



TO: Planning Committee North

BY: Head of Development

DATE: 6 November 2018

DEVELOPMENT: Retrospective erection of a side extension to existing agricultural building for storage of agricultural machinery and animal feed.

SITE: Windacres Farm Church Street Rudgwick West Sussex

WARD: Rudgwick

APPLICATION: DC/18/1563

APPLICANT: **Name:** Mr John Bailey **Address:** Windacres Farm, Church Street Rudgwick West Sussex

REASON FOR INCLUSION ON THE AGENDA: Applicant is a Councillor

RECOMMENDATION: To recommend to the Planning Inspectorate that the Council's intention is to refuse the planning application.

1. THE PURPOSE OF THIS REPORT

In light of the recently submitted appeal against non-determination of this planning application, the purpose of this report is to consider the merits of the planning application, and to make a recommendation to the Planning Inspectorate regarding the Council's intended determination had the appeal not been submitted.

DESCRIPTION OF THE APPLICATION

- 1.1 The application is made in retrospect, and is for the erection of a 416m² 'lean-to' addition to an existing agricultural building, for the proposed storage of agricultural machinery and animal feed. It should be noted that the associated agricultural building does not benefit from the grant of planning permission, and is therefore unauthorised. The 'lean-to' addition is located to the south elevation of the associated building and contains 5 bays, two of which are enclosed, secure and fully clad; and 3 of which are open fronted. It measures approximately 13m in depth and 31m in width. The lean-to addition has a sloping roof, and reaches a maximum height of 6.2m lowering to 4m to the eaves.
- 1.2 The external appearance of the lean-to addition is similar to the associated building, and is of typical design and construction for its proposed agricultural use. It comprises a shallow sloping roof, steel framing, concrete internal flooring, and clad in olive green corrugated steel sheeting. A 'pedestrian' door is located within a larger sliding door on the western elevation which provide access to the enclosed bays of the lean-to section. There are 4 roof lights serving the enclosed two bays of the lean-to, in addition to 3 side windows on the western elevation (two at ground floor level, and one at an upper floor level). There is no indication of an upper floor or mezzanine level in the submitted plans.

- 1.3 Internal access to the associated building is via steps from the enclosed section of the extension. A mains electricity and water supply has already been connected. A single WC units is proposed in the enclosed lean-to section, but it is not clear whether this has been installed. No details of access or areas of hardstanding are proposed as part of this application, but hardstanding has been laid around the western and southern elevations.
- 1.4 The applicant states that the open bays of the extension are to be used for storage of agricultural machinery and animal feed including the storage of hay/straw bales and equipment. It is proposed that the enclosed section would also accommodate a replacement farm office, toilet and other welfare facilities.
- 1.5 The agreed determination date for this application was 5th October 2018, which has now passed. As a result, on 17th October 2018 an appeal against non-determination of the application was submitted by the applicant to the Planning Inspectorate (PINS). The appeal has not yet been registered by PINS, and no start date or confirmation of appeal procedure has been confirmed. Due to the pending appeal, whilst the application cannot now be formally determined by the Council, Officers consider that in order to fully inform PINS of the Council's intentions with regard to the proposed development, a notice of the Council's intended decision should be provided. As a result, Officers are seeking the Planning Committee's agreement to recommend an intent to refuse the application.

DESCRIPTION OF THE SITE

- 1.6 Windacres Farm comprises a total of 33ha of land, and is located to the north east of Rudgwick village. The application site is located approximately 400m to the east of Church Street and the Rudgwick Conservation Area. The land between the site and Church Street comprises open fields, beyond which are the commercial premises of Rudgwick Metals (a metal cutting and storage business) located approximately 170m to the west of the application site, as well as several residential dwellings set in large plots along Church Street and Highcroft Drive. The site is accessed from Church Street via an existing access to the south of Windacres Lodge and Windacres Barn.
- 1.7 The application site is located 100m to the east of the defined Built-Up Area Boundary of Rudgwick and therefore, is located in the countryside. The site is located to the northern end of an open field which is sited south of an existing vehicular access track linking the Rudgwick Metals site to Godleys Lane to the east. The site is located within a quiet area of undulating open field which slopes gently in a southerly direction towards Godleys (a residential property approximately 400m to the south of the application site). The field boundary to the west of the site contains a line of semi-mature oak trees and hedging which partially screens the proposed building from views to/from the West. The surrounding vegetation on the North, East and South does not afford much screening, leaving the unlawful barn and lean-to extension quite visible, to varying degrees, from the surrounding PROWs and dwellings. At the time of the Officer site visits, there was no evidence of livestock on the holding, and it has been confirmed by the applicant that the holding is arable only.
- 1.8 The proposed lean-to addition and associated building have already been erected on site. In terms of location, scale and materials, the building as a whole largely reflects the plans accompanying the application submission. However, the plans submitted in support of the application are incorrect as they propose sliding double doors on the western elevation of the lean-to addition, but the building on site has 3x additional window openings and a pedestrian access door which are not shown on the proposed plans. At the time of the Officer site visit (14/08/18) it was noted that 2 of the three open bays were filled with un-wrapped, stacked bales of hay. The remaining bay contained an old combine harvester and an array of other non-agricultural detritus such as building materials and ad-hoc personal items. Access into the enclosed sections of the lean-to addition was not possible, therefore it was unclear as to what was being stored inside. However, internal access was possible at a

