

PLANNING COMMITTEE – 7 APRIL 2022**DEFERRED ITEM 1**

Report of the Head of Planning

DEFERRED ITEMS

Reports shown in previous Minutes as being deferred from that Meeting

DEF ITEM 1 REFERENCE NO - 21/500173/FULL		
APPLICATION PROPOSAL		
Retrospective application for change of use of land from agricultural to animal rescue including new stock fencing and gates, mobile field shelters, small animal houses, shipping containers for storage, associated boundary treatment and stationing of a mobile caravan for use as a residential unit for staff.		
ADDRESS Land East Of Hawes Woods High Oak Hill Iwade Road Newington Kent ME9 7HY		
RECOMMENDATION Refuse		
SUMMARY OF REASONS FOR REFUSAL		
The proposal does not accord with the core principle of sustainable development within the countryside and is harmful to its intrinsic value, visual amenity, key characteristics, sensitivity, landscape setting, functioning and purposes of the countryside. Moreover, the structures, fence and gates are considered to cause substantial harm to the rural character and appearance of the streetscene and the general character of the rural area. Insufficient information is provided for the Council to reasonably assess whether the proposed use (open days) would, by reason of the sites unstainable location, result in the significant uplift in traffic levels, to an extent that would be harmful to the character, appearance, and intrinsic visual amenity value of a designated Rural Lane (Iwade Road) and countryside setting.		
REASON FOR REFERRAL TO COMMITTEE		
This application was deferred by the Planning Committee on 9 th December 2021		
WARD Bobbing, Iwade And Lower Halstow	PARISH/TOWN COUNCIL Bobbing	APPLICANT The Happy Pants Ranch AGENT
DECISION DUE DATE 23/07/21	PUBLICITY EXPIRY DATE 22/03/22	

1. BACKGROUND

1.1 This application was reported to the Planning Committee on 9th December 2021. A copy of the report is attached as Appendix 1. The Planning Committee resolved the following:

Resolved: That application 21/500173/FULL deferred for further negotiation with the Applicant and officers to include: a limited deferral of three months; a management plan; the land to be returned to agricultural use when it was no longer an animal sanctuary; appropriate gating/screening/fencing to be installed; restoration of the 15-metre buffer, with a compensation strategy; restrict occupation of caravans to the use of animal care; satisfactory plans to address the issues outlined in the report; the harm to the ancient woodland to be

addressed and reported back to consultees for further comments. In the event that permission be granted in due course, consideration be given to a two year temporary permission for open days and their impact to be monitored.

1.2 A copy of the minutes of the committee meeting is attached as Appendix 2.

1.3 Since the Planning Committee of 9th December 2021 the following events have taken place:

- A letter was sent to the applicant Amey James on 23rd December 2021. This letter set out the additional information required to resolve the concerns set by Members at planning committee. The deadline date set by the council was 1st February 2022. A copy of the letter is attached as Appendix 3.
- On 1st February 2022 the council was approached by a planning agent working on behalf of the applicant requesting further time to gather the information. The request was made on the grounds that the council's letter had been sent over the Christmas period. A further three weeks were agreed moving the deadline to 22nd February 2022. Consequently, this meant that the council missed the target deferral of 3 months which was set by Members.
- Notwithstanding, the information was not forthcoming resulting in the second missed deadline by the applicant.
- Further conversations continued between the council, Ward Members and the applicant and a further extension of time was provided until 4th March 2022.
- On 4th March 2022, additional information was submitted by means of an email response with one plan attached – a proposed site plan. No supporting specialist information was provided. Further details are set out below:

2. **ADDITIONAL INFORMATION** (Summarised) Full details can be found online -'Additional supporting information received by applicant', dated 4th March 2022.

A Management Plan

- ***Details of the general day to day management requirements of the site;***

2.1 An explanation has been provided which sets out the daily management of the site. This specifies that at least 4 -10 volunteers are on site between 9am-3pm to help with tasks from feeding and grooming to cleaning and medicating. This also provides information on the management of volunteers and a general daily routine followed by staff.

- ***Details of visitors including open days, permanent staff and volunteering staff – visitor numbers, visiting hours, parking arrangements including a request for a parking layout;***

2.2 This information discusses a two-year regeneration plan including the intention to open the front 5 acres of land to the public. While this information sets out the future vision, no further supporting information is provided in relation to this.

2.3 It is intended to run 1 or 2 open days a month (Covid / weather permitting). One of the days is intended as a mental health day, the other day an educational day. Both these days would

have a limited number of visitors (max 20) due to parking restrictions, health and safety etc and operate between the hours of 10-4pm. No days are specified.

