

SITE PLAN ATTACHED

06. APPLETREE FARM THORNDON PARK WARLEY ESSEX CM13 3RJ

REMOVAL OF CONDITION 4 (STABLES NOT TO BE USED FOR LIVERY OR COMMERCIAL STABLING PURPOSES) OF APPLICATION 95/00242/FUL (DEMOLITION OF EXISTING BUILDING AND ERECTION OF NEW BUILDING CONTAINING FIVE STABLES, TACK ROOM AND HAY STORE.)

APPLICATION NO: 14/01357/FUL

WARD	Warley	8/13 WEEK DATE	07.01.2015
PARISH		POLICIES	C5 NPPF NPPG C14 C16 C8 GB1 GB2
CASE OFFICER	Ms Sukhi Dhadwar		01277 312604
Drawing no(s) relevant to this decision:	STATEMENT IN SUPPORT ; 1213/1A ; EMAIL DATED 15/10/15 ; EMAIL DATED 9/7/15 ; EMAIL DATED 6/7/15 ; EMAIL DATED 30/6/15 ; EMAIL DATED 26/6/15 ; EMAIL DATED 25/6/2015 ; EMAIL DATED 17/6/15 ;		

This application was referred by Cllr Tee for consideration by the Committee. The reason(s) are as follows:

Approval will conflict with our policy CP1 and NPPG and NPPF. Commercialisation of this site would affect badly two residents. Also the character and solitude of the Petre Chapel and Thorndon Country Park.

1. Proposals

Planning permission is sought for the removal of condition 4 of planning permission reference 95/00242/FUL, to allow the site to be used for a commercial livery of horses.

Condition 4 states:-

"The proposed stables shall not be used for any livery or commercial stabling purposes.

Reason: In the interests of the character of the Metropolitan Green Belt."

Planning permission was granted in May 1995 for the erection of a new building containing five stables, a tack room and hay store. Conditions attached to that permission included that the use of the stables be restricted for the sole benefit of the applicant (condition 5) and that the stables not be used for livery or commercial purposes (condition 4).

The application is accompanied by a planning statement in support of the application which sets out that:

Condition 4 has been breached continuously since 1997, and implies that the use is therefore lawful as the breach is immune from enforcement action

Although the use is now advertised (whereas previously customers were obtained by word of mouth) the nature of the use has not changed;

The use generates little traffic or disturbance

There is no probability that they (the stables) would ever be used for private stabling given their location and the fact that there is no dwelling nearby likely to require such a facility

The effect of the stables on the Green Belt will be much the same whether they are privately or commercial livery

The service offered by the stables helps horse owners to enjoy horse riding in the countryside and therefore meets the purposes of paragraph 81 of the National Planning Policy Framework (NPPF)

The use falls within the list of exceptions of uses classed as not inappropriate as set out in paragraph 90 of the NPPF and does not conflict with the purposes of including land within it.

Further information provided by the applicants agent states that the yard is for full livery, providing a maximum of 7 commercial liveries, 2 private owners liveries, and houses two retired ponies belonging to the owner (11 horses in total).

The site is run by the owners daughter who is solely responsible for the running, maintenance, and security of the site. There are no formal opening hours. The full livery service is generally only Monday to Friday and liveries tend their own horses at weekends. It is not a riding school open to the public but a privately run yard.

There is no hacking out from the site and there is no intention to introduce it.

The site is said to measure 3000 sq m and comprises a stable yard, a ménage, and an 'L' shaped building housing 5 stables, a tack room and hay store. It is set within Thorndon Park (North) and surrounded by woodland, and for the most part is very secluded.

Access to the site is from the private road leading from the public car park just north west of the stable building.

This part of Thorndon Park is within the Thorndon Country Park Conservation Area, and a Special Landscape Area, and is also within the Metropolitan Green Belt.

