauty
  - Impact on residential amenity

### **Impact on the Metropolitan Green Belt**

- 22 The application site itself is located within the Metropolitan Green Belt.
- 23 Condition 6 was imposed on the decision to ensure ongoing controls over the openness of the Green Belt. By removing this condition, the development would allow for the erection of fencing on the site within the red line without planning permission, which is allowed through The Town and Country (General Permitted

Development) Order, subject to certain conditions. I note that, as a general point, a site's location within Green Belt does not have any implications for permitted development rights (i.e. it does not provide any generalised restrictions).

- 24 Although removing this condition would allow the erection of fencing without planning permission, it is noted that the 'red line' application boundary for the approved scheme is tightly drawn around the sand school and the access to the development and therefore, by removing the restrictions, it would allow the applicant to erect the necessary fencing within this land included within the red line. If this condition was not removed, while there would be the opportunity for the applicant to seek planning permission for the required fencing, the applicant's submission indicates that they would be forced to erect fencing (without the need for planning permission) at a distance of 1.5 metres or more from the edge of the sand school. This would result in fencing being erected further away from the approved scheme, and would result in a greater spread of development, which would be harmful to the openness of the Green Belt.
- 25 By removing this condition, any fencing erected would be in close proximity to the approved scheme and would reduce the spread of development within this location. This would hold weight when assessed against Green Belt policy and would be deemed a material consideration and a fall-back.
- 26 Therefore, the removal of this condition would facilitate a more contained area of development and, as such, would result in a development less harmful to the openness of the Green Belt. Given the specific circumstances of this case in relation to the fall-back position, removal of the condition is deemed acceptable in accordance with the relevant local and national policies.

#### **Impact on the character of the area and Area of Outstanding Natural Beauty**

- 27 The approved sand school is located within an area comprising an open field. Currently and as noted, due to this condition being imposed, fencing can still be erected without planning permission, but at a greater distance from the approved scheme. Therefore, the removal of this condition would allow for fencing to be erected closer to the sand school area and not result in a spread of development any further than the approved sand school. This would maintain the views through the site to the wider landscape.
- 28 In addition to this, fencing surrounding a sand school is a common feature, which is usually included with the erection of a sand school, in particular post and rail. By removing this condition would still enable some restrictions to the height through The Town and Country (General Permitted Development) Order (as amended).
- 29 Given the characteristic nature of the proposed development, and taking into account the fall-back position, the removal of this condition would not harm the rural character of the area and would continue to conserve and enhance the Area of Outstanding Natural Beauty. It therefore complies with Policies EN1 and EN5 of the ADMP.

### **Impact on residential amenity**

- 30 The removal of the condition would allow the erection of fencing on the site without planning permission. There is a significant distance between the development and neighbouring properties. Therefore, the development would not impact the residential amenity of neighbouring properties. The removal of the condition would comply with Policy EN2 of the ADMP.

### **Other Issues**

- 31 KCC Highways were consulted on the scheme and raised no objection, subject to any proposed fencing not exceeding 1.05 metres in height and respecting the existing visibility splays. The General Permitted Development Order would, in this regard, impose restrictions on the height of fencing adjacent to a highway.
- 32 The site is located within an Area of Archaeological Potential, Biodiversity Opportunity Area and is in the vicinity of an Ancient Woodland and an SSSI. The development would not extend any closer to the Ancient Woodland and SSSI. Due to the extent of the fencing, there are minimal concerns in relation to the impact on the biodiversity and archaeology on the site. KCC Ecology also raised no objection.

### **Community Infrastructure Levy (CIL)**

- 33 This proposal is not CIL liable.

### **Conclusion**

- 34 I recommend the removal of Condition 6. All other conditions are re-attached, with revisions made where details have already been approved to the earlier planning permission. The commencement date remains the same as that of the original planning permission, as required under legislation.

### **Recommendation**

- 35 It is therefore recommended that this application is granted.

