
GSP PROJECT REF: [3861.PN](#)

PLANNING, DESIGN AND ACCESS STATEMENT

Rutherford Stables, Hermitage Road, Higham, Kent, ME3 7NE



JULY 2023

2.0 SITE CONTEXT

- 2.1 The subject 0.028 hectare site (inclusive of the lengthy access track) is located on the southern side of Hermitage Road, just beyond the eastern end of Higham Village, within the open countryside (note: this is a larger site than previously identified). The Site comprises a brown-coloured steel portal framed building used for stabling with ancillary services, tack rooms and mezzanine accommodation within the taller part of the structure.
- 2.2 As a livery stable that does not accommodate grazing horses, it is understood that a commercial enterprise has been operating from the Site. An equestrian use falls under Class F2(c) of the Use Classes Order. The stabling of horses is not an agricultural use. Both the footprint of the building and the majority of the surrounding identified land is considered to be previously developed.
- 2.3 The building, with a footprint of about 375 sqm, is clad with metal profile sheeting to external walls over a concrete sub-structure floor with fibre cement sheets over the roof. It is set 270m south of the nearest public highway (Hermitage Road).
- 2.4 The Site is within the Higham Arable Farm Landscape Character Area as well as being within the Metropolitan Green Belt. The site forms part of the Parish of Higham. There are no known designated or non-designated heritage assets nearby. The Site is also within Flood Zone 1 which means it has a low probability of flooding from rivers and the sea.

3.0 RELEVANT PLANNING HISTORY

- 3.1 The following records are understood to be relevant to the subject site:

- [Conversion of the Livery Stable and tack rooms into 2 x four bedroom residential dwellings with associated car parking and bin storage facilities.](#)

Ref. No: 20221258 | Status: Application Refused on grounds relating to harm to the character and appearance of the countryside and landscape of the area. It would also result in an unacceptable and cramped amount of amenity space for future occupiers (below 100 sqm for a 4 bedroom property in the case of 1 of the units). A third reason was associated with a lack of a contribution towards the SPA/Ramsar site.

- [Conversion of the Livery Stable and tack rooms into 2 x four bedroom residential dwellings with associated car parking and bin storage facilities.](#)

Ref. No: 20220477 | Status: Application Refused on grounds relating to harm to the character and appearance of the countryside and landscape of the area, as well as a poor internal layout for the two units caused by a lack of windows servicing habitable spaces. A third reason was associated with a lack of a contribution towards the SPA/Ramsar site.

- [Conversion of livery stable and tack rooms into one 4no. bedroom dwelling and one 2no. bedroom self-contained flat with two garages and change of use of land from paddock to residential, including demolition/removal of 3no. detached livery structures.](#)

Ref. No: 20171104 | Status: Application Refused on grounds relating to Green Belt harm, harm to the character of the countryside and landscape of the area, outside of a sustainable location, poor design and failing to provide ecological evidence or a contribution to the SPA/Ramsar site. An appeal against this decision (ref: 3208174) was dismissed but only on grounds relating to harm to the character and appearance of the countryside. It is noted that no claim was made that the presumption in favour of sustainable development should apply.

- [Conversion of livery stable and tack rooms into one 4no. bedroom dwelling and one 2no. bedroom self-contained flat with two garages and change of use of land from paddock to residential, including demolition/removal of 3no. detached livery structures.](#)

Ref. No: 20160888 | Status: Application Refused.

