

4.3 - 23/01891/FUL

Revised expiry date 29 September 2023

Proposal:

Erection of a stable barn containing 4 foaling boxes, stocks, tack room and hay store.

Location:

Land At Robinsons Nursery, Goldsel Road, Swanley Kent

Ward(s):

Crockenhill & Well Hill

### Item for decision

Councillor Waterton has called the application to committee on the grounds that the proposals have addressed the reasons for refusal of the last application and appeal.

**RECOMMENDATION:** That planning permission be **REFUSED** for the following reasons:

The proposed development by way of inappropriateness and a loss of openness would result in harm to the Green Belt, this harm in accordance with the National Planning Policy Framework must be afforded substantial weight. The case of very special circumstances, whilst afforded significant weight does not clearly outweigh the substantial harm identified. The development is therefore contrary to paragraph 149 of the NPPF, policies LO1 and LO8 of the Sevenoaks Core Strategy and LT2 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 a long and narrow parcel of land to the south eastern side of Goldsel Road, the site is situated at a lower level than the road and is visually more closely linked to the agricultural fields that extend to the south. The site, which comprises a mobile home and associated domestic paraphernalia, a former stable building – now used for kennels – and a fenced off area for the keeping of horses, is located within the Metropolitan Green Belt and between the settlement confines of Swanley and Crockenhill.

### Description of proposal

- 2 Permission is sought for the construction of a stable with four foaling boxes, tack room and a hay and feed store. The planning statement outlines how the stables would be used for foaling, weaning, isolating and treating horses as a part of a horse breeding and trading business.

- 3 This application follows a refusal of planning permission under application 21/01756/FUL for a similar development on the basis the very special circumstances did not clearly outweigh the harm to the Green Belt. This was subsequently appealed where it was dismissed.
- 4 The current application differs to the previous only on the basis that the proposed stable block is marginally smaller than the previous proposal, additional information for the case for very special circumstances has also been submitted.

### Relevant planning history

- 5 16/032/46/FUL - Planning permission was granted on 18<sup>th</sup> January 2017 for the permanent siting of a mobile home on the site. The permission was personal to the applicants and a condition of the permission required the site only to be occupied by those who meet the definition of Gypsies and Travellers.
- 6 21/01756/FUL - Construction of a stable block and an associated path. Refused (appeal dismissed - APP/G2245/W/21/3287673).

### Policies

- 7 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; 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.

- 8 Footnote 7 (see reference above) relates to policies including SSSIs, Green Belt, AONBs, designated heritage assets and locations at risk of flooding.

- 9 Core Strategy (CS)

- SP1 Design of New Development and Conservation
- LO1 Distribution of Development
- L08 The Countryside and Rural Economy

- 10 Allocations and Development Management (ADMP)

- EN1 Design Principles
- EN2 Amenity Protection
- LT2 Equestrian Development
- T1 Mitigating Travel Impact

- T2 Vehicle Parking

11 Other

- Development in the Green Belt SPD
- Sevenoaks Landscape Character Assessment (2017)

### Constraints

12 The following constraints apply:

- Metropolitan Green Belt

### Consultations

13 Crockenhill Parish Council:

Support – We are supportive of the application, on the basis that a clause is added to ensure that permission is restricted to agricultural/equine use.

14 KCC Highways: No objection.

15 KCC Public Rights of Way: No objections.

### Representations

16 None received.

### Chief Planning Officer's appraisal

17 The main planning considerations are:

- Principle of development in the Green Belt
- Impact on the character of the area
- Impact on neighbouring amenity
- Assessment of very special circumstances

### Principle of development in the Green Belt

18 Planning legislation states that applications must be determined in accordance with the local authority's development plan unless material considerations indicate otherwise. The Council's Development Plan includes the Core Strategy (2011) and the Allocations and Development Management Plan (ADMP) 2015.

19 The application site is located off Goldsel Road and within the green belt and countryside. It lies in-between the settlement confines of Swanley to the north east and Crockenhill to the southwest. Policy LO1 of the Sevenoaks Core Strategy 2011 sets out the distribution of development in the district, stating that: "development will be focussed within the built confines of existing settlements". As a matter of fact, the application site does not lie within any existing settlements and is clearly contrary to this policy. Policy LO1 goes onto to state that "in other locations priority will be given to protecting the rural character of the District. Development will only take place where it is compatible with policies for protecting the Green Belt..." Moreover, policy LO8 of

the Sevenoaks Core Strategy which covers matters of the countryside and rural economy outlines how the extent of the Green Belt must be maintained.

20 Paragraph 149b of the NPPF allows for the provision of appropriate facilities (in connection with the existing use of the land or a change of use) for outdoor sport, outdoor recreation, cemeteries and burial ground and allotments as long as the facilities preserve the openness of the Green Belt and do not conflict with the purposes of including land within it. Paragraph 147 outlines how where development is found to be inappropriate in the Green Belt, it is by definition harmful and should not be approved except in very special circumstances.

21 In addition, policy LT2 of the Allocations and Development Management Plan states:

“Proposals for equestrian buildings, facilities and activities which would meet the following criteria will be permitted.

a) buildings would be appropriate in scale to their setting and would be closely related to existing farm buildings or other groups of buildings that are well screened from public view;

b) for proposals that involve new facilities for the keeping of horses, sufficient grazing land and off road riding areas would be available and would not harm the amenities of surrounding residents;

c) the proposal would not have an unacceptable impact on the water environment and sewage disposal, and

d) the development would not result in harm to the character of the landscape or the ecological value of the area in which it is situated.

Proposals for equestrian development in the Green Belt will be permitted where the scale of the development is appropriate to a Green Belt setting and where the cumulative impact of other buildings does not harm the openness of the Green Belt.

Where stables or associated equestrian buildings are proposed they should be designed and constructed in materials appropriate to a rural area and should not be of a size and degree of permanence that they could be adapted for other use in the future”.

#### Assessment against policy and impact on openness

22 Part a) of policy LT2 confirms that buildings for equestrian development would be potentially acceptable as long as they are of an acceptable scale to their setting and would be related to existing buildings on the site. There are currently no buildings on the application site, in which the stable will be related to. The existing mobile home does not meet the definition of a building under the Town and Country Planning Act 1990, plus the conditions of its permission (16/032/46/FUL) require it to be removed and the use of the land for that purpose cease if/when the applicants vacate the site. This condition was imposed to protect the openness of the Green Belt.

23 This matter was reviewed under the recent appeal decision for the site (ref: APP/G2245/W/21/3287673) in which the inspector determined the appeal on the basis that the development was for commercial equine use. Given the commercial/business use is the reasoning behind the need, as outlined in the case for very special circumstances, paragraphs 6 & 7 of the appeal decision are still considered relevant:

“Given my findings in respect of the intended nature of the proposed development it cannot be considered to be an appropriate facility in connection with the change of use for outdoor sport or outdoor recreation. As a result, Policy LT2 of the Sevenoaks Allocations and Development Management Plan 2015, is not relevant in the determination of this appeal, as it specifically relates to equestrian development, where horse and other equestrian related activities are described as popular forms of recreation.

Nonetheless, it was common ground between the main parties at the Hearing that the proposal would not fall within any of the list of exceptions set out in paragraph 149, and I have no substantive reason to disagree. It would therefore be regarded as inappropriate development that is, by definition, harmful to the Green Belt and in conflict with the Framework”.

24 The planning statement for the current application highlights the commercial uses once more and therefore the development is not intended for recreational use and would not meet the criteria of policy LT2 or paragraph 149(b).

25 The proposed stable is approximately 160sqm in footprint, which is a 10% reduction compared to the 176sqm of the previous application. It would include a pitched roof rising to a maximum height of just under 3.7m. Whilst this is a reduction on the refused application, it is still a very large building in terms of scale and bulk and would result in harm to the openness of the Green Belt.

26 The National Planning Practice Guidance (Paragraph: 001 Reference ID: 64-001-20190722 - Revision date: 22 07 2019) sets out some of the factors that can be taken account of when assessing the potential impact of development on the openness of the Green Belt:

“By way of example, the courts have identified a number of matters which may need to be taken into account in making this assessment. These include, but are not limited to:

1. openness is capable of having both spatial and visual aspects – in other words, the visual impact of the proposal may be relevant, as could its volume;
2. the duration of the development, and its remediability – taking into account any provisions to return land to its original state or to an equivalent (or improved) state of openness; and
3. the degree of activity likely to be generated, such as traffic generation”.

27 The application site is located at a much lower level than Goldsel Road. However, the area to the southern eastern side of Goldsel Road, which the application site is part of, predominantly comprises open fields and agricultural land. In terms of a spatial impact to the openness of the Green Belt, the inspector within the previous appeal concluded that: “the footprint and volume of the proposed development would give rise to a spatial loss of openness on the site as it results in development where there was previously none”. They also acknowledged that whilst the site may have formerly been a horticultural nursery with some buildings, as that use has ceased and the buildings have been removed they do not lessen the harm to the openness from the proposed development.

28 As for visual impact, the application site due to the aforementioned level change from Goldsel Road and the presence of screening means the development would have limited visibility from this area. However, it would be more visible from the public footpaths (SD186 & SD187) to the south and would in turn reduce the openness of the Green Belt from this perspective.

