

APPENDIX 2*Planning Committee**9 December 2021***PART 3**Applications for which **REFUSAL** is recommended

3.1 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		
WARD Bobbing, Iwade And Lower Halstow	PARISH/TOWN COUNCIL The site is subdivided by Parish Council boundaries. The front section to the east is located within Bobbing Parish Council and immediately to the west towards the rear section of the site sits within the remit of Lower Halstow Parish Council.	APPLICANT The Happy Pants Ranch AGENT

The Senior Planning Officer introduced the application. She explained that this was a retrospective application for a change of use of land from agricultural to animal rescue. The application was within the countryside and outside the built-up area boundaries. The Senior Planning Officer said that although it was in the postal district of Newington, the site was within the parishes of Bobbing and Lower Halstow. Members were shown photographs of the site, in context with the 15-metre buffer of Hawes Wood, and its proximity to ancient woodland. The entrance to the site was off Iwade Road which was a designated Rural Lane. The Senior Planning Officer said that during the summer months, waste material was imported onto the site and Swale Borough Council (SBC) Environmental Health officers had visited the site. A noise abatement order had been issued in relation to noise from animals and a generator on the site. The Senior Planning Officer said that there had been many letters of support for the application and explained that SBC was not against the principle of the scheme, but had concerns, among other issues, against its siting within the 15 metre buffer of Hawes Wood.

In the absence of Julia Bell, a supporter, her speech was read-out by the Democratic Services Officer, in support of the application.

Amey James, the Applicant, spoke in support of the application.

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The Chairman moved the officer recommendation to approve the application and this was seconded by Councillor Ben J Martin.

A visiting Ward Member spoke in support of the application.

In the debate that followed, Members raised the following points:

- There were a lot of challenges with this application;
- needed to bear in mind that this was already agricultural land;
- there was often a range of agricultural buildings in this type of setting in any case;
- there could have been animals on the land if it was being used as a farm, with associated noise issues;
- considered most of the reasons for refusal, and issues, could be addressed with conditions, such as restoration of the buffer zone to the ancient woodland, a fencing condition, a temporary permission could be given, restrict occupation of caravans to the use of animal care, removal of the excess waste;
- benefits of the scheme outweighed the harm;
- the opportunity to receive land like this for a charity was rare, as in many instances cost of land would be prohibitive;
- the Applicant had applied for pre-application advice, the timing and scope of this were queried;
- there was a lack of land coming forward for this type of enterprise; and
- sympathetic to an animal sanctuary but planning considerations could not be overridden.

In response to questions, the Major Projects Officer explained that responses from KCC Highways & Transportation to issues set-out in paragraph 6.4 of the report were included in the tabled paper for this item. The Environment Agency (EA) were in regular contact with SBC officers in terms of the imported waste on the site, and had visited the site earlier in the week. The EA had their own powers, under separate legislation, which they could pursue, regardless of the decision made by the Planning Committee on the application. The Major Projects Officer referred to paragraph 180 of the NPPF which referred in turn to the deterioration of ancient woodland, and that once damaged, was irreplaceable. Paragraph 180 stated that such applications should be refused unless there were exceptional reasons and a suitable compensation strategy. The Major Projects Officer said the key issue was that the application site adjoined an ancient woodland with irreplaceable habitats.

Members made further comments which included:

- The application did not give a bio-diversity net gain;
- needed to take into account material planning considerations;
- acknowledged that some of the issues could be overcome by conditions, but other issues could not;
- there were outstanding issues that the Applicant had not resolved, so even if conditions were added, they would need to be checked for compliance;
- a scheme like this was beneficial to the Borough;

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- it seemed as though the application was premature, sympathy with the Applicant but perhaps more input from planning experts was required;
- there were still outstanding issues and not enough information to make a decision;
- there were more questions than answers;
- since work had been carried out on the site there was increased flooding on the rural lanes in the vicinity; and
- the access point needed to be re-located so that it did not affect the 15 metre buffer zone to the ancient woodland.

Councillor Tony Winckless moved the following motion: That the application be deferred to allow the Planning Working Group to meet on site. This was seconded by Councillor Carole Jackson. On being put to vote, the motion was lost.

Debate continued on the substantive motion and the following points were made:

- Concerned that it seemed that waste was still being imported onto the site;
- the Applicant had carried out works on the site that had given rise to officers recommending the application for refusal; and
- what legal action could be taken to address the destruction that had already taken place?

In response, the Planning Lawyer referred to paragraph 180 of the NPPF and explained that an Inspector would take degradation of ancient woodland very seriously. She explained that there would need to be a compensation and/or restoration strategy if the application were to be approved, and work would have to cease straight away. It might be possible to use conditions to secure that if the strategy was not implemented the permission would fall away. The Head of Planning Services advised that if Members were minded, they could defer the application, to allow officers to have further discussions with the Applicant and to allow the Applicant to provide further information requested by officers and the Committee to address their concerns. The application could then be reported back to Committee subsequently, with the updated information including any amended plans/documents and subject to a set of detailed conditions in the event officers felt that sufficient information had been provided to adequately deal with all of the concerns raised in the report and during the Committee's consideration of the application.

In response to questions, the Environmental Enforcement Manager explained that an Abatement Notice had been served on the site earlier in the year, as a result of complaints about the noise of the animals and the generator. Her team had regular contact with the Applicant and had visited the site and were happy with the noise issues at that time, although this would continue to be monitored. The animals in question had been moved to the rear of the site and some had been re-homed. There continued to be reports of noise issues.

Further comments from Members included:

- Sympathetic to the Applicant, but there had been an irreplaceable impact and damage to the setting of the ancient woodland;

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- the biodiversity impact of this scheme had been disastrous;
- the Committee needed to be sure they were not rubberstamping the destruction;
- the application could be deferred and the Council work with the Applicant;
- a more suitable location should be found; and
- if the application was deferred, a management plan should be sought.

There was some discussion on the reasons for a deferral.

Councillor Mike Dendor moved the following motion: That the application be 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, including structures currently sited in the 15-metre buffer to be re-located elsewhere on the site; and 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. This was seconded by Councillor Oliver Eakin and on being put to the vote, the motion was agreed.

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.