2. Policy Context

The National Planning Policy Framework (NPPF) 2012 is the overarching government planning policy: Paragraph 14 of the NPPF sets out that there is a presumption in favour of sustainable development; in decision making, this means approving proposals that accord with the development plan without delay, unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefit or; specific policies within the Framework indicate that development should be restricted.

Chapter 9 of the Framework sets out the policy criteria for protecting the Green Belt; the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belt are their openness and their permanence.

The National Planning Practice Guidance (NPPG) was published by the Government on 6 March 2014. The Guidance supports the National Planning Policy Framework and provides users of the planning system with a specific body of advice and reference. All decisions upon planning applications must now have regard to NPPG as a material consideration.

The development plan is the Brentwood Replacement Local Plan adopted in 2005.

Local Plan Policy CP1 (General Development Criteria) requires that development should

- (i) Not harm character and appearance of an area;
- (ii) Not harm neighbouring residential amenity;
- (iii) Be of an acceptable design;
- (iv) Raise no significant parking or highway issues; and
- (v) Not give rise to pollution

Relevant Green Belt policies are:

Local Plan Policy GB1 (New Development); planning permission will not be given except in very special circumstances, for the extension of buildings, for purposes other than those appropriate to a Green Belt.

Local Plan Policy GB2 (Development Criteria); development should not conflict with the purposes of including land within the Green Belt, nor should it harm openness. Consideration will also be given of the effect on public rights of way; the impact on existing landscape features and whether it is satisfactorily located in respect of the surrounding landscape and any adjoining buildings.

3. Relevant History

- 13/00088/FUL: Formation of manege and erection of associated fencing and gate -Application Permitted

- 13/00501/FUL: New dwelling house -Application Refused

4. Neighbour Responses

Letters were sent to occupants of adjoining and nearby properties. A site notice was also displayed. At the time of the writing of this report 2 responses had been received. The issues raised are as follows: -

The proposal is within a special landscape area.

The proposal is in close proximity to the Petre Chapel Listed Grade II* and adjacent to Orchard House and Garden Wall listed Grade II.

Additional lighting required to facilitate the use.

The manege approved under 13/00088/FUL has no permission for hard standing.

This is in breach of condition 4.

The commercial use has not continued for continuous period of ten years or more.

Over development of the site.

5. Consultation Responses

- **Environmental Health & Enforcement Manager:**

No objections.

- **Highway Authority:**

the proposal site does not abut the highway, we would therefore have no comment to make.

- **Historic Buildings And Conservation Officer:**

Having conducted a site visit I raise objection to the removal of Condition 4 at the present time. Unfortunately there is little supporting information within this submission which justifies how the proposal to removal the Condition will enhance or preserve the Conservation Area.

Stabling within the Thorndon Park Conservation Area is not objected to, however commercial purposes in this sensitive location must be fully justified in order to protect and preserve the character and appearance of the Heritage Asset. In this respect I defer to the Arboricultural Officer and Highways for further discussion.

- **Essex County Council:**

The issues the change of use may have include:-

- o Access in and out of the property is not currently suitable for large horseboxes and delivery lorries. The entrance road isn't wide enough to allow these vehicles to turn in and out of the site. The verge of the SSSI has already sustained damage in recent months due to large lorries turning in and unloading.

o The park has had issues in the past when there were pony trekking groups previously operating from the farm in large numbers not staying to the designated routes when the property was a stables before.

o Some visitors have raised concerns about the number of horses grazing such a small area of land.

- **Arboriculturalist:**

Given the extent of personnel that may be attracted to livery stables and the pressure for vehicle space/traffic pressure on unpaved areas such a development would have a damaging effect on the numerous veteran/protected trees within this conservation area, the increased through flow of people can also present a threat to the woodland ecosystem.

There is no indication that the planting requirements of condition 2 of 95/00242/FUL have been complied with.

- **Historic England:**

No comment

- **Environment Agency:**

No comment.

- **Natural England:**

Natural England is a non-departmental public body. Our statutory purpose is to ensure that the natural environment is conserved, enhanced, and managed for the benefit of present and future generations, thereby contributing to sustainable development.