previous site visit in February 2018 in connection with planning application DC/17/2410 (now withdrawn). At this time, the enclosed lean-to section of the building contained an assortment of building materials (bricks and scaffolding) and several household appliances.

- 1.9 An area of concrete hardstanding has been laid around the western and southern elevations which is not proposed as part of this planning application. A large oil tank was also present on site, but at the time of the site visits appeared to be unconnected. To the west of the storage building is a shipping container unit which appears to be in residential use. A separate planning application for this unit has recently been refused by the Council (DC/17/2605), and is subject to enforcement proceedings.
- 1.10 Demolition and construction (site clearance and implementation of access) has started on the Rudgwick Metals site, which has the benefit of planning permission for 55no. residential units and B1 commercial units (DC/16/2917). This redevelopment includes the demolition of Windacres Lodge and Windacres Barn in order to construct a new vehicular access from Church Street to the wider site, as well as to properties adjacent including; Windacres House, Windacres Cottage and Windacres Bungalow.

2. INTRODUCTION

2.1 STATUTORY BACKGROUND

The Town and Country Planning Act 1990.

2.2 RELEVANT PLANNING POLICIES

The following Policies are considered to be relevant to the assessment of this application:

National Planning Policy Framework

Horsham District Planning Framework (HDPF, 2015)

Policy 1 - Strategic Policy: Sustainable Development

Policy 10 - Rural Economic Development

Policy 25 - Strategic Policy: The Natural Environment and Landscape Character

Policy 26 - Strategic Policy: Countryside Protection

Policy 32 - Strategic Policy: The Quality of New Development

Policy 33 - Development Principles

Policy 37 - Sustainable Construction

Community Infrastructure Levy (CIL) Charging Schedule

April 2017 (Adopted 1st October 2017).

2.3 RELEVANT NEIGHBOURHOOD PLAN

Rudgwick Parish Council is designated as a Neighbourhood Development Plan area (June 2016). The Parish Council are at the early stages of preparing a plan (pre-Reg 14 evidence gathering stage). The Parish Council are assessing sites but a draft plan has not yet been prepared. Very limited weight can therefore be given to the Plan.

2.4 PLANNING HISTORY AND RELEVANT APPLICATIONS

DC/09/1231	Relocation of Agricultural Building and demolition of existing building - Prior Notification	Prior Approval Permitted With
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Conditions on
22.09.2009

DC/09/1623	Redevelopment of site with mixed use scheme including demolition of existing 2 dwellings, derelict farm buildings and workshops and erection of 36 dwellings, parking barns, 3 x B1 office units and 3 x B1 shed units, a community facility (meeting rooms, coffee shop) and extension to existing industrial unit	Application Permitted on 08.08.2013
DC/12/1339	Demolition of existing building and erection of replacement agricultural building	Prior Approval Permitted With Conditions on 19.09.2012
DC/16/2917	Demolition of 2 x existing dwellings, industrial and agricultural outbuildings and erection of 55 dwellings, 3 x offices (B1 Use Class) and industrial building extension (B2 Use Class) with associated access, drainage and landscape works	Application Permitted on 05.04.2017
DC/17/2410	Retrospective application for the erection of an agricultural storage building	Withdrawn Application on 10.04.2018
DC/17/2605	Proposed siting of a container as temporary residential accommodation for a 36 month period	Application Refused on 16.08.2018

3. OUTCOME OF CONSULTATIONS

3.1 Where consultation responses have been summarised, it should be noted that Officers have had consideration of the full comments received, which are available to view on the public file at www.horsham.gov.uk

3.2 INTERNAL CONSULTATIONS

HDC Landscape Architect: Holding Objection

I have no further comments to make on this application – please refer to my previous comments for DC/17/2410 - (*'The barn, by virtue of its size and location, has introduced a large obtrusive feature in a sensitive location which has resulted in some harm to both the character and the visual amenity of the landscape'*).

