

REPORT SUMMARY

REFERENCE NO - 17/503401/FULL			
APPLICATION PROPOSAL Change of use from C3 (residential) to mixed use C3 (residential) and Sui Generis for the training of canines and associated boarding and activities (Retrospective).			
ADDRESS Catharos Lithos Yelsted Road Yelsted Sittingbourne Kent ME9 7UU			
RECOMMENDATION - GRANT subject to the planning conditions set out in Section 8.0 of the report			
SUMMARY OF REASONS FOR RECOMMENDATION The use of the site for the training of dogs is considered acceptable in this location and the application demonstrates that there would not be significant harm to residential or visual amenity and the use would not have a significant impact on highway safety and subject to conditions the issues associated with the use can be suitably addressed and all other materials planning considerations are considered acceptable.			
REASON FOR REFERRAL TO COMMITTEE The application has been called-in by Cllr Garten due to the sensitivity of the site and concern in the community. The recommendation is also contrary to the views of Stockbury Parish Council who have requested the application be presented to the Planning Committee			
WARD North Downs	PARISH/TOWN COUNCIL Stockbury	APPLICANT Mr Owolabi Abimbola AGENT Planning Direct	
DECISION DUE DATE 29/08/17	PUBLICITY EXPIRY DATE 04/12/17	OFFICER SITE VISIT DATE 28/7/17	
RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):			
App No	Proposal	Decision	Date
88/0804	Replacement bungalow for residential use	Permitted	7/12/88
53/0196/MK2	The erection of a bungalow or the alteration of existing building to a bungalow	Permitted	10/3/54
52/0023/MK2	The erection of a bungalow in connection with a smallholding	Permitted	29.05.1952
Land to the west (Bungalow at Hillview)			
17/500819	Detached double garage with pitched roof and storage in the loft space.	Permitted	20/11/17
16/502175	Replacement of existing mobile home with the erection of a chalet-style detached bungalow.	Permitted	13/5/16
15/506969	The replacement of the existing caravan with a detached bungalow property.	Permitted	24/11/15
12/2232	Application for the approval of all reserved matters pursuant to outline permission MA/10/1121 (Outline application for the	Permitted	30/4/13

	erection of a bungalow (to replace existing residential caravan) with all matters reserved for future consideration)		
10/1121	Outline application for the erection of a bungalow (to replace existing residential caravan) with all matters reserved for future consideration	Permitted	19/5/11
10/0522	An application for a certificate of lawfulness for an existing use being the stationing of a caravan for use as an independent residence.	Permitted	20/5/10
96/0486	Erection of a detached replacement dwelling (amended design to that permitted under reference MA/94/0588N	Permitted	7/8/96

MAIN REPORT

1.0 DESCRIPTION OF SITE

- 1.01 The application site is located along a long access road from Yelsted Road to the west of the site. This access serves the application site, Cherriamber Lodge and a recently completed replacement dwelling to the west of the site.
- 1.02 The application site measures approximately 0.64hectares and includes the residential dwelling known as Catharos Lithos and land to the east. The existing dwelling is a modest single storey bungalow. The area of land to the east is subdivided into two areas, that immediately to the east of the dwelling which contains a number of single storey buildings used as a training area and kennels. This area is enclosed by wooden fencing with mesh wire and contains a number of wooden structures used in association with the dog training. The adjoining field is enclosed by hedging and planting along the northern and southern boundaries with post and wire fencing separating the site from neighbouring land. This area is used as ancillary dog training space. Additional land to the east of the site is also within the applicants ownership. At the time of application the new dwelling to the west of the site was also within the applicants ownership.
- 1.03 The site is outside any settlement boundaries as defined in the local plan and as such is within the open countryside and the Kent Downs Area of Outstanding Natural Beauty (AONB).

2.0 PROPOSAL

- 2.01 The application seeks to regularise the use of the site for the training of canines, including the associated boarding and activities.
- 2.02 The applicant operates a business under the company name DDR Guard Dogs. The business trains dogs such as Rottweiler, German Shephard, Doberman, Malinois and Mastiff. It specialises in working dogs and problem dogs that could be a social risk and with animals that genetically have a higher probability to be fierce. The aim of the training is to take away the decision making from these dogs so they understand to make the right choices. The primary aim of the training is to instil obedience.

- 2.03 The Design and Access Statement sets out that that the business employs four staff on a part-time basis. This equates to two full-time employees, together with the applicant. The employees work 09:00-13:00.
- 2.04 The existing buildings have been upgraded to accommodate an indoor training area within the larger building and kennels are provided in the two smaller buildings. The number of kennels totals 18, with 9 in each of the two buildings.
- 2.05 The application sets out that that there are a maximum of 2-3 clients per day, with no more than 3-4 per week.
- 2.06 The training activities generally take place between the hours of 09:00-14:00 and the applicant is willing to accept a condition which restricts the hours of training to 09:00 – 15:00 Monday to Friday.
- 2.07 Informal parking is provided adjacent to the existing dwelling and there is existing fencing which separates the main operations of the training business from the residential dwelling.
- 2.08 Overnight kennelling is provided for those dogs whom are undergoing training and cannot be brought back to the site on a daily basis. Any kennelling provided is purely in association with the dog training.
- 2.08 The applicant owns a number of his own dogs which reside at the site, these are either bred or brought onto the site and sold once trained. This use by the applicant should be considered as distinct from those dogs brought to the site by external clients to be trained. It is unclear whether the staffing levels are also independent or part of both the care and training of the owners dogs, together with those from clients.

3.0 POLICY AND OTHER CONSIDERATIONS

The National Planning Policy Framework (NPPF)
National Planning Practice Guidance (NPPG)

Maidstone Borough Local Plan October 2017 : Policies SP17, SP21, DM1, DM3, DM7, DM8, DM30, DM31 and DM37

4.0 LOCAL REPRESENTATIONS

4.01 Stockbury Parish Council

The Parish Council objects to the application, in summary for the following reasons :

- Site subject to a number of enforcement investigations
- The site is within the Area of Outstanding Natural Beauty and the proposed business use is not in keeping with the character of the area
- Application contains inaccuracies regarding the activities that took place at the site prior to the applicants ownership
- Impact of noise and disturbance
- Character of the area is residential
- Inadequate security of the site
- No provision for waste disposal

4.02 Adjoining neighbours were notified of the application as originally submitted. A site notice was also put up at the site. 8 objections have been received in response to the consultation which are summarised as follows:

- Set distance in planning law between boarding kennels and other properties
- Noise and disturbance
- Safety of dogs
- Impact on AONB
- Number of adjacent residential properties
- Traffic
- Inaccuracies in statements
- Overdevelopment of site
- Threat to nearby farms, farm animals and horses due to escaping dogs
- No provision to deal with waste

4.03 Following the submission of additional information neighbours were re-consulted and 3 comments were submitted (from previous contributors), these provided the following additional comments :

- Inaccuracies in reports
- Reports not based on the number of dogs proposed to be kept at the site
- Biased noise report
- Highway safety

5.0 CONSULTATIONS

5.01 Environmental Health Officer : No objection subject to conditions

6.0 APPRAISAL

6.01 The key issues for consideration relate to:

- **Principle of development**
- **Sustainable development**
- **Impact on neighbouring residential amenity**
- **Highways impact**

Principle of Development

6.02 The application site is within the countryside, whereby Policy SP17 sets out that development proposals in the countryside will not be permitted unless they accord with other policies in the plan and would not result in harm to the character and appearance of the area. There are no policies that specifically relate to canine uses, however there are policies which support economic development.

6.03 Policy SP21 seeks to support the economy of the borough and this can be achieved through prioritising the commercial re-use of existing rural buildings and supporting proposals for the expansion of existing economic development within the countryside. Policy DM31 allows for the conversion of rural buildings subject to a number of criteria which relate to the quality of the existing building, the structural integrity of the buildings, impact on landscape, parking implications and potential harm from boundary treatment/subdivision. Traffic implications are also a consideration when the building is proposed to be used for commercial purposes. Policy DM37 allows for the expansion of rural businesses, which although not fully relevant as the site

has not previously benefitted from any commercial consent, the policy does provide useful criteria which are pertinent for consideration, including impact on the landscape, traffic implications and impact on neighbouring amenity.

- 6.04 Paragraph 28 of the NPPF supports the sustainable growth and expansion of all types of business and enterprise in rural areas, both through the conversion of existing buildings and well designed new buildings.
- 6.05 The property history highlights that consent was granted for a residential dwelling on the site in the 1950s, which the description suggests this was in association with a smallholding. This dwelling was replaced in the 1980s with the bungalow that currently exists on the site. There is no planning history relating to the other buildings on the site (those used for the training and kennelling), however these buildings have been on the site for some time. The Design and Access Statement suggests that the buildings were built by the previous owner as kennelling and for the keeping of horses (likely to date from the 1990's). These buildings are certainly immune from any enforcement action due to the passage of time and although they have been recently upgraded, those works have not been considered to require planning permission in themselves.
- 6.06 The design and access statement suggests that the previous occupier used the site for the kennelling of security dogs and dog breeding and at points of time employed a professionally qualified dog trainer. The applicant asserts that the site is being used in a similar manner to the historical use of the site, however no certificate of lawful development exists to verify a lawful use of the site
- 6.07 In principle, the operations of the business re-uses existing buildings on the site and relate to a rural enterprise which requires open space for training and as such requires a rural or semi-rural location where there is space available. In principle the use may be acceptable subject to all other material planning considerations being acceptable. These matters are discussed below.

Sustainable development

- 6.08 Paragraph 7 of the NPPF sets out the three dimensions to sustainable development, these being the economic, social and environmental roles. Paragraph 14 sets out that at the heart of the NPPF is the presumption in favour of sustainable development and for decision making this means approving development proposals that accord with the development plan without delay, unless material considerations indicate otherwise.

Economic role

- 6.09 As set out above, both national and local plan policies support economic development within rural areas. The application however provides limited economic benefit as it only employs 2 full-time staff members.

Environmental role (including visual impact)

- 6.10 The NPPF sets out that that role should support strong, vibrant and healthy communities....and by creating a high quality built environment, with accessible local services that reflect the community's needs.

- 6.11 The environmental role as set out in the NPPF states that the planning system should *'contribute to protecting enhancing our natural, built and historic environment.'*
- 6.12 Policy SP17 sets out that great weight should be given to the conservation and enhancement of the Kent Downs Area of Outstanding Natural Beauty, mirroring that set out in Paragraph 115 of the NPPF, which recognises that AONB's have the highest protection in relation to landscape and scenic beauty.
- 6.13 Criteria set out in Policies DM1, DM30 and DM31 of the local plan re-iterate the importance of the landscape. Also DM37 and DM41 which although not directly relevant do relate to rural business and equestrian development which can draw parallels to this application and both highlight impact on the landscape as a key consideration.
- 6.14 The application re-uses existing buildings and although some degree of enclosure has been created to sub-divide and enclose parts of the site, the type of fencing is such that it does not have a significant impact on the character and appearance of the area and the landscape designation. The fencing is akin to an equestrian development which are common within the AONB and wider countryside and although cumulatively can have an impact, in this case it is not considered that the harm is significant. Some paraphernalia associated with the training activities is sited on the land immediately adjacent to the buildings, however this is low key and a condition could be attached to ensure that this paraphernalia is not spread into the lower field.
- 6.15 It was noted at the officer's site visit that there is a larger wooden structure on the site in the lower field which provides a viewing platform. This does not form part of the current application and the enforcement team are aware.
- 6.16 Overall it is not considered that the use of the site for dog training would result in significant harm to the character and appearance of the AONB nor the wider countryside setting.

Social role

- 6.17 The NPPF sets out that that role should support strong, vibrant and healthy communities....and by creating a high quality built environment, with accessible local services that reflect the community's needs.
- 6.18 The Design and Access Statement sets out that :
- 'there is currently a dire shortage of dog training facilities throughout the UK. To put this into context at a local level there are no licensed facilities within the Maidstone BC area, even though the number of dogs within the borough is just short of one million.*
- Following research undertaken by the applicant and Planning Direct we have been unable to identify a single dog training facility within 200 miles of this site. Furthermore within the UK there is not even one licensed facility which deals with out of control dogs.'*
- 6.19 The licensing that the statement refers to is the National Association of Security Dog Users (NASDU), the statement however goes on to suggest that a license is not

obligatory and therefore the likelihood of training facilities existing is greater than suggested in the statement.

- 6.20 This said there is a likely need for training facilities, although the number of dogs the applicant has been training from external clients is relatively low at 3-4 per week. It is understood that the applicant also trains his own dogs which are bred or brought onto the site and sold once trained.
- 6.21 In terms of location the site cannot be described as sustainable, as movements to and from the site are reliant on private vehicles. The site is some distance from the urban area or any rural service centres or larger villages. This said it is unlikely that any sustainable modes of transport would be suitable for transporting dogs to and from the site, so where-ever the use was located it is likely that private vehicles would be relied upon. The applicant also seeks to reduce traffic movements by providing overnight kennelling for those clients who live further afield. The number of traffic movements referred to are also limited to a maximum of 4 staff members and 3-4 'clients' per week.
- 6.22 The nature of the use is such that it requires a rural or semi-rural location due to a need for space to enable the dogs to be trained and for exercise purposes. It is not uncommon to find dog related uses such as boarding kennels within a similar location, there are existing examples locally along Yelsted Road, for example Beaux Aires Boarding Kennels.
- 6.23 There is a balance to be struck between the unsustainable location and the characteristics of the use. In this case the use does not propose any new buildings and the visual harm as set out above is considered acceptable. The site requires a location with space available, there is a suggested need for such a use, the number of movements associated with the use is limited and a similar use in any location is unlikely to utilise sustainable modes of transport.