- [Application for variation of condition 1 attached to planning permission reference number 20010753 to allow the number of horses and foals kept on the land to be increased from 14 to 19.](#)

Ref. No: 20130186 | Status: Application Permitted

- [**REVISED/AMENDED DESCRIPTION** Application for variation of condition 4 attached to planning permission reference number 20050483 for installation of a room at mezzanine floor level to provide a rest room for overnight horse husbandry accommodation; to allow the rest room to be used for no more than two consecutive nights up to a maximum of four nights a week.](#)

Ref. No: 20110935 | Status: Permitted Subject to a Legal Agreement

- [Installation of external fire escape staircase on the southern elevation of the stable block.](#)

Ref. No: 20090839 | Status: Application Permitted

- [Application for the variation of condition 4 of planning permission ref. no. GR/2005/483 relating to the installation of a mezzanine floor level to provide a rest room for overnight horse husbandry accommodation, to allow the continued use of the mezzanine rest room for no more than two consecutive nights up to a maximum of four nights a week.](#)

Ref. No: 20071065 | Status: Application Refused

- [Erection of extension to the northern side of existing stable building to provide an additional 3 stables and hay store and erection of a secure field equipment store.](#)

Ref. No: 20060480 | Status: Application Permitted

- [Installation of a room at mezzanine floor level to provide a rest room for overnight horse husbandry accommodation.](#)

Ref. No: 20050483 | Status: Application Permitted

- [Demolition of existing field shelter and erection of single storey extension to form a tractor shed and two stables; installation of mezzanine floor to provide overnight horse husbandry accommodation and variation of condition \(i\) attached to planning permission reference number GR/1992/93 to increase the number of horses that are allowed to be kept from 6 to 12. Permitted Installation of mezzanine floor to provide overnight horse husbandry accommodation Refused](#)

Ref. No: 20040040 | Status: Split Decision

- [Variation of condition \(ii\) attached to planning permission reference number GR/96/844 to allow the number of horses and foals kept on the land to be increased from 9 to 14.](#)

Ref. No: 20010753 | Status: Application Permitted

- [Retention of the extension comprising of 3 no. stables attached to the existing barn; removal of condition \(ii\) of planning permission ref. no. GR/86/113 relating to the existing use of the storage building as 4 no. stables to enable the use of the 7 no. stables for livery purposes and construction of a menage.](#)

Ref. No: 19960844 | Status: Application Permitted

- [Continued siting of a caravan for residential use.](#)

Ref. No: 19960765 | Status: Application Refused

- [Continued use of agricultural land and building for stabling, grazing and exercising of horses with a menage area for the training of horses.](#)

Ref. No: 19920093 | Status: Application Permitted

4.0 PROPOSED DEVELOPMENT

4.1 The subject application entails the following elements:

- The removal of 2 No. containers (one to the south and one to the east);
- The removal of hard surfacing including to the west of the building and in two locations to the east of the building as well as the removal of an existing track;

- To change the land to the east of the building to meadow as opposed to being used in connection with a commercial livery;
- To change the use of the existing building that comprises 13 No. stables, a canteen and toilet into 2 No. residential units each with four bedrooms;
- Plot 1 (to the west) will have its entrance on the west elevation and a set of double doors providing access to a south-facing private garden measuring 84 sqm and 10m deep;
- Plot 2 (to the east) will have its entrance on the south elevation and a set of double doors providing access to a south-facing private garden measuring 154 sqm and 11m deep;
- Native species planting will be introduced in lieu of the concrete surfacing to the west of the building as well as along the western boundary of the gardens;
- A 1.2m high timber post and rail fence will demarcate the extent of the residential curtilages;
- Each property will benefit from two off-street parking spaces to be located to the rear of plot 1 and within the previously developed land with the two parking spaces to the far south of the Site replacing one of the containers that is to be removed;
- The existing vehicular access on to Hermitage Road will be retained;
- North elevation changes involve the removal of an existing first floor door;
- East elevation changes involve the removal of a ground floor door, replacement of roller shutters with double window and insertion of 2 No. windows at the first floor;
- South elevation changes involve the removal of the external staircase and the provision of 2 No. first floor windows, 2 No. ground floor windows, 2 No. pairs of external doors and 1 entrance door;
- West elevation changes involve replacement of door with window, replacement of main opening with door plus full height windows on either side of door and insertion of first floor window.