- 2.4 The additional information sets out that there are car parking facilities at the front west side of the site, where the original site track has been reinstated and that the charity encourages all volunteers and visitors to “go green” by either car sharing, organising a minibus group or using the nearby public transport services to access the site.
- 2.5 The current vehicle parking area facilitates 20 cars and if necessary there will be vehicle access to the front East paddock as an overflow carpark in the dry months if necessary.
- 2.6 Open days are not intended until summer 2023 and it is their two year plan to prepare the front 1/3 of the site to open for small public visits initially.
- 2.7 The 5 year plan would see the remainder of the site open to visitors once it has been tended to and managed in accordance with professional ecologist advice and guidance. (Not provided)
- ***Details of animals including numbers, maximum number of animals to be kept onsite at any one time and how this will be managed;***
- 2.8 The information sets out that the site currently provides shelter for approximately 400 animals of varying species. The table below shows animal type and numbers:

Animal type	Number of animals		Animal Type	Number of animals
Pigs	22		Emus	2
Cows	9		Dogs	7
Horse	1		Cats	32
Ponies	4		Guinea pigs	35
Hinny	1		Peacock	1
Cockerels	120		Chicken	35
Geese	22		Goats	17
Turkeys	15		Turtles	25
Chicken	35		Tortoises	2
Ducks	30		Sheep	15
Snakes	3		Lizards	2
Total number of animals 435				

2.9 In terms of management of the animals the applicant provides the following explanation:

'the Ranch only takes in animals with no where else to go, so if an animal is in need of rehoming, firstly alternative private homes or other sanctuary placement are appealed for via the social media channels. For approximately 75% of animals we are asked to help, homes are found. It is only those animals that have no where else to go (usually due to old age, behavioural or medical issues,) and are therefore awaiting euthanasia at the vets or booked in at the slaughter house, that they will come to be under the care of this sanctuary.

2.10 *When an animal does need to come in, the charity always appeals for funds to help cover the extra costs of caring for that new animal, so as to put as little extra strain on the charity's finances as possible.*

2.11 *The charity has grown naturally and gradually over the past 10 years - in terms of support, size of area it operates from and number of animals it cares for. The more awareness of the sanctuary, naturally brings more support and therefore more donations, allowing the charity to help more needy animals, which in turn help the community and people caring for them. This is the way the sanctuary will continue to operate and develop.*

2.12 *A lot of common sense too comes into the amount of animals we care for - the charity would never seek to take in more animals that it could spacially, physically or financially care for, as this would have a negative impact on the welfare of those animals already living at the sanctuary and this would defeat the whole objective of the charity. It's paramount that love, freedom and happiness are the three things every animal at the sanctuary experiences in abundance.*

2.13 *Spatially, the sanctuary is only using around 1/2 of the land at the current site, however the charity is not seeking to take in any more animals at present, until the present site is more fit for use and the future of the site more secure.*

- **Details of how and where you intend to move structures around the site, including the 15m ancient woodland buffer and methods of removal;**

2.14 The applicant states that the structures were only intended to be temporary in nature due to the following - no concrete or hardstanding has been made; no foundations have been dug; all the timber structures (i.e. garden sheds and summerhouses) are sat on recycled pallets; storage containers, field shelters and any caravans are all completely mobile and moveable. Therefore, the applicant explains that all structures can be moved easily and quickly (via crane elevation, towing or simply deconstructing, relocating and reconstructing) without damage to any tree roots and minimal disruption to the site and nature within it.

2.15 The applicant confirms that all structures will be moved out of the 15m ancient woodland buffer zone and relocated to form a natural boundary Easterly across the site. The sheds and summerhouses will all sit in the area behind the containers.

- **Measures to minimise the impact upon bio-diversity**

2.16 This information sets out the applicant's intention to work with a number of professional ecologists and governing associations such as gov.co.uk and the countryside stewardship scheme, in implementing a range of ways the charity can protect and increase biodiversity on the site, including: wildlife conservation; planting native hedgerows; planting native trees;

growing a wild crop; green roofs; introducing and maintaining water courses; woodland restoration and management; pond maintenance and management and “plant a tree scheme”.

- **Details relating to noise abatement**

2.17 The applicant advises that they have worked with SBC Environmental Health Team to address the Noise Abatement Orders in the following ways:

- *Moved the cockerels 185m to a more sound-secluded area of the land which is much further away*
- *The coop / shed windows have been blacked out to prevent early morning crowing*
- *Roosting perches have all been raised to minimise the level of crowing noise*
- *Rehomed / relocated all the hens (means cockerels are less likely to crow in competition of females)*
- *Rehomed some of the cockerels (although this is almost impossible..)*
- *Moved the cows further away from the complainants property*
- *Fostered out the dog that had the loudest / deepest bark*
- *Encouraged the geese to use the pond which is furthest away from the complainants property*

2.18 In terms of mitigation, the applicant proposes the following measures:

- *Planting of dense, native hedgerow to absorb sound*
- *Introducing acoustic barriers and creating a bund wall to deflect sound*
- *Relocating the animals to the woodland areas of the site so trees can buffer the sound*

The land to be returned to agricultural use when it was no longer an animal sanctuary

2.19 No information is provided

Appropriate gating/screening/fencing to be installed

2.20 The applicant states that the current gates and fencing are appropriate and sympathetic to the surroundings. *The front gate and fence is solid to add some much needed screening and security as well as keeping the animals inside and prevent escaping from site. This is of similar style to several residential fences used just a few metres away at neighbouring properties. It is well set back from the lane, unobscuring any view from vehicles, as agreed on the highways comment on the planning proposal. We fully intend to plant a native hedgerow at the front of the site to the East and West of the gates to help screen the fence and also add a wealth of natural habitat, increasing the biodiversity net gain.*

2.21 The triangular patch to the front east of the gates is to be wild meadow seed planted to encourage bees and butterflies.