- 29 With regard to points 2 & 3, the stables would have a permanent impact upon the openness of the Green Belt as the land cannot be readily reverted to its previous condition. As for traffic generation, it is noted that the siting of the stables on may reduce the number of vehicular trips for the owner, however given the business use it is not clear whether there will be an increase in visitors in relation to the trading of horses. Overall, the development could have a further impact on the openness of the Green Belt in terms of points 2 & 3 of the PPG guidance above.

### Summary

- 30 Paragraph 148 of the NPPF advises substantial weight should be given to any harm to the Green Belt. Very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness and any other harm, is clearly outweighed by other considerations. Therefore, the harm in principal to the Green Belt remains even if there is no further harm to openness because of the development.
- 31 Harm has been found by way of inappropriateness, which must be afforded substantial weight, there is also harm by way of loss of openness. The applicant has made a claim for very special circumstances which is considered in more detail later in this report.

### **Design and impact on the character of the area**

- 32 Policy SP1 of the Core Strategy and Policy EN1 of the ADMP state that all new development should be designed to a high quality and should respond to and respect the character of the area in which it is situated.
- 33 The proposed stable, by virtue of the change in level of the site from Goldsel Road and the presence of screening, would preserve the street scene and general character of this area between the settlements of Swanley and Crockenhill. The stable would consist of four foaling boxes, tack room, hay and feed store and a stock room. The scale of the building is, it would preserve the character of the area – notwithstanding the impact upon the Openness of the Green Belt. The proposed materials would also respect the character of the area and would be acceptable in this location.
- 34 The proposal would therefore comply with Policy EN1 of the ADMP and SP1 of the Core Strategy

### **Neighbouring Amenity**

- 35 Policy EN2 of the ADMP requires proposals to provide adequate residential amenities for existing and future occupiers of the development.
- 36 The application site and area of development is located at a significant distance from the nearest neighbouring property and would therefore preserve amenity in terms of noise, smells and privacy. Therefore, the proposal complies with Policy EN2 of the ADMP.

### **Assessment of any Very Special Circumstances**

- 37 The harm in this case has been identified as harm by way of inappropriate development in the Green Belt. There is also harm by way of loss of openness. Any harm to the Green Belt must be afforded substantial weight in accordance with paragraph 148 of the NPPF. The NPPF advises very special circumstances exist where the harm is clearly outweighed by other consideration (including benefits).

38 Possible very special circumstances can be summarised as:

- The requirement of the proposed development for the business
- Comparison to other development - polytunnels

#### **Assessment of very special circumstances:**

39 Following the refusal of the previous planning application and the subsequent appeal further information has been provided with the intention of following the gaps which the inspector highlighted. These include, financial data (sensitive), details of injuries, details of horse deaths and injuries, further letters of support.

40 It is understood that the applicants have between 30 and 40 horses across multiple locations, both owned and rented land. There are a few on kept at the application site. The business operation relates to the breeding and trading of horses, some trading includes international. The crux of the case for very special circumstances is that there is a lack of suitable indoor facilities for the foaling, weaning, isolation and treatment of their horses. Additionally, there is a need to have these facilities on site as the animals can require 24/7 supervision and care. This is supported by a letter from the applicant's vet confirming that mares tend to foal in the early hours of the morning, hence the requirement for foaling stables on site. Moreover, the lack of shelter and facilities (on any of the sites) has resulted in fatalities of foals and mares, a list of horse fatalities in recent years has been provided, some of these are a result of pneumonia from foaling outside in the cold.

41 I acknowledge the significant benefit to the business the erection of a stable on site would bring, and having accounted for the additional information provided I would afford this significant weight.

42 The planning statement argues that the impact on the openness of the Green Belt is mitigated by the siting of polytunnels to the south. This is afforded very limited weight as polytunnels are for agriculture which as outlined in the NPPF is appropriate development in the Green Belt. The existence of polytunnels does not override the proposed equestrian development, as it still remains inappropriate development in the green belt, regardless of whether or not they are screened by polytunnels.

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

43 This proposal is not CIL liable.

#### **Conclusions**

44 The proposed development by way of inappropriateness and a loss of openness would result in harm to the Green Belt, this harm in accordance with the National Planning Policy Framework must be afforded substantial weight. The case of very special circumstances, whilst afforded significant weight does not clearly outweigh the substantial harm identified. The development is therefore contrary to paragraph 149 of the NPPF, policies LO1 and LO8 of the Sevenoaks Core Strategy and LT2 of the Sevenoaks Allocations and Development Management Plan.

#### **Recommendation**

45 It is therefore recommended that this application is refused

**Background papers**

46 Site and block plan

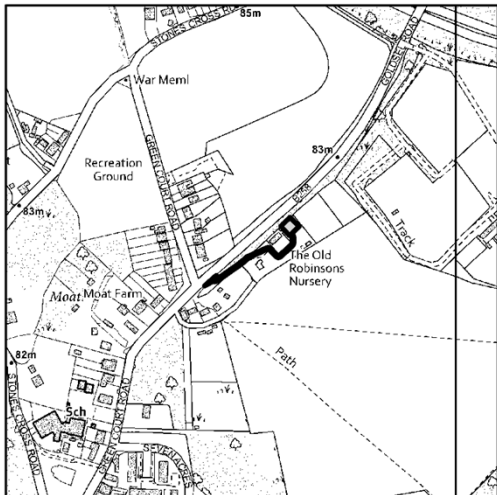
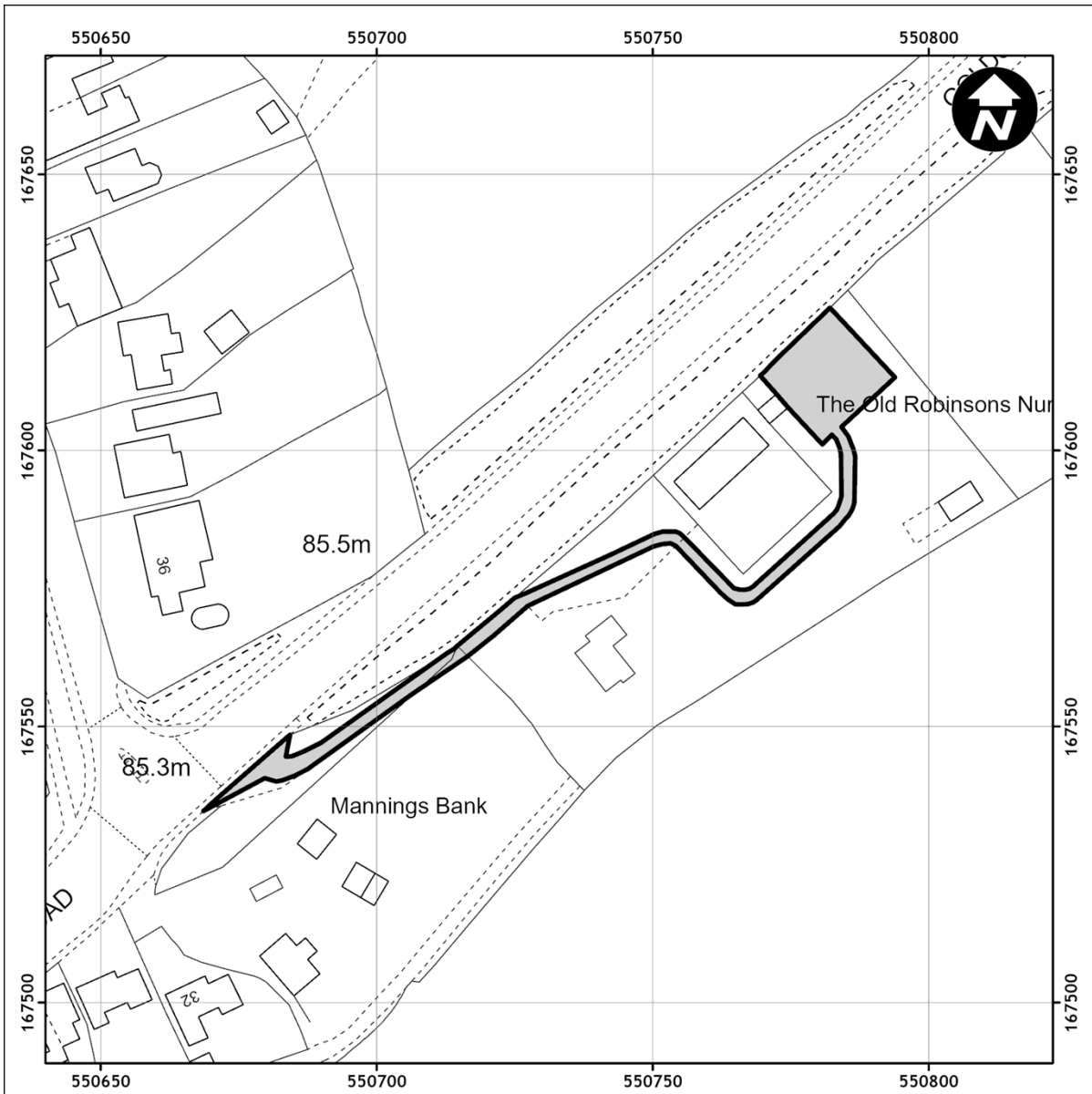
Contact Officer(s) Ashley Bidwell 01732 227000

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

[Link to application details:](#)

[Link to associated documents:](#)





# Site Plan

Scale 1:1,250

Date 01/09/2023



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Ordnance Survey AC0000822250

BLOCK PLAN