HDC Environmental Health: No Objection

3.3 OUTSIDE AGENCIES

WSCC Highways: No Objection

(Summarised) *'There are no changes to access from the highway and it is not anticipated that the addition of this extension would give rise to any additional vehicular movements above and beyond those already happening given the sites permitted use'.*

Rudgwick Parish Council: Objection

'The associated building has not been approved. There are no animals to feed'.

3.4 PUBLIC CONSULTATIONS

4 representations have been received, all objecting to the planning application. The main (summarised) reasons for objection include:

- The application is confusing (unclear what is being applied for)
- The application is a stalling tactic against enforcement action
- the associated building has been constructed unlawfully
- There are no animals to feed on site
- lack of agricultural justification (no extensive farming occurs on site)
- may lead to alternative undesirable uses
- may turn into a motor repair business
- it is out of scale with the character of the surrounding countryside
- alters the natural beauty of the countryside setting
- unsightly views form nearby footpaths / bridleways
- the metallic finish causes reflection

4. HOW THE PROPOSED COURSE OF ACTION WILL PROMOTE HUMAN RIGHTS

4.1 Article 8 (Right to respect of a Private and Family Life) and Article 1 of the First Protocol (Protection of Property) of the Human Rights Act 1998 are relevant to this application, Consideration of Human rights forms part of the planning assessment below.

5. HOW THE PROPOSAL WILL HELP TO REDUCE CRIME AND DISORDER

5.1 It is not considered that the development would be likely to have any significant impact on crime and disorder.

6. PLANNING ASSESSMENTS

6.1 The key issue for consideration in relation to this proposal is whether the proposed lean-to section of the building can be considered acceptable in principle, given the associated building is considered to be unlawful.

BACKGROUND

6.2 In September 2009, Prior Approval was granted (with conditions) for the demolition of an existing 458m² agricultural storage building on the Rudgwick Metals site (as part of plans to redevelop the site), and the erection of a replacement 457.5m² agricultural storage building (DC/09/1231). The storage building approved was a very similar size and scale to the existing building but was to be located approximately 170m to the east. Conditions attached to this Prior Approval included approval of details relating to materials and finished floor levels; and a requirement to demolish the existing agricultural storage building on site within 6 months of the completion of the new building. The building approved under this application was not constructed, and the permission has now expired.

- 6.3 In September 2012, another Prior Approval application (DC/12/139) was granted for the erection of a 463.6m² agricultural storage building on the same site as the 2009 Prior Approval, albeit the building was proposed to be re-orientated and repositioned slightly further to the north. Again, this building was proposed as a replacement of the existing 458m² agricultural storage building which was earmarked for demolition as part of site redevelopment of the Rudgwick Metals site. The same conditions were attached to this permission as for the 2009 permission (materials, levels, and requirement to demolish existing building). It should be noted that in order for the building to be considered permitted development, it must comply with the stipulations and conditions of the Prior Approval process set out within Part 6 (Class A) of the General Permitted Development Order.
- 6.4 In August 2013, permission was granted (DC/09/1623) for the redevelopment of the Rudgwick Metals site including demolition of 2 existing dwellings, derelict farm buildings and workshops; and the erection of 36 dwellings, B1 office space and a community building (DC/09/1623). This scheme was not constructed and permission has now expired.
- 6.5 In April 2017 a revised scheme was permitted on the same site which permitted the erection of 55 dwellings and B1/B2 commercial floorspace (DC/16/2917). In order to accommodate this development, the demolition of 2x existing dwellinghouses and various industrial/agricultural outbuildings was also permitted. Construction of this scheme has recently commenced.
- 6.6 As per the conditions of agricultural Prior Approval in Part 6 (Class A) of the General Permitted Development Order, the building approved under the 2012 Prior Approval (DC/12/1339) was required to be carried out within 5 years of the Local Planning Authority granting permission (which was on 19 September 2012). In the summer of 2017, construction of an agricultural storage building on this site began, and in September 2017 the frame of a building was erected but the building was incomplete (as verified by an Officer Site visit on 18 September 2017). The building is now complete, however, at 880m², the building has not been built in accordance with the 2012 plans (approved under Prior Approval), and the details reserved by condition have not been approved. Given that the building has not complied with the stipulations and conditions of the Prior Approval process set out within Part 6 (Class A) of the General Permitted Development Order, the Prior Approval is considered to have expired and the building on site does not benefit from planning permission. As a result, the Council are of the view that the building remains an unauthorised structure.
- 6.7 In November 2017, a retrospective planning application was submitted by the applicant (under reference DC/17/2410) for the 880m² agricultural building. The planning statement accompanying the application acknowledged that the current building required 'regularisation' because 'a revised Prior Approval application was not submitted prior to the erection of the building shown on the accompanying plans'. The applicant has therefore acknowledged that the 880m² building erected was not authorised. The Council assessed the retrospective proposal, and alongside specialist advice from independent agricultural consultants (Reading Agriculture), Officers determined that by virtue of its scale and location; the need for the building was not justified and it was therefore unacceptable. A report to Committee (see Appendix A) recommending refusal was prepared and published for the April 2018 Committee Meeting, but the application was withdrawn by the applicant before it was determined. By virtue of the erection of an unlawful building, enforcement proceedings are now underway. The current application seeks to regularise this matter again.