Natural England currently has no comment to make on the removal of condition 4.

6. **Summary of Issues**

Site and surroundings.

Apple Tree Farm is located within Thorndon Country Park North. The site lies within the Green Belt, a Special Landscape Area and the Thorndon Country Park Conservation Area. It is in close proximity to 3 areas designated as Sites of Special Scientific Interest. (SSSIs).

The application site comprises a building housing five stables, a tack room and hay store and is located towards the southern boundary of the site. It is constructed of black painted feather edge timber. At the time of the officer site visit, two horse boxes on runners were present.

Background

Planning permission was granted under reference 95/00242/FUL for the demolition of the existing building and erection of a new building containing 5 stables, tack room and hay store. Permission was granted at that time on the basis that it replaced an existing dilapidated cow shed, was personal to the applicant, would be well screened by new planting and would only be used for domestic purposes.

Condition 4 of this permission required that the stables be used for domestic purposes only and condition 5 required that it be personal to the applicant.

A subsequent application under 96/00152/FUL granted planning permission for the continued use of the building containing 5 stables, tack room and hay store without complying with condition 5 of planning permission 95/00242/FUL. This approval removed the requirement that the permission only be personal to the applicants.

Under reference 13/00088/FUL planning permission was granted for the formation of a manege and erection of associated fencing and gate within the site. Condition 5 of that permission states :

"The manege hereby approved shall be solely used for the keeping and exercising of horses for private recreational purposes and at no time shall the manege be used for any commercial purposes whatsoever, including a riding school or livery stables.

Reason: In the interests of amenity, highway safety and to ensure that the development conforms with the Council's Policies for the control of development in the Green Belt".

Local sources claim and further investigations by the Council's enforcement officer have established that the ménage granted permission under reference 13/00088/FUL is being advertised as part of the commercial activity being run from the site, in breach of condition 5 of that permission. At the time of writing this report the web site associated with the site was also advertising other commercial activity, that being the selling of 'woodchip' bedding for horses and stating that either a collection or delivery service.

The applicant seeks permission to retain the use of the site as a commercial, livery yard. The most relevant definition of a full livery in this case is one which provides a horse owner with a stable in which to keep their horse and a field in which to turn their horse out during the day, it also includes bedding, hay and feed. Livery yard staff are responsible for all care including mucking out, turning out the horse to the field and bringing the horse in from the field and feeding of the horse on a daily basis.

The applicant's agent has stated that the use will not include the provision of riding lessons to the public or a 'hacking out' service.

Main Issues:

The key issues considered relevant to the determination of this application are:

Green Belt

Effect on the character and appearance of the Thorndon Park Conservation Area.

Effect on the setting of the Petre Chapel Grade II* listed and Grade II garden wall at Orchard House.

Effect on neighbouring residential amenity

Highway issues

Green Belt:

Planning permission was granted for the operational development i.e. the physical buildings within the site, and the Council also considered that the location be acceptable for stabling of horses. Furthermore, subsequent applications approved the formation and use of a manege as acceptable in the Green Belt, albeit restricting the use to those who do not pay for its use.

As part of the assessment of the commercial livery use, it is therefore necessary to consider the reason for the original condition restricting the use of the yard to non-commercial and also whether the commercial use would be any more harmful to the character and openness of the Green Belt.

The commercial use of the existing livery stables is considered to fall within one of the exceptions to inappropriate development as set out in paragraph 89 of the NPPF and furthermore, would not have any further impact on the openness of the Green Belt then if it be used solely by the applicant. Local Plan policies GB1 and GB2 are broadly in compliance with the aims and objectives of national Green Belt policy and as such would also see the development as not inappropriate development. Local Plan GB2 states that development should not have any greater effect on public rights of way, and it is considered the use would not conflict with this criteria.

Local Policy GB25 (Riding Schools and Livery Stables) is considered not to be consistent with the National Planning Policy Framework and therefore little or no weight is afforded to the requirements of this policy.