5.0 PLANNING POLICY

- 5.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990 require that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The Court of Appeal has clarified that for a decision maker this means establishing whether a proposal is in accordance with the development plan as a whole. The question of compliance with one policy should not dictate the outcome of a proposal in the absence of considering compliance with all other relevant policies. Decision makers are therefore tasked with identifying and understanding all relevant policies and material considerations in order to reach a properly informed planning judgment on a proposal, and to avoid an irrational or vulnerable decision that may be subject to criticism in a public law challenge.
- 5.2 Paragraph 2 of the National Planning Policy Framework ('the Framework') reiterates what is said in Section 38(6), whilst paragraph 12 of the Framework is clear that the development plan is the starting point for decision making. Proposed development that accords with an up-to-date Local Plan should be approved, and proposed

development that conflicts should be refused unless other material considerations indicate otherwise.

- 5.3 Paragraph 38 of the Framework encourages local planning authorities to approach decisions on proposed development in a positive and creative way. It also encourages working proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area, adding that decision-makers should seek to approve applications for sustainable development where possible.
- 5.4 Annex 1 of the Framework confirms that for the purposes of decision-taking, the policies in the plan should not be considered out-of-date simply because they were adopted prior to the publication of the Framework. It adds that due weight should be given to relevant policies in existing plans according to their degree of consistency with the Framework, with greater weight being given to those policies that are closer to the policies in the Framework.

Development Plan

- 5.5 It is understood that the Development Plan for the area within which the Site is located comprises the Gravesham Local Plan Core Strategy (CS) (adopted September 2014) and the Saved Policies of the Gravesham Local Plan First Review (LPFR) (adopted November 1994). There are also a number of supplementary policy documents to consider, including the Residential Layout Guidelines (2020) and the Vehicle Parking Standards (2006). It is also necessary to have regard to the guidance in the Framework.
- 5.6 Relevant CS policies appear to include the following, with the policies in bold indicating what was considered relevant in regards to the previous refusal:
- CS01: Sustainable Development;
 - CS02: Scale and Distribution of Development (Green Belt);
 - CS11: Transport;
 - **CS12: Green Infrastructure (AONB, Landscape Character);**
 - CS14: Housing Type and Size;
 - CS18: Climate Change;
 - **CS19: Development and Design Principles.**
- 5.7 Relevant LPFR policies appear to include:
- T1: Development outside the Built-up Area;
 - P3: Vehicle Parking Standards.
- 5.8 It is noted that the Council's previous delegated report also referred to policy C11 of the LPFR, but this appears to relate only to existing farm buildings, which this is not.

Other Material Considerations

The Framework

- 5.9 At paragraph 60 the Framework confirms the Government’s objective of significantly boosting the supply of homes and that it is important to ensure that a sufficient amount and variety of land can come forward where it is needed. Paragraph 69 of the Framework acknowledges that small and medium sized sites can make an important contribution to meeting the housing requirement of an area, and are often built-out relatively quickly. To promote the development of a good mix of sites local planning authorities should (amongst others) support the development of windfall sites through decisions.
- 5.10 Paragraph 119 states that decision should promote an effective use of land in meeting the need for homes and making as much use as possible of previously developed land. Paragraph 120 expands on this point by promoting and supporting the development of under-utilised land and buildings, especially if this would help to meet identified needs for housing. Paragraph 124 adds that decisions should support development that makes efficient use of land, taking into account (amongst others) the desirability of maintaining an area’s prevailing character and setting.
- 5.11 It is noted that the application of paragraphs 60, 69, 119-120 and 124 all do not depend on whether an authority has a five-year housing land supply (5YHLS).
- 5.12 Paragraph 134 states that “development that is not well designed should be refused.”
- 5.13 Paragraph 137 of the Framework states that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open with the essential characteristics of Green Belt land being their openness and their permanence. Paragraph 148 directs decision makers to give substantial weight 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 resulting from the proposal, is clearly outweighed by other considerations.
- 5.14 Paragraph 150 adds Green Belt exceptions subject to development preserving the openness of the Green Belt and not conflicting with the purposes of including land within it. This includes material changes in the use of land and the re-use of buildings provided that the buildings are of permanent and substantial construction.
- 5.15 Paragraph 174 of the Framework sets out several ways in which decisions should contribute to and enhance the natural and local environment. Given that the site is not on the coast, it is considered that the most relevant parts of this paragraph are as follows:
- (a) Protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils (in a manner commensurate with their statutory status or identified quality in the development plan);
 - (b) recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland;