2.22 The triangular patch to the front west of the gates is to remain as natural woodchip area suitable for a vehicle pull in point, helping any possible congestion in the lanes.

2.23 All gates and fencing used inside the site are of a typical agricultural nature to be in keeping with the countryside environment whilst also strong and functional to secure the animals. Stock and wooden post fencing will be used as it is currently and wooden / metal field gates as per current drawings and elevations already submitted.

2.24 No further plans were provided.

Restoration of the 15 metre buffer, with a compensation strategy;

2.25 The applicant sets out that all structures (sheds, containers, summer houses etc) within the 15m ancient woodland buffer zone will be removed from their current position and relocated to another part of the site. As no footings or hardstanding was laid for these structures, there should be very little impact on the AW trees down the westerly side of the site.

2.26 The instatement of a minimum 15m buffer along the ancient woodland boundary (as per Natural England/Forestry Commission's Standing Advice), will be delineated with appropriate boundary treatment and the area should be allowed to naturally 'scrub' up with native species.

2.27 In depth details of any restoration actions required (not yet confirmed) will be outlined in the Ecologist report (suggested to be conditioned upon approval of the planning permission.)

Restrict occupation of caravans to the use of animal care;

2.28 The proposal states that constant care, attention and security is required and therefore someone needs to be on site 24/7. At the moment, the charity is not in a position to employ someone, and therefore the full-time care and attention is undertaken by Amey James and her partner / site manager Philip Greenhalgh. It also confirms that the mobile home would only be used whilst The Happy Pants Ranch resides at the site.

3. PLANNING CONSTRAINTS

3.1 Located in the countryside outside of any defined Built-up area boundary.

3.2 Site lies immediately adjacent to Ancient Woodland (Hawes Wood) and the southern boundary falls within the 15m buffer of Hawes Wood, which is designated as ancient & semi natural woodland.

3.3 Area of High Landscape Value Swale Level

3.4 Iwade Road is a designated Rural Lane

3.5 Potential Archaeological Importance

3.6 Agricultural Land Classification Grade 3b

3.7 Designated Local Wildlife Site; 'Hawes Wood and Wardwell Wood, Newington'.

4. LOCAL REPRESENTATIONS

4.1 KCC Biodiversity (22.03.2022) Summary of comments:

Given what has happened to the site so far, we have little confidence that even the measures proposed above will be enacted effectively. The additional information repeatedly refers to an ecological report that will be produced but until this materialises, there is simply insufficient and conflicting information to assure us that ancient woodland/surrounding biodiversity can be safeguarded, or that there is any opportunity to rectify the damage caused by the site clearance.

Whilst it is too late to determine the harm/displacement caused to protected species on-site, it can still be determined how much biodiversity has been lost (using the pre-April 2020 habitat as baseline – a method explicitly referenced in the recently passed Environment Act 2021). This relates to paragraph 26 of the government's guidance on the natural environment which states it may be necessary to consider recent deliberate harm to biodiversity when determining a planning application.

We advise that at the very least, a report by a professional, CIEEM-registered, ecologist is produced in order to demonstrate that measures can be enacted to protect the ancient woodland from further impacts. This needs to include details, such as a planting schedule and corresponding site plans. A Defra metric should also be produced to objectively assess the biodiversity which has been lost and how much 'offsetting' can be achieved on-site.

4.2 KCC Highways and Transportation (16.03.2022)

The submitted plan does not demonstrate the parking. The applicant states that '*There are car parking facilities at the front west side of the sanctuary*' and '*The current vehicle parking area facilitates 20 cars*', but this has not been demonstrated on the plan. There is also mention of an overflow car park.

A 'Proposed Car park' is indicated on the plan, however this only measures 20m in width and would only accommodate 8 cars, based on our parking space dimension requirements of 2.5m width x 5m length. The applicant should use these dimensions when demonstrating the existing parking spaces, as it may be that less space is available when taking these measurements into account. We need to ensure that there is suitable parking available for both staff and visitors.

In addition, the width of the entrance should measure a minimum of 4.1m to allow two vehicles to pass each other safely. This needs to be indicated on further submitted plans.

The original entrance has been enlarged to allow access to this site, and dependant on the proposed opening times to the public, a more formalised access may be required.

The submitted information mentions a 2 year and a 5 year plan with regards to opening up to the public, however the applicant should submit further information in the form of a more robust plan as to proposed number of days it intends to be open to the public and how many people would be allowed to visit at any one time etc.

I think it would be appropriate to apply a suitable worded condition (should the Local Planning Authority be minded to approve this application) to allow visits by the public on a temporary basis for two years initially, dependant on the plan that should be submitted by the applicant, whereby the impact and parking facilities can be monitored and assessed.

Environmental Protection Team (15th March 2022)

4.3 *Complaints to the Council from nearby residents alleging noise nuisance from the use of the application site as an animal sanctuary have been witnessed by officers of the Council and resulted in the service of Abatement Notices under the statutory nuisance provisions of the Environmental Protection Act 1990. The Abatement Notices require the applicant to take all reasonable steps to abate the noise nuisance and stop it recurring.*

In a spirit of co-operation and in order to resolve the issue, officers have offered advice to the applicant regarding compliance with the Abatement Notices. It was also suggested to the

applicant that independent specialist advice be sought regarding possible solutions and noise mitigation measures.