In terms of the effect of the commercial use of the stables on the character of the Green Belt, the applicant states in his submission that there would be no greater intensification of use of the site then if used solely by the applicant, his friends and associates. The number of horses stabled on the site is limited because the stable building could not be extended without express permission from the local planning authority. Officers concur with this view and furthermore, by formally granting planning permission for this use it would enable the Council to impose restrictions

on the number of horses being stabled at the site and restrict the storage of horse boxes on site.

On this basis it is considered that the use of the yard as a commercial livery would not have any greater effect on the character or openness of the Green Belt than the use granted under the original permission.

The Council has also been made aware that the manege is being advertised for use along with the commercial livery. Officers consider it unlikely that the manege would be used by members of the public who are not already stabling their horses at the site, there being little opportunity for 'passing' trade, and even if this were to be the case, the impact on the openness of the Green Belt would be negligible, since only a small number of horses could be facilitated in the manege at any one time.

In conclusion, the use is not considered to conflict with the fundamental aim of the Green Belts or any of the 5 purposes of including land within the Green Belt and therefore, in principle, is considered acceptable subject to it satisfying other criteria.

Impact on the character and appearance of the Thorndon Park Conservation Area. The site is centrally located with the expansive area of Thorndon Country Park, a mature landscape containing a diverse mixture of habitats.

S72(1) of the Planning and Listed Building and Conservation Areas Act 1990 states that special attention should be paid to the desirability of preserving or enhancing the character or appearance of the Conservation Area.

Paragraph 131 of the NPPF requires that when determining applications local planning authorities should take account of the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation.

Where the proposal will lead to less than substantial harm to the significance of the designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use.

The heritage asset is the Conservation Area. Any harm would be assessed as that activity arising out of the use of the site, specifically the comings and goings to the site.

The Highway Authority indicate that there will not be a significant increase in traffic as compared with the domestic use of the site.

Comments from Essex County Council's Parks suggest that access in and out of the property is not suitable for large horse boxes and delivery lorries, as the entrance road is not wide enough to allow these vehicles in and out of the site. They state that the verges have already sustained damage in recent months due the large lorries turning and unloading but have produced no evidence to suggest that this is occurring from the use of the stables.

The applicant's agent has advised that any pony trekking or hacking out activities have now ceased.

If approval is granted it is considered that the site be restricted the use as commercial livery only and to restrict the weight and size of lorries to the site.

Hay is brought in from outside the site and a Park Ranger working in Thorndon Park has verbally informed officers that lorries which deliver the hay deliver to the car park owned by Essex County Council and then staff remove the hay from the lorry and carry it to the site.

The applicant's agent claims that the domestic use resulted in between 4 to 5 cars being on the site at the same time and that the use of the site as a commercial livery is not likely to generate more than 6 cars during peak times. The park car park provides ample parking for these vehicles.

Thorndon Country Park is already a well used park, it is therefore considered that the additional traffic that will result from the owners of the horses coming to the site to muck out stables and ride the horses would not be significantly more than if the stables remained in domestic use for friends and family.

The comments from the Conservation Officer are noted however an objection is raised on a perceived lack of information to justify how the use would enhance or preserve the Conservation Area. The use is considered to have a neutral effect on the Conservation Area over and above that which has been approved by the Council, and refusal on this basis would therefore be difficult to substantiate.

It is therefore considered that the effect on the character and appearance of the Thorndon Country Park Conservation Area would not give rise to any harm, in line with Chapter 12 of the NPPF and policies C14 and CP1 (i) of the Brentwood Replacement Local Plan.

Impact on the setting of Petre Chapel Grade II* listed and Grade II garden wall at Orchard House.

S66(1) of the Planning and Listed Building and Conservation Areas Act 1990 requires that the Council should have special regard to the desirability of preserving the Listed Building and its setting or any features of special architectural or historic interest which it possesses.