- (d) minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures;
- (e) preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution or land instability. Development should, wherever possible, help to improve local environmental conditions such as air and water quality, taking into account relevant information such as river basin management plans; and
- (f) Remediating and mitigating despoiled, degraded, derelict, contaminated and unstable land, where appropriate.

5.16 The following are also material considerations:

- National Design Guide (NDG) (October 2019);
- Residential Layout Guidelines SPG2 (February 1996, amended June 2020);
- Kent County Council Parking Standards SPG4 (2006);
- Gravesham Landscape Character Assessment (May 2009) (a technical document which underpins policy CS12).

6.0 KEY ISSUES

6.1 Given the above policy considerations and the nature of the proposal, it is considered that the relevant key planning issues are as follows:

1. Development in the Green Belt;
2. Landscape and Countryside Character;
3. Living conditions;
4. Ecology;
5. Five-year housing land supply.

1. Development in the Green Belt

6.2 Paragraph 150 of the Framework requires that such Green Belt developments preserve its openness and do not conflict with the purposes of including land within it. These purposes, as set out in paragraph 138, include the following: (c) to assist in safeguarding the countryside from encroachment.

6.3 It is noted that the Council has not raised a Green Belt objection since the dismissed appeal decision from 2018. Despite finding harm to the countryside, the Inspector noted that given it had been proven the existing building was of a permanent and substantial construction, balanced against the demolition of detached livery structures, he felt that there would be a modest positive impact on the openness of the area and that there would be no conflict with the purposes of including the land within the Green Belt.

6.4 This is very much a material consideration in this application, which additionally proposes to remove extensive hard surfacing from both the east and west sides of the

building, as well as locate the proposed residential gardens to the south, directly to the rear of the building, and re-use the land to the east as a meadow. It is therefore suggested that this alternative proposal offers additional Green Belt positives.

2. Landscape and Countryside Character Impact

- 6.5 Having found no spatial nor visual harm to the Green Belt in connection with the 2017 appeal, it is somewhat surprising that the Inspector then went on to find that the appeal proposal would harm the character and appearance of the countryside, particularly given that the site is not within an Area of Outstanding Natural Beauty.
- 6.6 In paragraph 16 of the appeal decision, it is important to note that the Inspector refers specifically to “a number of public vantage points along Hermitage Road across the open gently sloping countryside and the proposed residential curtilage and the new garden area to the north east of the building.” He then goes on to comment about likely domestic paraphernalia. However, these points appear to be related to what could be seen from this nearest public highway and specifically the east garden.
- 6.7 Notwithstanding the applicant’s view that a distance of 270m from the road should restrict any reasonable grounds of visual harm in itself, on this occasion, the proposed residential use of the land is to be wholly restricted to the south of the existing building including more limited garden space, a material decrease in the amount of hard surfacing and only 2 No. enlarged roof lights on the northern elevation that faces the highway. As well as the removal of the 2 No. containers, the applicant considers that this will have fully addressed the Inspector’s comments in paragraph 16 of this previous appeal decision and reason 1 from the most recent refusal as issued by GBC.
- 6.8 It is noted that the Gravesham Landscape Character Assessment describes the condition of the landscape as poor with moderate sensitivity and it seems to the applicant that with the amendments proposed, this alternative scheme (with particular reference to the residential gardens being located to the south) could be the subject of a condition to enhance the landscape than would otherwise not be possible if a permission were not to be granted.
- 6.9 Additionally, the applicant notes that there appears to have been no consideration of the fact that the development affects previously developed land. The Site is not in agricultural use, thus the building and the land around it should be considered previously developed. This adds to the benefits of the development, with additional support in the Framework.