Whilst the applicant has provided a list of measures that have been taken to try and mitigate the issue, if they have been implemented, they have not been successful resulting in continued complaints about excessive noise. Whilst the applicant has been advised of the unsuccessfulness of the measures, no further tangible noise mitigation measures have been put forward.

The situation to date is that evidence has been obtained independently by four officers on four separate occasions each witnessing what they assessed as potential breaches of the Abatement Notices currently in force. Whilst the noise issue continues to be monitored, further legal action for those breaches is currently under consideration by officers of the Council.

I think it is clear from the evidence of those Council officers who have witnessed the level of noise and the prolonged periods to which it adversely impacts on nearby residents, that the acceptability of this site for its use is untenable. I must therefore raise a strong objection to the granting of this retrospective application.

4.4 KCC Flood and Water Management (08.03.2022)

We have no further comment to make on this proposal and would refer you to our previous response on 12 August 2021.

Previous comments from 12.08.2021;

- *Potentially contaminated water from activities associated with the proposed facilities should only be directed to a dedicated foul water system. It will be unacceptable to direct this runoff to a watercourse or direct to ground.*

Following ongoing deliveries of hard core delivered to the site, KCC Flood and Management were re-consulted.

- *Given that this is a retrospective application we had assumed that the access road and car park were formed? We would advise that the use of recycled material is unacceptable as a permeable surface given the possibilities of it containing contaminants which could affect water quality, but it seems the EA have taken this in hand. (18.11.2021)*

4.5 Rural Planning (09.03.2022)

As far as I can see this additional submission simply underlines the requirement for attendance on site, in the caravan, as already advised in my email of 27 August 2021.

Previous comments from 27.08.2021

- *Having now accessed the submitted information, I would agree that the continued operation of this registered animal charity on this site does require the sort of on-site attendance that a mobile home provides, for the proper care of the relatively large number and variety of animals involved, out of normal working hours (as well as day-time first aid point/shelter etc. for staff/volunteers).*
- *Given the nature of the use, it seems unlikely that the charity would meet the usual*

financial tests that are applied to proposals for permanent rural workers' dwellings; however I note that the mobile home proposal is linked specifically to this specific charity and to the temporary period sought for the charity's use of the site. The applicant has confirmed (para 4.4 of the submitted Statement) willingness to accept an appropriate condition to this effect.

4.6 Environment Agency (14.03.2022)

Regarding the planning application the EA responds that they have no comments to make as the planning application as it falls outside of their remit as a statutory planning consultee

- 4.7 As a separate matter, Members will be aware that there is an ongoing issue at this site due to matters relating to import, soil material, and possible land contamination. Whilst these are not a planning matter (though land raising sufficient to materially change the topography of the site potentially would be) generally the powers to deal with such matters lie with the EA, rather than the Council. These matters are currently under investigation by the EA as set out in further details in paragraphs 6.27 to 6.30 below

Forestry Commission (15.03.2021)

- 4.8 *We note you have received additional information from the applicant, dated the 4th March 2022.*

We are reassured that the applicant will be removing all structures from the ancient woodland buffer zone, and allowing the buffer zone to develop into an ecotone appropriate for a woodland edge.

We recommend that all livestock is excluded from the ancient woodland to prevent damage to the ground flora by grazing by means of suitable stock fencing where this is not already in place.

Care must also be taken that animal waste is not allowed to accumulate in such a manner or location as to be at risk of flowing into the ancient woodland during inclement weather or flood events.

We would take this opportunity to remind the applicant, as they have mentioned woodland management for the remaining woodland on-site, that any tree felling not explicitly granted within any planning permission may require a felling licence from the Forestry Commission. The applicant should therefore contact their local Woodland Officer for further advice.

5. CONSULTATIONS

Newington Parish Council

- 5.1 Councillors have considered the application and while there was no comment to make on the suitability of the site for an animal sanctuary which is outside the village, concern was raised concerning the impact of the traffic on local roads, Iwade Road, Church Lane, Boxted Lane and Mill Lane, also known as Bricklands. Councillors were not reassured regarding the applicant's projection of visitor numbers and were aware of the problems off-road parking is currently causing visitors to residents in Iwade Road.

Public consultation

- 5.2 In light of the re-consultation a total of 31 letters of representations were received. Of these 29 support the proposal while there were 2 letters of objection:

Summarised reasons of support

- 5.3 The thread running through all letters of support questions why the council would not support a charity organisation which brings many benefits to the local community. The location of the ranch is rural and this type of development is suited to the countryside. Moreover, noise of animals is expected in the countryside. The proposal would allow the charity to continue to rescue animals that are abandoned and abused – a benefit to the local community. Nearly all letters of support commend the hard work and dedication of the team.