Overall

- 6.24 The application demonstrates that there would not be significant visual harm that would result from the use, thus fulfilling the environmental role of sustainable development. Although the use would be a small employment generator, it would provide a service and facility that there is a suggested need for and that the site is suggested to have been used in a similar fashion by previous occupiers (although this use have not been subject to a lawful development certificate and there are differing opinions between the applicant and representation on this matter). The use would re-use existing buildings and would be unlikely to generate significant traffic movements or would generate similar traffic movements if the use was located elsewhere. As such it is considered that the application overall can be considered as sustainable development in accordance with the NPPF.

Residential Amenity

- 6.25 Paragraph 17 of the NPPF sets out the core planning principles which includes :
- 'Always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings.'*
- 6.26 Policy DM1 of the emerging local plan sets out at para iv that proposals shall :

'Respect the amenities of occupiers of neighbouring properties and uses and provide adequate residential amenities for future occupiers of the development by ensuring that development does not result in excessive noise, vibration, odour, air pollution, activity or vehicular movements, overlooking or visual intrusion, and that the built form would not result in an unacceptable loss of privacy or light enjoyed by the occupiers of nearby properties.'

- 6.27 The nearest residential dwelling is Catharos Lithos itself, this property is included within the application site and the application seeks a sui generis use for the entire site which would include the residential dwelling. As such the property would be linked to the dog training use and it is considered appropriate that a condition be attached that the dwelling be kept in the same ownership as the dog training business to protect the amenity of this nearest property.
- 6.28 Other neighbouring properties are located to the west, namely Bungalow at Hill View (at time of application in the applicants ownership) and Cherriamber Lodge. To the south is Green Acres, to the south-west The Acorn and to the east Plum Tree Cottage and Plum Tree Farm. To the north and north-west other properties are located approximately 250m from the application site (Poppyview and High Vistas).
- 6.29 The buildings themselves are a significant distance from neighbouring properties not to be harmful. The main issue relates to the impact of the dog training on the amenity of the neighbouring properties by reason of noise and disturbance, together with the impact of clients to the site using the single track that links the site with Yelsted Road.
- 6.30 Firstly considering the use of the access track. The use of the site for dog training will create additional traffic movements that would be associated with the use of Catharos Lithos as a single dwellinghouse. However due to the number of visitors that the applicant refers to (3-4 per week, plus daily staff movements) it is not considered that this level of traffic movements (which could be restricted to the morning and early afternoon by condition) is considered significant to warrant refusal on ground of noise and disturbance.
- 6.31 Secondly considering the matter of noise and disturbance from the dog training. The noise from dogs has been a subject of investigation from the planning enforcement team and the environmental protection team. The site has been subject to a noise abatement notice and monitoring for some years (with some investigations pre-ceeding the applicants ownership of the site). The latest abatement notice was served due to a number of complaints and on basis that on the balance of probability that due to the number of kennels at the site the noise and disturbance could be problematic unless properly managed. Since that time the number of complaints has reduced and there have been changes to the buildings on site and to the management of the use. The training building was previously open sided, but now is enclosed with double glazing and insulation. The kennels have been fitted with new thicker doors. Other measures to combat noise have been implemented which include anti bark collars, specialist food and diet. Construction works on the new dwelling have also finished. It should be noted that regardless of the planning decision, the nuisance investigation by the environmental protection team is likely to remain an ongoing case.
- 6.32 These environmental matters and investigations although background, it should be noted that those investigations carried out by the environmental protection team are under separate legislation to that of planning. The planning thresholds relate to the impact on general amenity and sets a lower bar than that under environmental

legislation which considers whether the harm is a statutory noise nuisance. Determining this current application needs to be considered on the merits of the application and the evidence submitted.