Paragraph 132 of the NPPF requires that "When considering the impact of a proposal on the significance of the designated heritage asset, great weight should be given to the asset's conservation. The more important the asset, the greater weight should be given to the asset's conservation. Significance can be harmed or lost through (inter-alia) development within its setting. As heritage assets are irreplaceable any harm should require clear and convincing justification.... Substantial harm to a Grade II listed building should be exceptional".

The Conservation Officer has not raised any objections in relation to the proposal's impact upon the listed structures and given their distance, it is considered that there will not be a significant material harm to the setting of the listed chapel and wall in accordance with policy C17 of the Local Plan.

The Historic Chapels Trust have raised concerns that there may be further alterations of the buildings at the stables if this condition were removed leading to clutter and an incremental loss of openness. However, the application relates only to the change of use from domestic stables and livery to commercial stables and livery use. No other additional facilities or structures are proposed. As submitted, it is considered that there will be no further additional activity or structure over and above that which already occurs at the site or than when the site was in solely in domestic use.

Trees

The Tree Officer has raised concerns that the increased activity on the site will damage, destroy or threaten the future survival of trees and other natural features within this site and around the site. An objector has also raised concerns in relation to cars being parked on SSSI land.

There are two very large Oak trees on the site which would be unaffected by horses due to their size.

There is a large ancient Oak Tree which is positioned on SSSI land in the middle of the junction between the access and the park road.

The users of the livery business would continue to park in the public car park. It has not been demonstrated that any damage to trees would be carried out by users of the site explicitly then for example the general public visiting the park. The Highway Authority has stated that there would be no significant change in traffic levels in and around the area as a result of the commercial livery. However, given the comments from the Essex County Council Park's department in relation to verges, and the concerns raised by the Tree Officer, it is recommended that a condition be imposed preventing any lorries above 7.5 tonnes delivering to and from the site.

The original permission under 95/00242/FUL required that trees be planted to screen the use from the park. The agent states that this condition was complied

with in 1996, however the scheme meant planting small bushes under large established trees so hardly any of them took.

Given the time lapsed it would be unreasonable now to insist on reproducing a condition to include further landscaping requirements as no complaints have been received since that time.

Impact on neighbouring residential amenity.

The proposal is sufficiently distant from neighbouring residential properties to ensure that the proposal will not have a material adverse impact on neighbouring amenity in terms of light, outlook or privacy. The proposal therefore accords with the requirements of sub criterion (ii) of policy CP1.

Impact on highway safety.

The Highways Authority has raised no objection in relation to the proposal and its impact on parking and highway safety. The proposal therefore accords with the requirements of criteria (iv) and (v) of the Local Plan.

Other matters.

Flood lighting has not been included as part of this application and a condition is suggested to ensure none are installed in order to preserve the special character of Thorndon Country Park.

Conclusion:

The applicant states that the domestic use was exclusive for only 1 year, and there was a significant amount of activity during that time. No 'certificate of lawfulness' has been granted for the use as a commercial livery stable, however anecdotal evidence suggests that the use has been occurring for a considerable length of time in breach of condition 4.

The use of the stables as a commercial activity would be no more harmful to the openness of the Green Belt and granting permission would allow the Council to impose conditions to restrict the size of vehicles accessing the site, limit the number of horses to be stabled on the site and prevent the storage of horseboxes or other such chattels on site, in order to control the level of intensification in an environmentally sensitive area.

The Park is already a very well visited destination by members of the public by vehicles and there would not be any significant if any increase in traffic to the site by permitting the commercial use.

The use also provides facilities for activities which promote health and well being and subject to conditions, will not harm the character and appearance of the

Thorndon Park Conservation Area; Special interest of the surrounding SSSI; or listed buildings within the vicinity of the site.

It is for these reasons considered to contribute to all three dimensions of sustainable development, and is therefore recommended that permission be granted.

7. Recommendation

The Application be APPROVED subject to the following conditions:-

1 DRA01A Development in accordance with drawings

The development hereby permitted shall not be carried out except in complete accordance with the approved drawing(s) listed above and specifications.