3. Living Conditions

- 6.10 The previous application, as refused by GBC, highlighted issues in respect of insufficient garden space serving unit 1 both in respect of the depth being less than 10m and the overall area being less than 100 sqm. This has been addressed in this submission with unit 1’s garden at just over 100 sqm and with a depth of over 10m. Unit 2 is safely exceeds GBC’s SPG2 (Residential Layout Guidelines) with 154 sqm of garden space, and again a depth exceeding 10m.

- 6.11 In terms of room sizes, there have been no material changes to the internal layout, which were considered acceptable by GBC previously. Although the delegated report relating to planning application 20221258 refers to compliance with the Nationally Described Space Standards (NDSS), GBC cannot rely on these as the development plan pre-dates these standards.

4. Ecology

- 6.12 The previous phase 1 preliminary ecological appraisal (PEA), as completed by KB Ecology, is less than 2 years' old so has been resubmitted as part of this application.
- 6.13 The applicant commits to making a contribution towards strategic mitigation measures within the Thames Estuary and Marshes SPA/Ramsar Sites.

5. Five-year Housing Land Supply

- 6.14 GBC cannot presently demonstrate either a 5-year supply of housing land when measured against its objectively assessed need, meaning that the presumption in favour of sustainable development, set out in paragraph 11(d) of the Framework may apply. For decisions this means:

(d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:

- (i) the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or*
- (ii) 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.*

- 6.15 Such areas of protection as referenced in paragraph 11(d) include the Green Belt. An assessment as to the impact on the Green Belt must be completed prior to determining as to whether the presumption in favour of sustainable development can be applied to this proposal. The wording within the Framework suggests that the measure and extent of any identified harm must amount to a *clear* reason for refusing proposed development. As a consequence of the assessment carried out above, there is no *clear* reason for refusing the proposed development in connection with harm to the Green Belt (as was the case previously).
- 6.16 If the Council conclude that any housing development would not result in inappropriate development in the Green Belt, then it would be appropriate to assess such an application against part (ii) of paragraph 11(d). The applicant's position is that there are no harms or disbenefits, leaving the following as clear benefits of any housing proposal affecting the Site:

- The additional housing will make a positive contribution to the Council's housing needs;
- It would result in a more effective use of previously developed land and increase housing densities in the area, as promoted by the Framework;
- The provision of housing would bring economic benefits in the short term, through employment and investment related to construction activity, and the longer term, through the spending power of local residents that would benefit local shops and businesses;
- It would result in better use of the existing under-used but previously developed stables and associated land;
- Landscaping and ecological enhancements can be secured as part of a planning permission, that would otherwise not be the case (also in compliance with CS12);
- Framework support for this proposal is provided in paragraphs: 60 (significantly boosting housing supply), 69 (small windfalls), 119 (effective use of land for homes), 123 (taking a positive approach to re-use of buildings where this helps to meet needs).

6.17 It is therefore considered that there would be no adverse impacts of allowing the proposal and certainly not to the extent that these would “significantly and demonstrably outweigh the benefits” when assessed against the policies in the Framework taken as a whole.

7.0 CONCLUSIONS

7.1 This Statement has sought to identify and understand all relevant policies in this case, as well as take into account the planning history. It is sensitively sited within the Green Belt as well as being within a Landscape Character Area.

7.2 That said, the proposal involves a conversion of a building that is of permanent and substantial construction, with no additional built form proposed and an associated change of use that would not harm the landscape character of the area, particularly given the other benefits now proposed in terms of the re-siting of the gardens (including the removal of the east garden), the use of post and rail fencing, and a material reduction in hard surfacing.

7.3 As such, it is not considered that, overall, the proposal will result in a conflict with the development plan and that the presumption in favour of sustainable development applies and that the benefits outweigh the disbenefits. Subsequently, GBC is respectfully requested to grant planning permission for this application.