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Application No: 21/0964/FH

Location of Site: Land 250 North East of Longage Hill Farm Cottages, Lyminge

Development: Retrospective application for the erection of two timber sheds for agricultural storage and associated hardstanding (re-submission of 20/1799/FH)

Applicant: Mr. K Herbert

Officer Contact: David Campbell

SUMMARY

The report considers an application for retrospective planning permission to retain two timber sheds for agricultural storage along with associated hardstanding. The report considers how the development impacts upon the character of the countryside, Area of Outstanding Natural Beauty and Special Landscape Area, finding that there would be no detrimental impact upon either. It is also considered to be no likely detrimental impact upon the amenity of neighbouring uses or detrimental impact upon the highway. As such it is considered that the proposal accords with the existing and emerging policies of the Development Plan and is consistent with the requirements of the National Planning Policy Framework.

RECOMMENDATION:

That planning permission be granted.

1. INTRODUCTION

1.1. The application is reported to Committee as Lyminge Parish Council have objected on the grounds of visual impact and harm to the AONB.

2. SITE AND SURROUNDINGS

2.1. The application site forms a parcel of land of approximately 1.9Ha located on the northern side of Longage Hill, opposite Longage Farm Cottages. The land in question is bounded by other fields and access from Longage Hill.

2.2. The land is currently in agricultural use and aerial photography shows that at some point between the years of 2015 – 2018 the land was subject to alterations, including the planting of bushes/trees along with the placing of various structures/items. The placement of linear bushes / polytunnels, fruit trees and other horticultural based paraphernalia, together with the keeping of animals were noted during the site visit, forms the basis of a small agricultural holding.

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- 2.3. The supporting information confirms that at the time of submission the applicant has 45 apple trees on site producing some 4 tonnes of fruit per year, 35 pear trees producing 1.5 tonnes of fruit per year, 19 Cobb trees producing 0.25 tonnes per year and 44 cherry trees producing some 2.6 tonnes of cherries per year. He also produces some 7 tonnes of sloes per year and is also growing raspberries and gooseberries.
- 2.4. With regard to livestock on site, the applicant keeps 4 rams, 6 ewes and lambs which he provides with 2kg of hay per head per day plus sheep nuts in the weeks prior to lambing. The applicant also keeps 21 chickens, 20 geese and 14 ducks. The livestock feeding regime requires the applicant to visit the site daily. Per month, he uses some 39 sacks of corn, 16 sacks of sheep nuts and 16 bales of hay, all of which need to be transported to and stored on site in a safe and dry manner. In terms of area, the applicant limits his livestock to the size of his land and works to the RSPCA standards of space provision per animal/bird.
- 2.5. The site is outside of any settlement boundary, within the Area of Outstanding Natural Beauty, Special Landscape Area and an Area of Archaeological Potential.
- 2.6. A site location plan is attached to this report as **Appendix 1**.

3. PROPOSAL

- 3.1 Retrospective planning permission is sought to retain two timber sheds (labelled A and B) as shown on the submitted site location plan as well as hardstanding to the front of the site.
- 3.2 The large timber shed (A) measures approximately 11m x 3.6m and 2.8m to the ridge. This shed includes an overhang, two windows and two doors. The roof is constructed of a dark corrugated metal with black rainwater goods. The large timber shed is used for tool storage, fruit presses and ride on tractor as well as facilities to meet the applicant's specific medical needs. The applicant needs to access all sides of the unit in his wheelchair and is not able to move tools and equipment back and forth to the site on a daily basis. Figure 1 below shows shed A.



Figure 1: Photograph of shed A.

- 3.3 The small timber shed (B) measures approximately 3.6m x 3.6m and 2.8m to the ridge. This shed includes an overhang, three windows and one door. The roof is constructed of a dark corrugated metal with black rainwater goods. To the rear of this shed are rainwater harvesting tanks as shown in the photos submitted by the applicant. The shed is used for the storage of feed, tools and equipment. Both wooden buildings are single storey and can be moved around the site by means of towing eyes left attached to the buildings. Figure 2 below shows shed B.



Figure 2: Photograph of shed B.

- 3.4 A metal container which was part of the previous application has been removed from this resubmission application. It was in place at the time of the site visit but the applicant has informed the LPA this has been sold and will be removed.
- 3.5 Hardstanding is required for vehicular access to the site. The applicant has also stated that the sheds are needed to ensure the security of his equipment at this site too.
- 3.6 The following reports were submitted by the applicant in support of the proposals:

Covering Letter

- 3.7 This document sets out the need for the development and how it assists the applicant manage the site with his disabilities. This includes storage for ride on lawnmowers which have been adapted for his use to enable him to feed and tend to his livestock and fruit trees and carry out other farm related activities on site such as repairs to fencing and ground maintenance.

4. RELEVANT PLANNING HISTORY

- 4.1 The main relevant planning approvals for the main site are as follows:

20/1799/FH Retrospective application for the siting of two timber sheds and one metal container was refused earlier in 2021 for the following reasons:

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1. The proposed metal storage container (container B), by virtue of its poor visual and industrial appearance, would fail to protect the quality of the countryside setting, would fail to conserve and enhance the natural beauty in the AONB and would also fail to protect or enhance the SLA, contrary to local plan policy CSD4 of the Shepway Core Strategy, policies HB1 and NE3 PPLP and the NPPF.
2. The proposed timber sheds (sheds A & C), by virtue of their cumulative visual impact without supporting justification as to their essential need, would result in development that would fail to protect the quality of the countryside setting, would fail to conserve and enhance the natural beauty in the AONB and would also fail to protect or enhance the SLA, contrary to local plan policy CSD3 and CSD4 of the Shepway Core Strategy, policies HB1 and NE3 PPLP and the NPPF.

5. CONSULTATION RESPONSES

5.1 The consultation responses are summarised below.

Consultees

Lyminge Parish Council: Objects for the following reason:

The new evidence supplied by the applicant does nothing to mitigate the visual aspect of this site and the council continue to endorse the original AONB office comments. Permanent buildings such as this are inappropriate for agricultural land in an AONB. The land is one plot in amongst many others and approval would set a precedent.

AONB Unit: Raise no objection making the following comments:

Have no objections to the application based on the receipt of additional information. While the sheds are not visible from publicly accessible land outside of the site, this is not the only test of acceptability within an AONB; the Courts have held that the fact a development is not viewable by the general public does not mean that there is no harm to the intrinsic character. That said, it is accepted that with the removal of the storage container, the remaining two timber sheds have a negligible impact on the special character and qualities of the AONB.

They remain concerned about the domestic paraphernalia that is located within the site, and the general subdivision of this and the surrounding land, and in view of this the potential for a proliferation of such structures across this wider area which would be more harmful to the landscape and scenic beauty of the Kent Downs, they understand and accept that this does not form part of the current application under consideration.

Rural Planning Consultant: Raises no objection making the following comment:

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The sheds are modest in extent and appear necessary and appropriately designed for the stated purposes.

Local Residents Comments

5.2 Five neighbours directly consulted. Seven letters of objection have been received.

5.3 I have read the letters received. The key issues are summarised below:

- This is agricultural land and this is an attempt to use the land for other purposes, which will set an irreversible precedent
- It's located in the Elham Valley AONB and countryside which should be protected and where these structures or hardstanding should not be accepted
- The timber sheds fail to protect the quality of the countryside setting, fail to conserve and enhance the natural beauty in the AONB and fail to protect or enhance the SLA, contrary to local plan policy CSD3 and CSD4 of the Shepway Core Strategy, PPLP policies HB1 and NE3 and the NPPF.
- The activity on the site is already unlawful.
- Was a site notice visibly displayed for the statutory period?
- A right of way for vehicles from the farm gate on Longage Hill to the application site, should be indicated on the location plan.
- Are the sheep that graze on the land adjoining the application the ones mentioned in the letter accompanying the application? If so should this adjoining land be included within the area outlined in red on the location plan?
- As towing eyes have been attached to the timber sheds. Does this mean that the sheds are to be moved from time to time all around the site?
- No mention has yet been made about the mobile home that has been on the site for some considerable time. It also looks likely that the horse trailer with living accommodation will end up the same way.
- To gain access to the site a public footpath has to be crossed which has resulted in the footpath becoming badly rutted from vehicles showing no concern for walkers or the landscape.
- This is a well walked public footpath and the site and all its rubbish scattered around is clearly visible.
- As well as the two timber sheds referred to there are other timber structures on the site - these have not been mentioned.
- The hard standing would blight the landscape and be totally out of keeping with the area of an AONB.
- It must remain for proven agricultural use only - not leisure.
- Previous reasons for refusal have not been overcome.
- The personal circumstances of an applicant do not normally amount to a material planning consideration as permission granted usually applies to the land.