Reason: To ensure that the development is as permitted by the local planning authority and for the avoidance of doubt.

2 U10974

The use hereby permitted shall be limited to the provision of stabling and to turning out and bringing in of horses; including provision of bedding hay and feed; and shall not include the schooling of horses or riding lessons.

Reason: In order to control the intensity of the use so that the purpose, character and appearance of this site within a Special Landscape Area, Green Belt and the Thorndon Country Park Conservation Area is preserved and protected in accordance with CP1, GB1, GB2 C8, and C14.

3 U10975

No horses stabled within the site shall be used for hacking or riding lessons within Thorndon Country Park .

Reason: So that the purpose, character and appearance of this site within a Special Landscape Area, Green Belt and the Thorndon Country Park Conservation Area is preserved and protected in accordance with the NPPF and Brentwood Local Plan Policies CP1, GB1, GB2 C8, and C14.

4 U10976

The number of horses on the site shall not exceed 9 at any time and no more than 7 shall be liveried.

Reason: In order to control the intensity of the use so that the purpose, character and appearance of this site within a Special Landscape Area, Green Belt and the Thorndon Country Park Conservation Area is preserved and protected in accordance with the NPPF and Local Plan Policies CP1, GB1, GB2 C8, and C14.

5 U11004

Notwithstanding the Town and Country Planning Act 1990 or the Town and Country Planning (General Permitted Development) Order 1995 (or any subsequent re-enacting Acts or Orders) no floodlighting or any other form of external lighting shall be provided on the site.

Reason: To safeguard the character and appearance of the area.

6 U11005

Notwithstanding the Town and Country Planning Act 1990 or the Town and Country Planning (General Permitted Development) Order 1995 (or any subsequent re-enacting Acts or Orders) no paving or hard surfacing shall be laid or formed within the site.

Reason: In the interest of the character and appearance of the area.

7 U11227

There shall be no vehicles, trailers or horse boxes stored on the site overnight.

Reason: In order to safeguard and enhance the character and appearance of this site within a Special Landscape Area, Green Belt and Thorndon Country Park Conservation Area in accordance with the NPPF and C5, CP1, GB1, GB2, C8, and C14 of the Brentwood Replacement Plan.

9 U11247

No vehicles over 7 and a half tonnes lorries shall be used for the delivery or despatch of goods to and from the site at any time.

Reason: In order to mitigate against the loss of existing biodiversity and nature habitats in accordance with chapter 11 of the NPPF and sub criterion (viii) of the policy CP1 and C1 of Brentwood Replacement Local Plan..

10U11252

There will be no sale of goods from the application site at any time.

Reason: In order to safeguard and enhance the character and appearance of this site within a Special Landscape Area, Green Belt and Thorndon Country Park Conservation Area in accordance with the NPPF and C5, CP1, GB1, GB2, C8, and C14 of the Brentwood Replacement Plan.

11 U11253

No portable buildings, van bodies, trailers, vehicles or other structures used for storage, shelter, rest or refreshment, shall be stationed on the site without the prior approval in writing of the Local Planning Authority.

Reason: In order to safeguard and enhance the character and appearance of this site within a Special Landscape Area, Green Belt and Thorndon Country Park Conservation Area in accordance with the NPPF and C5, CP1, GB1, GB2, C8, and C14 of the Brentwood Replacement Plan.

Informative(s)

1 INF22

The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern within the application (as originally submitted) and negotiating, with the Applicant, acceptable amendments to the proposal to address those concerns. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal, in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

2 INF05

The following development plan policies contained in the Brentwood Replacement Local Plan 2005 are relevant to this decision: C5, CP1, C8, C14, C16 GB1, GB2, GB28 the National Planning Policy Framework 2012 and NPPG 2014.

3 INF20

The drawing numbers listed above are relevant to this decision

BACKGROUND DOCUMENTS

DECIDED: