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Application No: 21/1488/FH

Location of Site: Yew Tree Farm, Stone Street, Stanford, Ashford, TN25 6DH

Development: Retrospective application for the change of use of land for the provision of supervised practical training in the use of construction plant and machinery.

Applicant: Mr T Clifton-Holt

Agent: Judge Architects Ltd, 21 Oxenturn Road, Wye, Ashford, TN25 5BH

Officer Contact: Ross McCardle

SUMMARY

Retrospective planning permission is sought for a change of use of land at Yew Tree Far, Stanford, for the provision of a construction plant and machinery. The use would generate noise and disturbance from the use of heavy machinery at odds with the otherwise largely tranquil nature of the countryside, and has potential to adversely harm the residential amenity of neighbouring residents. Despite requesting additional information in this regard, none has been submitted. The application is therefore recommended for refusal.

RECOMMENDATION:

That planning permission be refused for the reasons set out at the end of the report.

1. INTRODUCTION

1.1. The application is reported to Committee because the Chief Planning Officer believes it raises issues which should be considered by the Planning and Licensing Committee.

2. SITE AND SURROUNDINGS

2.1. The application site comprises land to the rear (west) of Yew Tree Farm. Yew Tree Farm is an established agricultural site in the centre of the small settlement of Stanford, just north of the M20 motorway and north-west of the Junction 11 exit; the application relates to an area of land towards the rear of the farm complex, comprising an open concrete/gravel yard and part of an agricultural field.

2.2. Access would be from Stone Street (between brick buildings adjacent to the highway) that leads directly into a working yard. Various buildings surround the yard are used as offices while the modern farm buildings are used for agricultural and bulk grain storage. The wider site incorporates a registered weighbridge which is understood to be regularly used in support of the bulk haulage of grain and other agricultural products to and from the site, as well as by police, and members of the public with large vehicles.

2.3. The site lies outside of the built up area boundary (which runs roughly north/south through the farmyard); within an area of archaeological potential; within a Special

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Landscape Area; outside of any defined flood zone; and away from any heritage designations. Stone Street at this point is an unclassified highway.

- 2.4. Public Right of Way ref. HE269 runs approximately SW/NE through the field to the west of the site.
- 2.5. A site location plan is attached to this report as **Appendix 1**.

3. PROPOSAL

- 3.1 Retrospective planning permission is sought for a change of use of the site for the provision of supervised training in the use of construction plant and machinery.
- 3.2 A training area is provided within the existing yard to the west of the grain storage barns, and a digger training area is shown within the adjacent agricultural field.
- 3.3 The submitted Planning Statement comments:

“The use involves the provision of high quality, industry recognised training and certification through their accredited Construction Plant Competence Scheme (CPCS) and National Plant Operators Registration Scheme (NPORS). The business administration and classroom-based part of the training is carried out from established offices on site; the practical training involving plant is the part relevant to this application.

The training operation runs as a discrete business (Use Class B1 – now Class E) and has office and classroom spaces in the studios at the front of the farm yard. The practical training activity itself is carried out in the open areas in question and consideration has been given to whether this would fall under the same Use Class (Class E) or whether it would more properly be considered Class F1(a) – the provision of education? (Formerly Use Class D1(c)). After consultation with the council planning officers it was concluded that the proposed use would be ‘sui generis’.

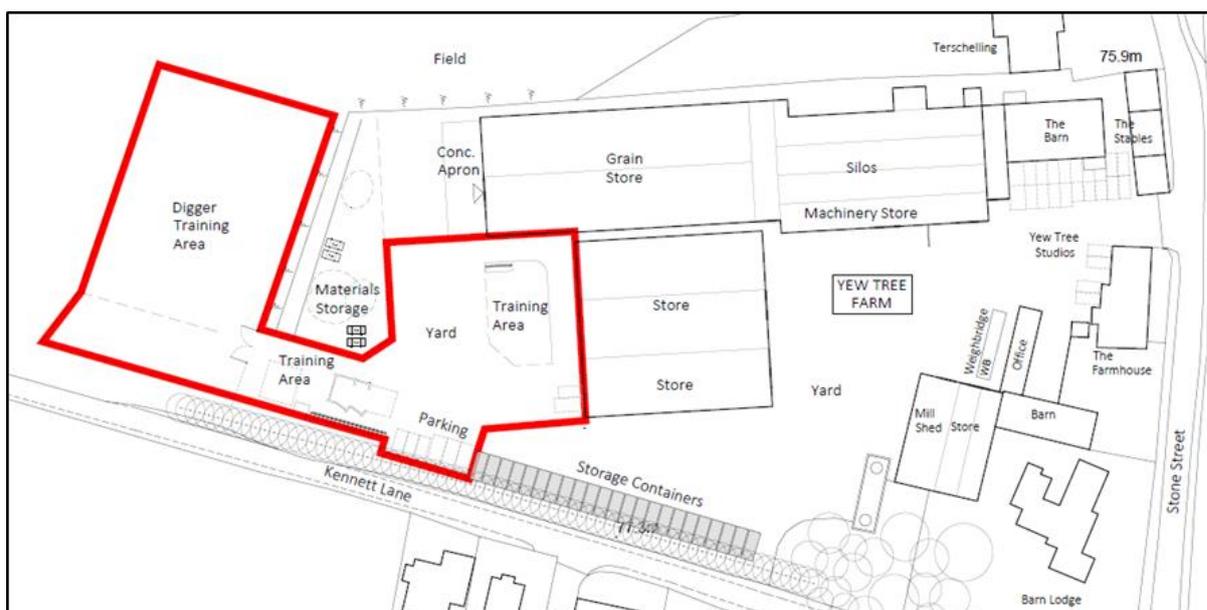


Fig.1: Proposed site layout

3.4 Further to a request for additional information the agent has provided clarification, which can be summarised as follows:

- The proposal forms part of a farm diversification scheme, required further to removal of agricultural grants following Brexit;
- The use has already persisted (unlawfully) for approximately 7.5 years with no complaints from local residents;
- Use of the adjacent grain barns, and access thereto, persists year-round. HGVs access the site regularly to fill/empty those barns;
- The applicant can't reasonably operate the use from any other site due to a combination of the amount of land required, land rents being unviable, land ownership, and the need to diversify agricultural operations at this site.

4. RELEVANT PLANNING HISTORY

4.1 The relevant planning history for the site is as follows:

Y19/0798	Change of use of land for the retention of 23 storage containers for storage and distribution (Class B8) uses (retrospective).	Approved
Y10/0601	Change of use of land (on the eastern side of Stone Street) to car park to serve the farm and local residents, together with erection of fencing and laying of hard-standing.	Refused
Y09/0925	Retention of storage containers (Class B8) and use of farmhouse offices (Class B1a).	Approved
97/0988	Change of use of existing agricultural buildings to offices.	Approved

5. CONSULTATION RESPONSES

5.1 The consultation responses are summarised below.

Consultees

Stanford Parish Council: Objects to the application, commenting:

Considering points raised by residents such as noise and traffic, and that the site is within a residential community it was proposed to object to this application. In 2019 FHDC commented that no further development could take place due to the sensitivity of the area.

KCC Highways and Transportation: Raises no objection.

KCC Ecology: Raises no objection subject to the imposition of standard conditions to secure ecological enhancements.

Environmental Protection Officer: has commented that insufficient information has been provided to assess the potential noise impact from machinery (details of specific models/engines/noise output, etc.) or the extent of acoustic mitigation (fencing/screening) that would be required to protect neighbouring amenity.

Local Residents Comments

- 5.2 52 neighbours directly consulted. 15 letters received in response.
- 5.3 I have read all of the letters received. The key issues are summarised below:

Objections

- Noise and disturbance to local residents;
- Dust;
- Surface water from the site runs off to Kennett Lane;
- Increase in heavy traffic;
- Highway safety and amenity;
- Harmful to character and appearance of the area;
- Unrelated to agricultural uses;
- Site gradually expanding along the lane, often through retrospective applications;
- Site becoming an industrial park; and
- Did not receive a consultation letter.