Summarised reason of objection

- We note that many who are in favour of this rescue centre neither live in the area, nor have thought about the impact on our lanes or local people. How are such 'neighbour comments' even able to be listed on the planning portal when they cannot be considered neighbours when they live miles away from the area, have no local knowledge and the impact is not on themselves but on the lives of others.
- Noise breaches outside of stated hours between 11pm and 7am
- Constant noise from poultry and generators
- The plan is not drawn to scale. The 15m buffer zone along the Hawes Wood boundary appears to end well before the existing L/H gatepost facing the site. In reality the buffer zone should be 49.21 feet wide and end well after the new entrance which would have to be relocated to comply. Also, a Telegraph pole may need to be resited.
- Land shown on the drawing to the East of the site marked "Animal Enclosure" is a neighboring property Blackberry Farm. It does not form part of the site and is misleading
- A business of this size keeping this many animals cannot be sustainable without a proper electricity supply.
- There is no fencing along the Hawes Wood boundary, animals have already been escaping through the woods and out onto the road causing traffic problems
- The cockerel aviary, which was apparently moved to the far end of the site to alleviate the noise it produces, seems to have been moved back on the plan to its original position nearer to noise sensitive areas.
- The traffic in Iwade Road has increased dramatically over the last 15 months due to visitors, volunteers, deliveries etc to this site. This will increase if this company is allowed to have open days. There is no need to monitor the traffic they generate for two years, its already bad now and set to get worse. Residents cannot safely walk down our own street for fear of getting run over or attacked by one of their escaped animals.
- Doubt whether the animal inventory is correct bearing in mind that they have continued to collect stock even after being advised not to for 15 months.
- Biodiversity issues - company destroyed all wild life and habitats. There were many protected species of animals on this land including voles, GCN, slow worm, dormice etc. Most of which are now long gone. The vast amount of cats on this land are taking care of what is left.
- The idea that this company has saved this area from traveller community settlements has not been well received. They are living in a caravan which was pulled onto this site illegally and without seeking Planning Permission.
- In its fervent rush to illegally occupy this land using innocent animals as grounds, this company has killed more WILD animals than any others they will ever save.
- Risks to neighbouring farms and concerns surrounding bio-security measures

- There will be increased traffic to this Recue Centre from visitors on open days, deliveries, volunteers etc. which will make the narrow lanes increasingly dangerous especially with people who are unfamiliar with the area trying to locate it.

6. APPRAISAL

6.1 This section deals specifically with the items included in the Planning Committee resolution when the application was reported to Members on 9th December 2021. This is set out as follows:

- A limited deferral of three months;
- A management plan;
- The land to be returned to agricultural use when it was no longer an animal sanctuary;
- Appropriate gating/screening/fencing to be installed;
- Restoration of the 15-metre buffer, with a compensation strategy;
- Restrict occupation of caravans to the use of animal care;
- Satisfactory plans to address the issues outlined in the report; the harm to the ancient woodland to be addressed and reported back to consultees for further comments.

For ease, each point is addressed individually below:

A limited deferral of three months

6.2 Noted, as set out in paragraph 1.3 above, the applicant was provided with further time to submit the information which has resulted in the application being presented back to committee after 4 months.

A Management Plan

6.3 A Management Plan was required. In the Management Plan the following information was requested:

Details of the general day to day management requirements of the site;

6.4 The information provided by the applicant and summarised in paragraph 2.1 above provides a broad description of the current day to day running of the site, including volunteer numbers (4-10) and their duties.

Details of visitors including open days, permanent staff and volunteering staff – visitor numbers, visiting hours, parking arrangements (please provide a parking layout);

6.5 Turning to the future opening of the site to the public, minimal information has been provided. The applicant states intention to open the site to the public 1 or 2 days a month from 10am until 4pm to non-paying guests focusing primarily on the benefits education and to mental health. The proposed open days would intensify the use of the access and potentially increase the parking requirements at the site and it was recognised that improvements to the site would be needed before visitors can attend these open days. In this regard, the applicant has only marginally expanded on the information previously submitted. Furthermore, it now appears to increase the visitor numbers from 10 to 20.

6.6 Moreover, the submitted plan does not demonstrate existing or proposed parking facilities. The applicant states that 'There are car parking facilities at the front west side of the

sanctuary ' and 'The current vehicle parking area facilitates 20 cars', but this has not been demonstrated on the plan. There is also mention of an overflow car park however no further details are provided. Members will be aware of comments relating to an overflow car park within the original committee report (9th December 2021 paragraph 8.13):

*'The current car parking area (left hand side of the sanctuary through the entrance gates) holds a maximum of approx. 10 cars, **however the site allows ample space (on right hand side) for an overflow car park** so there would be no parking of vehicles outside of the site, in the lane etc. Members will note the area referred to by the applicant is currently undeveloped land. As such, the development has and continues too, result in the significant erosion of the site detrimental to the character and appearance and visual amenities of the area, to the detriment of this countryside setting with no safeguarding mitigations in measures in place.*

- 6.7 From the information submitted, the applicant again refers to 'an overflow' car park on undeveloped land and no information has been received to address the previous concerns set out within the previous report.
- 6.8 Turing to parking A 'Proposed Car park' is indicated on the plan, however this only measures 20m in width and would only accommodate 8 cars, based on Swale Borough Council Parking Standards which requires parking space dimension of 2.5m width x 5m length. KCC Highways is concerned that these parking dimensions should be used when demonstrating the existing parking spaces, as it may be that less space is available when taking these measurements into account. As is stands, the Council is still unable to accurately assess whether there is suitable parking available for both staff and visitors. In addition, the width of the entrance should measure a minimum of 4.1m to allow two vehicles to pass each other safely.
- 6.9 The original entrance has been enlarged to allow access to this site, and dependant on the proposed opening times to the public, a more formalised access may be required.
- 6.10 The submitted information mentions a 2 year and a 5 year plan with regards to opening up to the public, however this lacks any robust planning and are ideas and therefore would be difficult for the Council to reasonably enforce.

Details of animals including numbers, maximum number of animals to be kept onsite at any one time and how this will be managed;

- 6.11 The applicant specifies the number of animals to be kept on site as 400 with a total of 435 currently onsite. In terms of managing these numbers, the applicant refers to a 'common sense' approach - not taking in more animals than it could 'spatially, physically or financially care for'. However, this method is not enforceable and without appropriate boundaries this undocumented approach gives rise to various planning concerns including but not limited too - adverse amenity impacts specially noise related issues, biodiversity impacts, bio security measures and the potential for further encroachment into the undeveloped countryside.
- 6.12 Members are aware that this is a Designated Wildlife Site and adjoins an ancient woodland. I have consulted with KCC Ecology who have provided the following response:

Photographs attributed to the site shows free-roaming cats (32 of which are purported to be on-site) and pigs (22 of which are purported to be on-site) within a woodland environment.

This would appear to be within the surrounding ancient woodland. The presence of these animals within the ancient woodland is very likely to cause deterioration to the woodland ecosystem. We also highlight that whilst a buffer-zone may prevent some animals encroaching into the ancient woodland (once established), it is unlikely to prevent cats from entering the woodland.

It is stated that the pigs "...currently inhabit a small, sectioned off area of the large woodland area on site... ..which is NOT ancient woodland". Can this area be shown on a map, with photographic evidence demonstrating that this area is woodland/orchard? The imagery available to us suggests almost the entire site was denuded of vegetation when the site was cleared and so we query where on-site this woodland is.

- 6.13 A further concern of the Council is that the supporting information indicates that more animals will be brought to site at a later date, '*Spatially, the sanctuary is only using around 1/2 of the land at the current site, however the charity is not seeking to take in any more animals at present, until the present site is more fit for use and the future of the site more secure.*' Again no details are provided as to how this would be managed other than 'a common sense approach'.

Details of how and where you intend to move structures around the site, including the 15m ancient woodland buffer and methods of removal;

- 6.14 The additional information stipulates that the structures on-site will be moved to allow for a 15m buffer-zone for the adjacent ancient woodland. The information provides no detail in relation to the tonnes of aggregate that have been imported and methods of removal.
- 6.15 Moreover, Members will be aware that temporary boundary screening in the form of white plastic sheeting had been erected along the woodland edge secured to a number of the trees using wooden blocks and nails. The nailing of structures to the existing boundary trees is likely to have caused stem damage, thus exposing the trees to decay/disease. No details have been provided in relation to appropriate removal. Moreover no details have been provided as to whether the repositioning of the structures would be situated on top of imported hardcore or on an undeveloped section of land and what implications this would have on bio-diversity.

Measures to minimise the impact upon bio-diversity

- 6.16 In measures relating to bio-diversity KCC were consulted who provide the following response:
- 6.17 *The additional information states "Biodiversity is something the charity has strong beliefs in". This is not consistent with what has happened on-site. As previously mentioned, the site was likely relatively high in biodiversity before the unauthorised clearance, with the presence of protected species, like dormice and Great Crested Newts, in adjacent habitat (and, therefore, highly likely to be utilising the site). As the site was almost completely cleared of its grassland and scrub, there is now no habitat for wildlife on-site. Therefore, we take the view that this statement is patently false and little regard has been given to biodiversity thus far regarding on-site activities.*
- 6.18 *Under section 40 of the NERC Act (2006), paragraph 180 of the NPPF (2021) and the Environment Act (2021), biodiversity must be maintained and enhanced regarding*

developments. This has not been adhered to and it is now very unlikely a biodiversity net-gain be achieved. This could be confirmed using the Defra metric and the pre-clearance habitat (before April 2020) as the baseline.

- 6.19 *Additionally, in alignment with paragraph 180 of the NPPF 2021, the implementation of enhancements for biodiversity should be encouraged. However, as the development cannot demonstrate a net-gain in biodiversity, it cannot be demonstrated that enhancements can be incorporated.*

Details relating to noise abatement measures

- 6.20 In matters relating to noise, the additional submitted information has been reviewed by SBC Environmental Services Team who have provided the following response:

Complaints to the Council from nearby residents alleging noise nuisance from the use of the application site as an animal sanctuary have been witnessed by officers of the Council and resulted in the service of Abatement Notices under the statutory nuisance provisions of the Environmental Protection Act 1990. The Abatement Notices require the applicant to take all reasonable steps to abate the noise nuisance and stop it recurring.

In a spirit of co-operation and in order to resolve the issue, officers have offered advice to the applicant regarding compliance with the Abatement Notices. It was also suggested to the applicant that independent specialist advice be sought regarding possible solutions and noise mitigation measures.