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- There is no essential need that requires the applicant to use this site in the manner outlined and do not amount to very special circumstances that justify the approval of the application.
- The visual clutter created from the use of the site for the purposes identified further harms the amenities and creates visual harm by the proliferation of equipment amounting to an uncontrolled visual eyesore.
- The application amounts to inappropriate development within the countryside without sufficient justification that outweighs the harms caused.
- Insufficient evidence in the form of accounts and/or an agricultural expert's report has been provided to demonstrate that the applicant has a genuinely commercially viable agricultural business on the holding.

CPRE Shepway: Object for the following reasons:.

The CPRE is surprised this application has not been rejected. Reasons for rejection have been set out by AONB unit and the Parish in response to this and previous applications for the site. The proposal is wholly inappropriate to this rural location.

5.5 Responses are available in full on the planning file on the Council's website:

<https://searchplanapps.folkestone-hythe.gov.uk/online-applications/>

6. RELEVANT PLANNING POLICY

6.1 The Development Plan comprises the Places and Policies Local Plan 2020 and the Core Strategy Local Plan 2013.

6.2 The Folkestone & Hythe District Core Strategy Review Submission Draft was submitted to the Secretary of State on 10 March 2020. Inspectors were appointed to examine the plan on 19th March 2020 and public hearings were held from 15th to 18th December 2020, from 5th to 12th January 2021 and from 29th June to 1st July 2021. The Inspectors wrote to the council on 1st July 2021 to state that the Core Strategy Review complies with the duty to cooperate and can be made 'sound' by amendment through main modifications. The Inspectors followed up their initial assessment by letter on 16th July 2021, stating that, subject to main modifications concerning detailed policy wording, they consider that the plan's spatial strategy and overall approach to the district's character areas and settlements is sound. In accordance with National Planning Policy Framework (2021) paragraph 48, the policies in the Core Strategy Review should therefore be afforded significant weight, having regard to the Inspectors' outline of main modifications required.

6.3 The relevant development plan policies are as follows:-

Places and Policies Local Plan 2020

Policy HB1 – Quality Places Through Design

Specifically, Policy HB1 PPLP states amongst other things, that development will be granted where the proposal makes a positive contribution to its location and

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surroundings, enhancing integration while also respecting existing buildings and land uses, particularly with regard to layout, scale, proportions, massing, form, density, materiality and mix of uses so as to ensure all proposals create places of character.

Policy NE1 – Enhancing and Managing Access to the Natural Environment

Policy NE3 – Protecting the District’s Landscapes and Countryside

Policy NE3 refers to protecting the district’s landscapes and countryside and states that the impact of individual proposals and their cumulative effect on the Kent Downs Area of Outstanding Natural Beauty (AONB) and its setting will be carefully assessed. Planning permission will be granted where it can be demonstrated that all the following criteria have been met:

1. The natural beauty and locally distinctive features of the AONB and its setting are conserved and enhanced;
2. Proposals reinforce and respond to, rather than detract from, the distinctive character and special qualities including tranquillity of the AONB. The design scale, setting and materials of new development must be appropriate to the AONB;
3. Either individually or cumulatively, development does not lead to actual or perceived coalescence of settlements or undermine the integrity of the predominantly open and undeveloped, rural character of the AONB and its setting;
4. Development is appropriate to the economic, social and environmental well-being of the area or is desirable for the understanding and enjoyment of the area (where this is consistent with the primary purpose of conserving and enhancing natural beauty); and
5. Development meets the policy aims of the Kent Downs AONB Management Plan and AONB Unit produced supporting design guidance.

With regards to the SLA, proposals should protect or enhance the natural beauty of the Special Landscape Area. The Council will not permit development proposals that are inconsistent with this objective unless the need to secure economic and social wellbeing outweighs the need to protect the SLAs' county-wide landscape significance.

Policy HE1 – Heritage Assets

Policy HE2 – Archaeology

Core Strategy Local Plan (2013)

Policy DSD – Delivering Sustainable Development

Policy SS3 – Place-Shaping and Sustainable Settlements Strategy

Policy CSD3 – Rural and Tourism Development

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Policy CSD4 – Green Infrastructure of Natural Networks, Open Spaces and Recreation

Core Strategy Review Submission draft (2019)

Policy SS3 – Place-Shaping and Sustainable Settlements Strategy

Policy CSD3 – Rural and Tourism Development

Policy CSD4 – Green Infrastructure of Natural Networks, Open Spaces and Recreation

Of the above policies the following are considered to be of particular relevance in this case:

Policy DSD of the Core Strategy refers to sustainable development.

Policy CSD3 refers to rural and tourism development and says that proposals for new development in locations outside of the settlement hierarchy may only be allowed if a rural location is essential this includes agricultural use.

Policy CSD4 seeks in part, to protect the AONB and says that planning decisions will have close regard to the need for conservation and enhancement of natural beauty in the AONB and its setting, which will take priority over other planning considerations.

6.4 The following are also material considerations to the determination of this application.

Government Advice

National Planning Policy Framework (NPPF)

Members should note that the determination must be made in accordance with the Development Plan unless material considerations indicate otherwise. A significant material consideration is the National Planning Policy Framework (NPPF). The NPPF says that less weight should be given to the policies above if they are in conflict with the NPPF. The following sections of the NPPF are relevant to this application:-

Paragraph 11 - Presumption in favour of sustainable development.

Paragraph 47 - Applications for planning permission be determined in accordance with the development plan.

Paragraph 48 – Giving weight to emerging plans.

Paragraph 127 -130 – Achieving well designed places.

Paragraph 174 - Conserving and enhancing the environment

Paragraph 180 - Habitats and biodiversity

Paragraph 194 - Proposals affecting heritage assets

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At a national level, most notably paragraph 176 of the NPPF says that great weight should be given to conserving and enhancing landscape and scenic beauty in National Parks, the Broads and Areas of Outstanding Natural Beauty, which have the highest status of protection in relation to these issues. Paragraph 177 states that in the AONB there should be a need for the development and the extent to which any detrimental effects could be moderated.

7. APPRAISAL

7.1 In light of the above the main issues for consideration are:

- a) Visual Impact / Impact on the AONB & SLA
- b) Amenities of neighbouring occupiers
- c) Impacts upon Grade II* Listed Building (Sibton Park)
- d) Archaeology
- e) Other Matters

a) Visual Impact / Impact on the AONB & SLA

7.2 The site is located outside of any settlement boundary, and is therefore within the open countryside when taking account of local planning policy. The site is also within a Special Landscape Area (SLA) and the Kent Downs Area of Outstanding Natural Beauty (AONB).

7.3 The large timber shed (A), is constructed of materials that would be appropriate and not incongruous within its rural location. It is of a fairly significant size in terms of floorspace generated. However, information submitted by the applicant explaining the need for this shed and how it required for the agricultural use has been assessed by the Council's Rural Planning Consultant who has raised no objections and has concluded that they appear to be necessary for agricultural need purposes.

7.4 The smaller timber shed (B) is fairly modest in size relative to its location within the site and is of a material that is in keeping with the rural setting. At this size and scale it does not appear overly incongruous within the site and its visual appearance, which is generally shielded by existing vegetation. Being sited against the northern boundary, close to scrub and trees where it appears less visually intrusive as a result. As a result it is considered to be acceptable.

7.5 Notwithstanding the above, planning policy CSD3 clearly states that proposals for new development in locations outside the settlement boundary may only be allowed if a rural location is essential. The onus is on the applicant to provide information to support their submission.

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- 7.6 The applicant has provided information setting out their general operations at the site, how the site functions and why the outbuildings are essential to operations taking place within the site. In light of the justification, it is considered that the proposal is justified and meets the terms of CSD3. The lack of objection from the AONB Unit based on the information the applicant has submitted has also been taken into consideration in coming to this conclusion.
- 7.7 Existing vegetation and natural screening conceals the structures from a number of views around the site and that assists in reducing the visual impact on the AONB and SLA. The removal of the metal container from the previous application, which is considered to cause harm and the additional information provided is considered to have overcome the previous reasons for refusal. It is considered that the hardstanding is proposed in a location that would not be visible from outside other than from the field directly in front of the access. As such there are no objections to this element either.
- 7.8 KCC Public Rights of Way have been consulted but have not commented. While the PROW is used to access the site, it is not considered that this obstructs other users of the path or would give rise to harm in this respect. Views from the PROW would be restricted to glimpse views only, and not in any way harmful in terms of visual amenity. As a result it is not considered that the application could be refused on these grounds. It is therefore considered that the proposal complies with national and local policies and would not harm the appearance of the countryside, AONB and SLA and as such there are no objections on these grounds.

b) Impacts upon Grade II* Listed Building (Sibton Park)

- 7.9 It is noted that concerns have been raised about the impacts on the setting of Sibton Part, a Grade II* Listed Building.
- 7.10 The listed building is sited approximately 340m from the nearest structure subject of this application. Whilst it may be possible to see the structures from certain locations within the building/grounds of the listed building, the LPA does not consider that there would be any harm caused on the setting of the listed building given the separation distance involved.
- 7.11 There are therefore no objections on these grounds.

c) Archaeology

- 7.12 The site is within an area of archaeological significance for major applications only and KCC Archaeology were not required to be consulted. It is considered that given the limited nature of the development which included the retention of hardstanding is unlikely to have impacted on any archaeological remains in an area. The retention of the proposal would have no detrimental impact on buried heritage assets in accordance with policy HE2 of the Places and Policies Local Plan.

e) Other matters

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- 7.13 It is noted that concerns have been raised with regards to the site being occupied for residential purposes. A static caravan has been placed upon the land but the caravan does not form part of the application submission. There are certain exceptions under planning law for the temporary stationing of a caravans, although generally they cannot be used for residential purposes without the benefit of formal planning permission. The LPA enforcement team have investigated the caravan and confirmed that no permission is required for its stationing.
- 7.14 The issue of residential occupation within the countryside, now or in the future, is not a matter that can be considered as part of this application as residential use is not being sought by the applicant as part of this submission.
- 7.15 Given the lack of any nearby residential properties residential amenity is not considered to be a material consideration in this instance.

Environmental Impact Assessment

- 7.16 In accordance with the EIA Regulations 2017, this development has been considered in light of Schedules 1& 2 of the Regulations and it is not considered to fall within either category and as such does not require screening for likely significant environmental effects.

Local Finance Considerations

- 7.17 Section 70(2) of the Town and Country Planning Act 1990 (as amended) provides that a local planning authority must have regard to a local finance consideration as far as it is material. Section 70(4) of the Act defines a local finance consideration as a grant or other financial assistance that has been, that will, or that could be provided to a relevant authority by a Minister of the Crown (such as New Homes Bonus payments), or sums that a relevant authority has received, or will or could receive, in payment of the Community Infrastructure Levy. There is no CIL requirement for this development.

Human Rights

- 7.18 In reaching a decision on a planning application the European Convention on Human Rights must be considered. The Convention Rights that are relevant are Article 8 and Article 1 of the first protocol. The proposed course of action is in accordance with domestic law. As the rights in these two articles are qualified, the Council needs to balance the rights of the individual against the interests of society and must be satisfied that any interference with an individual's rights is no more than necessary. Having regard to the previous paragraphs of this report, it is not considered that there is any infringement of the relevant Convention rights.

Public Sector Equality Duty

- 7.19 In determining this application, regard has been had to the Public Sector Equality Duty (PSED) as set down in section 149 of the Equality Act 2010, in particular with regard to the need to:

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- Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act;
- Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and
- Foster good relations between persons who share a relevant protected characteristic and persons who do not share it. It is considered that the application proposals would not undermine objectives of the Duty.

It is considered that the application proposals would not conflict with objectives of the Duty.

Working with the applicant

7.20 In accordance with paragraphs 38 of the NPPF, Folkestone and Hythe District Council (F&HDC) takes a positive and creative approach to development proposals focused on solutions. F&HDC works with applicants/agents in a positive and creative manner.

8. CONCLUSION

- 8.1 It is considered the retention of the timber sheds for agricultural storage along with associated hardstanding is acceptable for the reasons set out above. It is considered that the development would not detrimentally impact upon the character of the countryside, SLA and Area of Outstanding Natural Beauty, and no detrimental impact upon the amenity of adjoining uses, or detrimental impact upon the highway.
- 8.2 As such it is considered that the proposal accords with the existing and emerging policies of the Development Plan and is consistent with the requirements of the National Planning Policy Framework.

9. BACKGROUND DOCUMENTS

9.1 The consultation responses set out at Section 5.0 are background documents for the purposes of the Local Government Act 1972 (as amended).

10. RECOMMENDATIONS

That planning permission be granted.

Conditions:

1. Within six months of the date of this permission, the outbuildings hereby approved shall be dark stained and retained as such thereafter.

Reason: In the interest of the visual amenities of the area.

Appendix 1 – Site Location Plan