- 5.4 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 Review 2022. (The Folkestone & Hythe District Core Strategy Review was adopted by Council on 30 March 2022. There is a period of six weeks during which any person aggrieved by the adoption may make an application to the High Court under Section 113 of the Planning and Compulsory Purchase Act 2004. This period will elapse on 11 May 2022.)

6.2 The Folkestone & Hythe District Council Core Strategy Review Submission Draft (2019) 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 in December 2020, January 2021 and June/July 2021. The Inspector's final report was received on 23rd February 2022. It finds the plan to be 'sound and to 'provide an appropriate basis for the planning of the District'. 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 Inspector's report.

6.3 The relevant development plan policies are as follows:-

Places and Policies Local Plan 2020

HB1 (quality places through design)

E2 (existing employment sites)

E6 (farm diversification)

E7 (reuse of rural buildings)

NE1 (natural environment)

NE2 (biodiversity)

NE3 (landscapes and countryside)

HB1 requires development to *“makes a positive contribution to its location and 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,”* and to not give rise to adverse amenity impacts for neighbours or the surrounding area.

E6 states:

Planning permission will be granted for the diversification of farm businesses where:

- 1. The proposal is compatible with surrounding buildings and the location in terms of scale and design;*
- 2. There would be no detrimental impact on local amenity or the character, appearance or nature conservation value of the rural landscape. This criterion will be given additional weight in the Kent Downs Area of Outstanding Natural Beauty, and nature conservation designations;*
- 3. Adequate provision is made for access, servicing and parking;*
- 4. Any retailing proposed relates to the sale of farm produce and would not harm the viability of retail facilities in nearby centres in accordance with Policy RL8: Development Outside Town, District and Local Centres;*
- 5. The proposal would not prejudice the agricultural working of the farm unit; and*
- 6. Where practicable, the proposal re-uses an existing agricultural building.*

Core Strategy Local Plan (2013)

DSD (delivering sustainable development)

CSD3 (rural and tourism development)

DSD sets out that *“when considering development proposals Shepway District Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework. It will always work proactively with applicants jointly to find solutions which mean that proposals can be approved wherever possible, and to secure development that improves the economic, social and environmental conditions in the area.”*

CSD3 allows for sustainable rural diversification, and states that *“rural economic uses will be appropriately protected and new development allowed within defined settlements in the Settlement Network. Where sites are unavailable within settlements – and development is proportionate in scale/impact and also accessible by a choice of means of transport – it may also be acceptable on the edge of Strategic Towns and Service Centres, and failing that, Rural Centres and Primary Villages.*

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Rural economic development must be consistent with green infrastructure (GI) and coastal/water environment principles.”

Core Strategy Review Submission draft (2019)
CSD3 (rural and tourism development)

CSD3 allows for sustainable rural diversification, and states that “rural economic uses will be appropriately protected and new development allowed within defined settlements in the Settlement Network. Where sites are unavailable within settlements – and development is proportionate in scale/impact and also accessible by a choice of means of transport – it may also be acceptable on the edge of Strategic Towns and Service Centres, and failing that, Rural Centres and Primary Villages. Rural economic development must be consistent with green infrastructure (GI) and coastal/water environment principles.”

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

Government Advice

National Planning Policy Framework (NPPF) 2019

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 set out the presumption in favour of sustainable development.

Paragraph 47 establishes that applications for planning permission be determined in accordance with the development plan.

Paragraph 84 provides support for rural development and farm diversification.

Paragraph 85 states that *“Planning policies and decisions should recognise that sites to meet local business and community needs in rural areas may have to be found adjacent to or beyond existing settlements, and in locations that are not well served by public transport. In these circumstances it will be important to ensure that development is sensitive to its surroundings, does not have an unacceptable impact on local roads and exploits any opportunities to make a location more sustainable (for example by improving the scope for access on foot, by cycling or by public transport). The use of previously developed land, and sites that are physically well-related to existing settlements, should be encouraged where suitable opportunities exist.”*

Paragraph 174 requires planning decisions to (a) protect and enhance valued landscapes, and (b) recognise the intrinsic beauty of the countryside (amongst others).

7. APPRAISAL

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

- a) Whether the principle of development is acceptable?
- b) The impact of the development on the landscape
- c) Impact of the development on residential amenity
- d) Impact of the development on highway safety.

a) Whether the principle of development is acceptable?

- 7.2 The application site lies in open countryside outside the defined settlement boundary where adopted local and national policies of rural restraint seek to restrict development unless demonstrably necessary.
- 7.3 The application is put forward as a farm diversification scheme, and officers note the agent's suggestion that the proposed use is necessary in part due to the loss of grants following Brexit. I have not afforded this significant weight to this justification because the use has (by the applicant's own admission) been taking place for approximately 7.5 years, predating Brexit by some margin and therefore not directly arising from the resultant loss of grants.
- 7.4 It is understood that the grain barns at the site operate year-round and it is noted that there are a number of other non-agricultural activities taking place from the wider farm unit. These include various small businesses in the converted building fronting the road (Yew Tree Studios) and the use of storage containers situated along the southern site boundary. It is therefore not clear to what degree the agricultural and non-agricultural uses on site are balanced, and it appears as though the site is becoming/may have become a small industrial/commercial estate, with non-agricultural uses overtaking the primary agricultural use of the buildings (in terms of numbers – the physical grain barns are very large). The suggestion that this development is necessary to contribute to farm diversification is therefore slightly unclear, as activities at the farmyard are seemingly already significantly diversified.
- 7.5 Whilst I am therefore mindful of the NPPFs broad support of rural economic development and farm diversification I do not consider that sufficient justification has been put forward to support this use and I do not consider that that the principle of the proposed development is acceptable in this instance.

b) The impact of the development on the landscape

- 7.6 The site lies within a Special Landscape Area (SLA) (which extends northwards from Kennett Lane to meet and then overlap with the AONB approximately 2km to the north), and is therefore considered to be within a visually sensitive location.
- 7.7 It is notable that – to a certain degree – the proposed development would be viewed against the backdrop of the existing buildings and activities on site.

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- 7.8 However, the scheme extends activities into the field immediately to the west of the existing yard area onto former agricultural fields. This area is visible from Kennett Lane and prominent in views from public footpath HE269, which runs approx. N/S and sits roughly 50m to the west of this extended area with open arable farmland in between.
- 7.9 While agricultural machinery and activity is a common site within the countryside, the use of heavy plant is not, and the use of diggers, cranes, etc. on the site would be a prominent and harmful intrusion into the countryside in a manner harmful to its character and amenity value. The proposal would therefore be contrary to the aim of Core Strategy policy SS1 which requires all schemes to directly contribute to the sense of place, and to PPLP policy NE3 which seeks to “protect or enhance the natural beauty of the Special Landscape Area” unless the need to secure economic well-being outweighs the need to protect landscape significance. No financial details have been provided in this regard other than broad profit figures.

c) Impact of the development on residential amenity

- 7.10 The application site lies in close proximity to neighbouring residential dwellings; St Georges, Fairview, and Old Mill House lie approximately 12m from the southern site boundary. There is therefore potential for noise and disturbance to those residents from the proposed use.
- 7.11 It is noted that the site has lawful agricultural use and that the grain storage barns can be used 12 months of the year, with frequent HGV access. This would give rise to some noise and disturbance. However, it is not accepted that the level of activity arising from these units would be all day, every day, throughout the year; agriculture is an inherently seasonal activity and there would likely be peak periods during the more active months, with corresponding lulls and quieter periods. No details have been provided to demonstrate current levels of (lawful) activity on the site or to compare the levels of noise from the agricultural use to the proposed training use; number of vehicle movements, noise levels, etc.
- 7.12 Noise from HGVs accessing the grain barns – while perhaps frequent during the peak seasons – would be relatively short-lived, as they arrive, collect, and depart, and could be considered a particular feature of agricultural activity and therefore part of the wider local landscape, to a degree. However, the noise from machinery used for training purposes is likely to be for longer periods during the day, and less likely to be seasonal, as students learn to operate the equipment, with engines potentially running for the duration of the training period, or noise from stop/start as machinery is fired up for each session. This would be intrusive and contrary to the otherwise tranquil nature of the countryside in a manner harmful to rural character.
- 7.13 Notwithstanding requests for further information no details have been provided to demonstrate how any noise from these machines would compare to local background levels. Without such information it has not been possible to assess the impact of noise arising from the use, or to calculate the scale of any mitigation required to reduce noise transmission to neighbouring houses to an acceptable level. Further details in this regard were requested but none have been provided. Officers therefore have to conclude that there is potential for the proposed use to give rise to adverse noise and disturbance for local residents in a manner harmful to their residential amenity.

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7.14 With regards to potential mitigation, the applicant has suggested additional shipping containers be placed on top of the existing to act as a screen. This would be visually harmful and entirely inappropriate within the countryside. An acoustic fence would need to be very tall (to prevent noise travelling over the top) to the degree that it may also be visually unacceptable. As above, however, the extent of any mitigation required is not known at present, as insufficient information has been provided in relation to noise. The development is therefore contrary to the requirements of PPLP policy HB1 which seeks to ensure new development does not give rise to unacceptable amenity impacts (such as noise and disturbance), and policy NE3 which seeks to protect or enhance the natural beauty of the Special Landscape Area.

d) Impact of the development on Highway safety

7.15 I note the concerns raised by local residents about highway safety and amenity. However, the site has an established access to the primary road network. The road through the village is wide enough to accommodate large agricultural vehicles. Given the agricultural use of the site I do not consider that the proposal would be likely to generate a significant increase in vehicle movements.

7.16 KCC Highways and Transportation have no objection and the proposal is considered acceptable in this respect.

7.17 In light of the above I am satisfied that the proposed development would not result in harm to highway safety.

Environmental Impact Assessment

7.18 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

7.19 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.

7.20 In accordance with policy SS5 of the Core Strategy Local Plan the Council has introduced a Community Infrastructure Levy (CIL) scheme, which in part replaces planning obligations for infrastructure improvements in the area. This application is not liable for the CIL charge.

Human Rights

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7.21 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

7.22 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:

- 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

7.23 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. Officers have advised the applicant's agent of their concerns on several occasions and requested additional information, but no details have been provided to address the concerns raised.

8. CONCLUSION

This application seeks retrospective planning permission for change of use of the site for the provision of supervised training in the use of construction plant and machinery. The application site extends beyond the existing farmyard apron into an agricultural field, and would give rise to visual harm to the Special Landscape Area and insufficient information has been submitted to demonstrate either that the proposed use would not give rise to noise and disturbance harmful to residential amenity, or that such noise is capable of being adequately mitigated. The application is predicated on the basis of farm diversification but fails to meet the requirements of adopted policy E6, against which farm diversification schemes must be assessed.

8.1 Taking the above into account the application is recommended for refusal.

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 refused/for the following reason:

Reason:

1. It has not been demonstrated that use of the site would not give rise to unacceptable noise and disturbance, nor that any noise arising from the use of the site is capable of being adequately mitigated. The proposed development therefore has potential to be unacceptably harmful to the residential amenity of neighbouring residents and to the otherwise tranquil character of the countryside in a manner contrary to policies HB1 and E6 of the adopted Places and Policies Local Plan.

Informatives:

1. This application was considered on the basis of drawings 21-10-03 P1, 04 P1, 05 P1, and 06 P1, the submitted Planning Statement, and the further information within the agent's email dated 08.10.21.