Whilst the applicant has provided a list of measures that have been taken to try and mitigate the issue, if they have been implemented, they have not been successful resulting in continued complaints about excessive noise. Whilst the applicant has been advised of the unsuccessfulness of the measures, no further tangible noise mitigation measures have been put forward.

The situation to date is that evidence has been obtained independently by four officers on four separate occasions each witnessing what they assessed as potential breaches of the Abatement Notices currently in force. Whilst the noise issue continues to be monitored, further legal action for those breaches is currently under consideration by officers of the Council.

It is clear from the evidence of those Council officers who have witnessed the level of noise and the prolonged periods to which it adversely impacts on nearby residents, that the acceptability of this site for its use is untenable. I must therefore raise a strong objection to the granting of this retrospective application.

The land to be returned to agricultural use when it was no longer an animal sanctuary

- 6.21 No information is provided.

Appropriate gating/screening/fencing to be installed

- 6.22 The applicant argues that the existing boundary treatment along Iwade Road is acceptable. A revised scheme has not been submitted and therefore the Council maintains their original objection.

- 6.23 No plans or details are provided to demonstrate appropriate gating/screening/fencing along the boundaries with Hawes Wood and neighbouring properties to stop animal escape amongst other things. There are many recorded instances of animal escape from the farm. Members may also be aware that there is the issue of the domesticated animals allegedly eating protected species; which while covered by other legislation (and potentially a Police matter) is arguably material to our assessment of the development as reducing biodiversity in that way obviously runs contrary to the NPPF and Policy DM28.
- 6.24 There is also the issue of biosecurity issues and potential implications for neighbouring farms should poultry escape into neighbouring sites.

Restoration of the 15 metre buffer, with a compensation strategy;

- 6.25 In matters relating to Biodiversity restoration and compensation KCC Ecology were consulted who provided the following response:

Measures have been proposed to compensate for the loss of habitat on-site and to limit adverse impacts on the ancient woodland.

For the ancient woodland buffer-zone, it is proposed that the hedgerow and tree planting will be native only, which is appropriate as non-native species will have little to no biodiversity value. We are supportive of native species-only landscaping.

It is stated that “Leaving grown crops un-harvested over winter provides a sources of food through the winter for seed eating birds”. Whilst this is beneficial in principle, we highlight that with over 30 cats on-site, the site is likely to be unsuitable for wild birds to be feeding on seed. Additionally, this ‘crop planting’ is not shown on the site plan.

It is stated that “Introducing and maintaining watercourses: Watercourses to be cleaned in an environmentally friendly way by removing vegetation and silt and spreading thinly along the bank”. With the introduction of non-native terrapins in the pond(s) on-site, and the likely runoff of animal effluent and other chemicals, we highlight that watercourses should not be implemented. Again, this has not been shown on the site plans and we would highlight that the Environment Agency/KCC Flood and Surface Water team must be consulted before additional watercourses are incorporated.

Management of the surrounding ‘vast’ woodland has been proposed. As the surrounding ancient woodland/non-ancient woodland has not been included within a blue-line boundary, we query whether the applicant owns the ancient woodland land or has permission from the landowner to manage it. We also highlight that ancient woodland management requires a Forestry Commission approved management plan. We seek clarification regarding this issue if the applicant intends to go ahead with this.

It is stated that “No lighting is left on all night because the only source of electricity (generator) is switched off routinely every night, so as not to have any adverse impacts on the immediate area and ancient woodland’s wildlife population”. We note the lack of external lighting on-site and are supportive of this measure (illumination throughout the night would likely adversely impact ancient woodland ecology).

It is stated that all structures will also feature ‘green roofs’ but, again, this proposal is lacking details and we would query how this will be achieved, what type of vegetation will be established and how it will be managed.

Restrict occupation of caravans to the use of animal care;

- 6.26 The Council has liaised with the Rural Consultant who agrees that the continued operation of this registered animal charity on this site does require the sort of on-site attendance that a mobile home provides, for the proper care of the relatively large number and variety of animals involved, out of normal working hours (as well as day-time first aid point/shelter etc. for staff/volunteers). As such, the Council is reasonably satisfied that this could be conditioned in the event of approval.

Other MattersEnvironmental Health/Environment Agency

- 6.27 Members are aware that there are ongoing concerns at the site regarding the depositing of imported waste. Following the previous committee meeting, officers revisited the site on 17th December 2021 who report that there has been significant destruction where the land has been filled with imported waste. To roughly gauge the scale, it is estimated an area the size of a typical football field to an approximate typical 1.5m depth.
- 6.28 Notwithstanding, it is recognised that matters relating to soil material, import, or possible land contamination are not a planning matter (though land raising sufficient to materially change the topography of the site potentially would be) and that generally the powers to deal with such matters lie with the EA, rather than the Council.
- 6.29 These issues are on-going with the Environment Agency. The EA has confirmed that they are still not in receipt of transfer notes and that the applicant now suggests that the waste is site derived. The EA confirm that an U1 exemption is still currently registered with them however the applicant has been made fully aware by the EA that they cannot import this type of material again. The applicant has been provided with an opportunity to remove inclusions (plastics, metals, glass etc) that was not permitted under the U1 license from the hardcore material. In this regard, the applicant has a couple of skips on site and are hand picking out the rubbish. It is officers' view that this is likely to be an impossible task, when considering the sheer volume and type of waste which has been imported. It is not feasible to do this by hand with two skips. It is not a plausible suggestion put forward by the applicant and the EA is fully aware of the Council's ongoing concerns.
- 6.30 The next steps are a question of what action the EA feel is appropriate under their Enforcement and Sanctions Policy. The Council has been advised that essentially the EA have to exhaust all options before taking any enforcement - this is obviously a high public interest case from both sides of the public and therefore the EA need to be fair and proportionate in their response. At the time of writing this report, these issues remained ongoing, but I will update Members at the meeting if further information is received from the EA.