ASSESSMENT

- 6.8 For reasons described in paragraphs 6.2 to 6.7 above (and the assessment presented in the Committee Report for DC/17/2410 – see Appendix A), the associated agricultural building already erected on site does not benefit from planning permission. As a result, any extension or addition to this building cannot be considered acceptable in principle as it is reliant on an unauthorised development to be carried out. This conflicts with section 70(2) of the Town

and Country Planning Act (1990) as well as the requirements of paragraphs 2, 11, 12 and 47 of the National Planning Policy Framework (2018) which requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise.

- 6.9 The matters of need/justification for the proposed lean-to addition and impact on countryside character, are secondary to the matter of principle. Notwithstanding this, through the assessment of the previously withdrawn application (DC/17/2410) it has been established that the need for an agricultural barn on this countryside site (of the full 880m² proposed) is not required, and is therefore unjustified and contrary to Policies 10, 25 and 26 of the HDPF. No further information has been submitted under this application to demonstrate that the need for a building of this size is justified.
- 6.10 The planning application is therefore recommended for refusal based on its association with a structure that has been erected without the benefit of planning permission, and the fact that the need for the resulting structure as a whole on this countryside site is unjustified.

COMMUNITY INFRASTRUCTURE LEVY (CIL)

Horsham District Council has adopted a Community Infrastructure Levy (CIL) Charging Schedule which took effect on 1st October 2017.

It is considered that this development constitutes CIL liable development. At the time of drafting this report the proposal involves the following:

Use Description	Proposed	Existing	Net Gain
All Other Development	390	0	390
	Total Gain		
	Total Demolition		

Please note that exemptions and/or reliefs may be applied for up until the commencement of a chargeable development.

In the event that planning permission is granted, a CIL Liability Notice will be issued thereafter. CIL payments are payable on commencement of development.

7. RECOMMENDATIONS

Recommendations to refuse to Planning Inspectorate:

1. The application seeks planning permission to extend an agricultural barn that does not benefit from planning permission. The principle of the proposed extension fails to accord with the plan-led strategy of the HDPF, and is therefore contrary to section 70(2) of the Town and Country Planning Act (1990) as well as the requirements of paragraphs 2, 11, 12 and 47 of the National Planning Policy Framework (2018).
2. The applicant has failed to demonstrate to the satisfaction of the Local Planning Authority that the resulting 880m² agricultural storage building is required to support the agricultural needs of the wider holding at Windacres Farm, therefore the development does not accord with the requirements of Policies 10, 25 and 26 of the Horsham District Planning Framework (2015).

NOTE TO APPLICANT

As per the planning assessment for withdrawn application reference DC/17/2410, it is considered that a like-for-like replacement of the old grain store (i.e. a 465m² building) in this location could be acceptable. In order to regularise matters, it is advised that a planning application is submitted to the Council for a building no greater than this size. The laying of any external hardstanding also requires planning permission and must also be included. Notwithstanding the outcome of such a planning application, in order to fully regularise matters, it is advised that the additional lean-to section be removed and the land returned to its original state.

Background Papers:

- DC/18/1563
- DC/17/2410 – see Appendix A