Contact Officer: Louise Cane

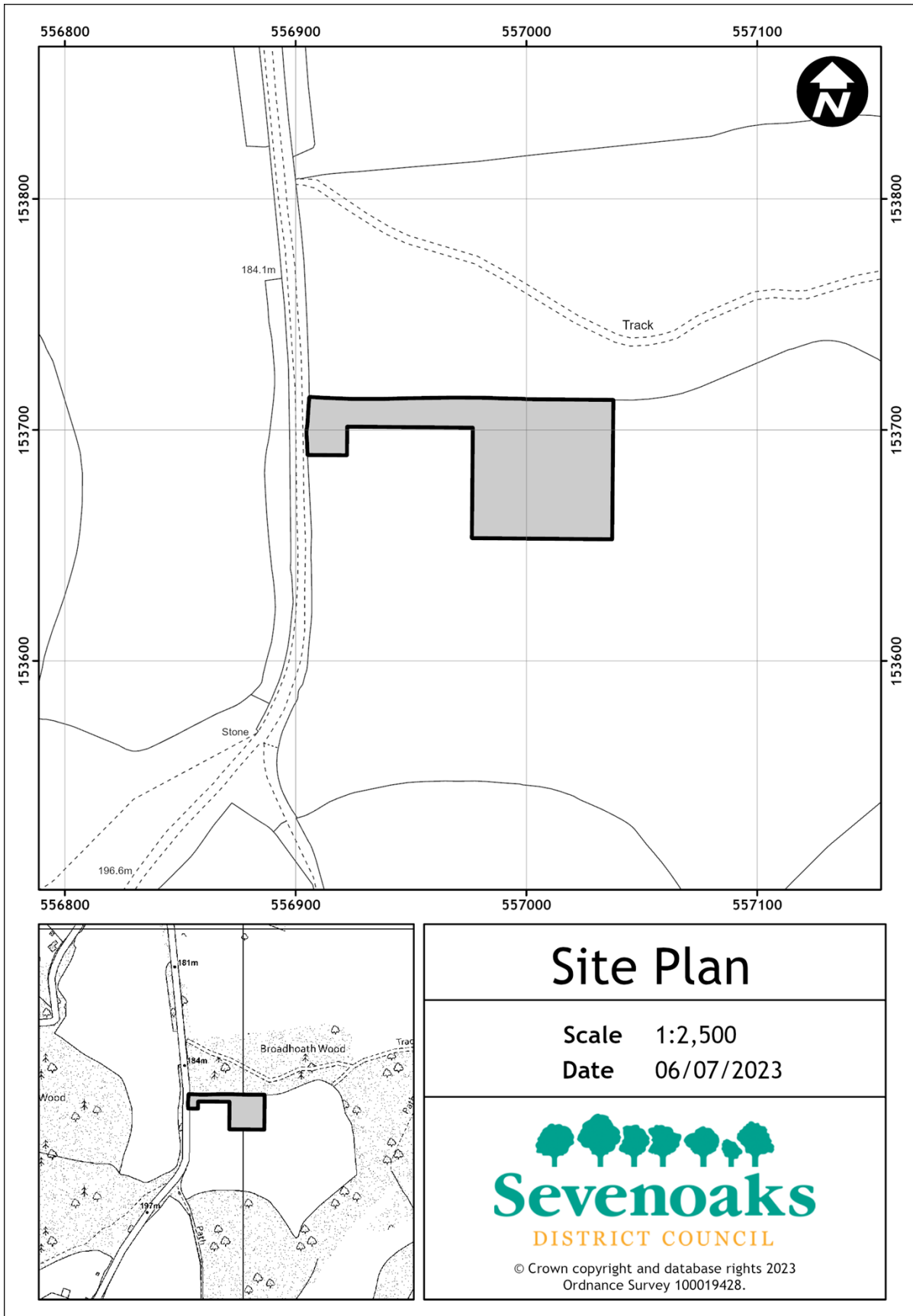
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**Richard Morris**  
**Chief Planning Officer**

[Link to application details:](#)

[Link to associated documents:](#)





# Site Plan

Scale 1:2,500  
Date 06/07/2023



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Ordnance Survey 100019428.

LOCATION PLAN FROM APPLICATION 21/00106/FUL