Bio security Measures

- 6.31 Poultry owners (more than 50 birds) have an obligation to register their flocks with DEFRA. Concern has been raised that high numbers of poultry are being kept at this site whilst neighbouring farms have been severely restricted by DEFRA's response to Avian Flu. In this regard, animal escape from the site is well documented including birds, and despite the

request from the council for more information regarding appropriate boundary treatments, no plans have been provided. Whilst it is recognised that cross contamination is an environmental issue and not a planning matter, the potential impact this site has on a family's livelihood is a material consideration as to whether this is a suitable location for an animal sanctuary.

7. CONCLUSION

- 7.1 The additional information repeatedly refers to an ecological report that will be produced but until this materialises, there is simply insufficient and conflicting information to assure the Council that ancient woodland/surrounding biodiversity can be safeguarded, or that there is any opportunity to rectify the damage caused by the site clearance.
- 7.2 Moreover, the applicant references bio-diversity measures which would be put into practice however such measures are considerably expensive and, given the applicants own admission of lack of monies and general resource issues. And limited detail has been provided in support of such measures It is reasonable to conclude therefore that these proposals may never be implemented and therefore can only be afforded little weight.
- 7.3 In addition, based upon the lack of supporting specialist information and plans, and concerns raised from KCC Ecology and KCC Highways who are still not satisfied with the information as submitted, coupled with four (4) registered noise abatement breaches where Environmental Health investigations are ongoing, the Council is not satisfied that sufficient information has been provided to address the previous concerns. For this reason, the application is recommended for refusal based on the original reasons of refusal.

8. RECOMMENDATION - REFUSE for the following reasons:

REASONS

- (1) The animal rescue sanctuary comprising of mobile field shelters, small animal houses, shipping containers for storage, associated boundary treatment and stationing of a mobile caravan for use as a residential unit for staff, by reason of its countryside setting and location (in part) within the 15m buffer area of Hawes Woods, ad-hoc nature of development and associated inappropriate use of hardcore materials, causes significant and demonstratable harm to this countryside setting by reason of its failure to conserve, enhance or extend biodiversity, provide for net gains in biodiversity or minimise any adverse impacts or compensate where impacts cannot be mitigated. As such, the proposal does not accord with the core principle of sustainable development within the countryside and is harmful to its intrinsic value, visual amenity, key characteristics, sensitivity, landscape setting, functioning and purposes of the countryside, contrary to policies ST3, DM3, DM24, DM28 and DM29 of Bearing Fruits 2031: The Swale Borough Local Plan, and to the provisions of paragraphs 8, 10, 11, 12, 152, 153, 174 and 180 and 182 of the National Planning Policy Framework (NPPF) 2021
- (2) The fencing and gates to the front of the site amount to prominent, obtrusive and visually harmful development, which cause substantial harm to the rural character and appearance of the streetscene and the character of the rural area, contrary to Policy DM14 of the Swale Borough Local Plan 2017.

- (3) The significant number and location of structures and buildings at the site give rise to a cluttered appearance, with consequent harm to the character and appearance of the area, contrary to Policy DM14 of the Swale Borough Local Plan 2017.
- (4) The development, as a result of the cumulative constant daily noise from animals including cockerels, geese, sheep, cattle and dogs being accommodated there, results in an unacceptable level of noise and disturbance to the residents of adjacent dwellings in a manner harmful to, and adversely impacts upon current living conditions. The application is therefore contrary to Policy DM14 of the "Bearing Fruits 2031: The Swale Borough Local Plan 2017".
- (5) Insufficient information is provided for the Council to reasonably assess whether the proposed use (open days) would, by reason of the sites unstainable location, result in the significant uplift in traffic levels, to a manner harmful to the character, appearance, and intrinsic visual amenity value of a designated Rural Lane (Iwade Road) and countryside setting as a whole, contrary to policies ST3, DM3 (1e) and DM26 of the (adopted) Local Plan (adopted 2017).

The Council's approach to the application

In accordance with paragraph 38 of the National Planning Policy Framework (NPPF), July 2021 the Council takes a positive and proactive approach to development proposals focused on solutions. We work with applicants/agents in a positive and creative way by offering a pre-application advice service, where possible, suggesting solutions to secure a successful outcome and as appropriate, updating applicants / agents of any issues that may arise in the processing of their application.

The application was considered by the Planning Committee where the applicant/agent had the opportunity to speak to the Committee and promote the application.

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

The conditions set out in the report may be subject to such reasonable change as is necessary to ensure accuracy and enforceability.