- 6.33 At the request of the Environmental Health Officer (EHO) the application is now accompanied by a noise survey which seeks to assess the impact of the training activities. This report has been assessed by the EHO who is satisfied with the general methodology of the report and subject to conditions relating to the use of the outside training area and a management plans, it is not considered for the purposes of planning permission that the use of the site for dog training results in noise of a significant level to warrant refusal of the application.
- 6.34 The application sets out the methods which seek to control noise which have included the upgrading of the kennels and training areas, keeping kennel doors shut, anti bark collars and specialist food to tackle boredom. A condition is suggested to provide a management plan which would set out how the management of noise and disturbance occurs and would form part of the approval.
- 6.35 It is accepted that there have been on-going complaints about the use of the site and associated dog noise, however the applicant has provided robust evidence to demonstrate that the noise levels can be mitigated to an acceptable level and it is not considered that the application can be refused on the grounds of noise and disturbance in its own right.

Highways

- 6.36 The use relies on the use of private vehicles, however the number of traffic movements, totalling 4 staff movements per day and 3-4 training clients per week (which could be conditioned) is not considered significant to cause significant harm to highways safety. The existing site has sufficient space available to provide parking for the use.

7.0 CONCLUSION

- 7.01 The use of the site for the training of dogs is considered acceptable in this location and the application demonstrates that there would not be significant harm to residential or visual amenity and the use would not have a significant impact on highway safety and subject to conditions the issues associated with the use can be suitably addressed and all other materials planning considerations are considered acceptable.

8.0 RECOMMENDATION – GRANT Subject to the following conditions

- (1) The development is hereby permitted in accordance with the following approved plans:

Drawing 1 Revision 1 (Existing/Proposed Site)
Drawing 2 (Floor plan – Kennels)
Drawing 3 (Floor plan – Kennels)
Drawing 4 (Floor plan – Training Area)

Reason: To clarify which plans have been approved.

- (2) The number of client dogs brought onto the site for training or accommodated overnight shall not exceed four customers with one dog per customer per calendar

week and a log of these customers shall be kept. This log shall be kept available for inspection by the Local Planning Authority on request.

Reason : To mitigate the harm from traffic movements and noise and disturbance to neighbouring amenity.

- (3) The total number of dogs kept on the site at any one time shall not exceed 18.

Reason : To mitigate the harm from noise and disturbance to neighbouring amenity and there is sufficient kennelling to accommodate 18 dogs.

- (4) Within 3 months of the date of this decision, details of the means of disposal of faecal, bedding or other waste arising from the animals housed within the development shall be submitted for approval to the Local Planning Authority .Such waste material arising from the animals so housed shall be disposed of solely in accordance with the approved details.

Reason: In the interests of the protection of the amenity of the surrounding area.

- (5) Within 3 months of the date of this decision, details of any permanent or temporary gates, walls, fences or other means of enclosure sited within the site area shall be submitted to and approved in writing by the Local Planning Authority and implemented in strict accordance with the approved details.

Reason: To enable the Local Planning Authority to protect the visual amenities of the locality.

- (6) The field to the extreme east of the site as shown on Drawing Number 1 Revision 1 and marked as a training field shall be used solely for exercise of the dogs and no associated paraphernalia shall be brought onto or stored in the said field.

Reason : To protect visual amenity

- (7) Within 2 months of the date of this decision a management plan to minimise noise shall be submitted for approval to the local planning authority. Once approved the plan shall be implemented in accordance with the approved details. The plan shall be reviewed annually and in response to complaints submitted to the Council about noise. The plan shall include details of training and exercise programmes (including details of hours, number of dogs at each time, whether the training/exercise is external or internal).

Reason : To mitigate the harm from noise and disturbance to neighbouring amenity

- (8) The dwelling known as Catharos Lithos and included within the application site shall not be occupied independently of the use hereby permitted.

Reason : The harm from noise and disturbance may adversely affect residential amenity if in separate ownership

- (9) Any boarding of customer dogs shall be in association with their training and shall be limited to the number set out in Condition 2.

Reason : To ensure that the boarding of dogs remains ancillary to the training use.

INFORMATIVES

- (1) The wooden structure located within the training field does not form part of this consent.
- (2) The application has been considered on the basis of the submitted information which sets out that no more than four dogs not in the applicants ownership are brought onto the site for training within any given week. If the use of the site changes and this number increases a new application or variation of condition may be required.
- (3) The applicant is advised that the condition details required by Condition 7, may require an updated noise survey to ensure that the training/exercise programme proposed would not result in undue noise and disturbance.

Case Officer: Rachael Elliott

NB For full details of all papers submitted with this application please refer to the relevant Public Access pages on the council's website.