

Article 4 Direction – (Immediate Effect)

Removal of Certain Permitted Development Rights

Land on the West side of Woodlands Lane Stoke D'Abernon Cobham KT11 3QA

1. Introduction

1.1. The Council identified in February 2024 that a large piece of land located in open green belt was being offered for sale in small parcels as potential development opportunities for residential homes. On the 7 March 2024 the Council placed an Immediate Article 4 Direction on the land removing the following permitted development rights.

- Schedule 2, Part 2, Class A of The Town and Country Planning (General Permitted Development) (England) Order 2015 –

The erection, construction, maintenance, improvement or alteration of a gate, fence, wall or other means of enclosure.

- Schedule 2, Part 4, Class B of The Town and Country Planning (General Permitted Development) (England) Order 2015 –

The use of any land for any purpose for not more than 28 days in total in any calendar year, of

which not more than 14 days in total may be for the purposes of—

(a) the holding of a market;

(b) motor car and motorcycle racing including trials of speed, and practising for these activities,

and the provision on the land of any moveable structure for the purposes of the permitted use.

2. Planning Policy Context

2.1. An Article 4 Direction is a direction under Article 4 of the General Permitted Development Order 2015 (GPDO), which enables the Secretary of State, or the Local Planning Authority, to withdraw specified permitted development (PD) rights across a defined area. Provided that there is justification for both its purpose and extent, an Article 4 direction can:

- i) Cover an area of any geographic size, from a specific site to a local authority wide area.
- ii) Remove specified permitted development rights related to operational development or change of use.
- iii) Remove permitted development rights with temporary or permanent effect.

2.2. The National Planning Policy Framework advises that the use of Article 4 directions to remove national permitted development rights should be limited to situations where this is necessary to protect local amenity or the well-being of the area.

2.3. The site is best described as open green belt land located within the Metropolitan Green Belt. Any form of building would require planning permission. Notwithstanding this, any owner of the plots could erect fences (or other means of enclosure) up to two metres in height, or up to one metre where it adjoins a highway, without the need for

planning permission, subject to the provisions of Schedule 2, Part 2, Class A of The Town and Country Planning (General Permitted Development) (England) Order 2015. In addition, the General Permitted Order 2015, permits temporary change of use of land for various activities for up to 28 days in a calendar year. This could, but is not limited to, use for the land for camping, recreational events or paintballing. Other use of land, such as a caravan site, holding markets or motorcycle racing, are restricted to 14 days a calendar year.

2.4. The South West part of the site edged in blue on the attached plan falls within Flood Zones 2, 3 and 3b (the functional flood plain). Local Policy CS26 (Flooding) in the Councils Core Strategy adopted 2011 states that development should not constrain the natural function of the flood plain, either by impeding flood flow or reducing storage capacity. The potential for the un-planned erection of means of enclosure could lead to both impedance of flood flow and the reduction of flood storage capacity.

2.5. The Council considers that development which could be carried out without planning permission, under the provisions of Schedule 2, Part 2, Class A & Part 4 Class B, of The Town and Country Planning (General Permitted Development) (England) Order 2015, would have a negative impact on the Green Belt. The National Planning Policy Framework 2023 sets out at Paragraph 143 that the fundamental aim of Green Belt Policy is to prevent urban sprawl by keeping land permanently open, and it further states that the essential characteristics of the Green Belt is its openness and its permanence. The erection of means of enclosure, or the temporary change of use of the land is considered to conflict with this fundamental aim of Green Belt Policy.

3. Consultation

3.1. Only one response was received from the owner of the site on 19 April 2023. The owner raised several points.

- a) *The use of the land has been used for equestrian purposes for in excess of 20 years.*
- b) *It is considered that the local planning authority has sufficient control over the site through its determination of these applications and should not seek to confirm the Article 4 Direction in due course.*
- c) *We also question what evidence is there that there is any threat of temporary uses on this site as we can't see that there is any robust evidence to support the removal of this right.*

4. Justification for the Article 4 Direction (with immediate effect).

4.1. A member of the public contacted the Council and reported that there were fences and hardstanding being erected at Land on the West side of Woodlands Road, KT11.

4.2. I undertook a site visit on Thursday 22 February 2024 in the afternoon. On site I noticed that a number of wooden fences had been erected on the land, also large wooden stables and the widening of a track, and hardcore and tarmac being laid down on the track and widened area. The tarmac was laid primarily in the northeast section of the track. I took pictures and returned to the office. Appendix 2 – Site visit Photos 22.2.24

4.3. The Council's solicitor provided land registration details and noted that the land had recently been sold 23 December 2023 and the new owner's details were awaiting processing. Using Land Registry details, I was able to make contact on the 22 February 2024 with the new owner's solicitor, by emailing the company identified on Land Registry's portal. They in turn passed my details on to the new owner James

Hyatt. Appendix 3 - Land Register, Appendix 4 - Details of the new application pending.

- 4.4. On Friday 23 February 2024, I received a call from Mr Hyatt, who identified himself as the new owner. I asked him what he was doing with the land, and he advised me that he planned to subdivide the land into smaller plots and sell them for housing. I advised him that the work he had undertaken needed planning permission. I told him that I considered the works extensive, and that significant harm was occurring to the green belt as a result of the works. I also informed him that a temporary stop notice would be needed if he continued the works.
- 4.5. I advised Mr Hyatt that if he voluntarily stopped the works, I would not issue the temporary stop notice. Mr Hyatt told me that he planned to instruct a chartered surveyor to apply for retrospective planning application. I spoke to the surveyor on Friday 23 February 2024 in the afternoon, and he indicated to me that Mr Hyatt was going to use the land for equestrian purposes.
- 4.6. I visited the site with Mr Hyatt on Monday 26 February 2024 at 10am. Mr Hyatt informed me that he planned to sub divide the plot into 16 sections and rent them out to local people for equine use. On my visit I noticed that the widening of the track and laying of hard core and tarmac had significantly increased. I also noticed sections of engineering works being undertaken, which involved laying blue water pipes in a number of places on the site. I advised Mr Hyatt that as he had continuing working that I would be serving a temporary stop notice.
- 4.7. I returned to the site later in the evening of Monday 26 February 2024, and placed temporary stop notice on each entrance to the site.
- 4.8. On Wednesday 29 February 2024, I undertook a google search regarding the sale of land at Woodlands Lane KT11. Property estate agents, Barnard Marcus is selling two plots of land, and the map/photo imagery identifies the plots as part of the land on the West side of Woodlands Lane Stoke D'Abernon Cobham Surrey KT11 3QA. The adverts state 'House for Sale', indicating the use of the land in greenbelt as residential use - Use Class C3. The adverts show that plots were listed for sale on the 23 February 2024.
- 4.9. The owner submitted two planning applications in March 2024. The first application on 1 March 2024 Ref 2024/0574/NEW for the "*Replacement and new water supply pipes to drinking troughs*" and application no 2 on 5 March 2024 ref. 2024/0603/NEW for the "*Modernisation of existing equestrian facilities*".
- 4.10. The description were later amended to 2024/0603 "*Replacement and new access tracks to grazing paddocks, subdivision of grazing paddocks and installation of stockproof fencing and close board fencing and hedgerows to dog exercise compounds.*" and ref. 2024/0574 "*Replacement and new water supply pipes to drinking troughs.*". These have not been determined yet.
- 4.11. The website Bournes Estate Agent was accessed on the 22 August 2024. According to the website, the land has been subdivided into approximately 21 individual plots, with four plots having been sold already. Each individual owner would have permitted development rights, unless the Article 4 Direction (with immediate effect) made on 7 March 2024 is confirmed (i.e. made permanent). It should be noted that whilst the website is indicating that four plots have sold, there are no indication on land registry that the land has been sold, as there are no pending applications when ownership of land registry was checked. Land Registry is showing James Alfred

Charles Hyatt and Lorraine Hyatt of Westridge Place, Wineham Lane, Bolney, Haywards Heath RH17 5SD as having Title Absolute.

- 4.12. If the site is successfully sold as 21 individual plots, this would create the potential for almost 600 'temporary' events to take place on the land. Whilst the Council acknowledges that not all owners will want to undertake temporary events on their land. Over 10 of the plots are more than an acre in size, and as such they would have the potential be able to host significantly sized events.
- 4.13. If the site is successfully sold as 21 individual plots, this would create the potential for each plot to be enclosed by the erection or construction of fences, gates or other means of enclosures and potential these plots to be further subdivided by such means of enclosure. Whilst the Council acknowledges that not all owners will want to erect or construct such fences, gates or other means of enclosure of their land, there potential nevertheless remains.

5. Conclusion

- 5.1. This report demonstrates that the Article 4 Direction that the Council has introduced meets the requirements of the legislation, national planning policy and national planning practice guidance.
- 5.2. The specific requirements of paragraph 53 and 54 of the NPPF have been met. The Council is of the opinion that it is a prudent and proportionate response to confirm the article 4 directive on the land that has been made with immediate effect on 7 March 2024, in order to ensure the fundamental aim of Green Belt Policy to prevent urban sprawl by keeping land permanently open is met, and that the essential characteristics of the Green Belt of openness and permanence is maintained. In addition, ensuring that temporary events do not in effect become a 'permanent' feature created by the number of owners able to exercise their permitted development rights to have temporary events on the land and safeguard against demarcation or further demarcate the site.
- 5.3. The Council has considered the representation received and still considers it reasonable, justified and proportionate, in the circumstances and for the reasons stated within this report, to proceed to confirm the Article 4 Direction.
- 5.4. The plan, edged in red, to be attached to the Article 4 Direction has been modified. The Article 4 Direction (with immediate effect) is recommended to be confirmed subject to this modification to the plan. This is because the plan initially included land that falls within the administrative area of Mole Valley and accordingly that area of land has been excluded.

NOTE: Appendices were provided with Planning Report dated 6 March 2024 and are not provided again with this report.

Signed



Date: 2 September 2024

Antoinette Bernard -Team Leader Compliance and Trees

Authorised



Date 2 September 2024

Paul Falconer - Development Manager