



TO: Planning Committee South

BY: Head of Development and Building Control

DATE: 16 February 2021

DEVELOPMENT: Demolition of dwelling and erection of a two storey detached 4 bedroom dwelling with detached double garage. Erection of an equestrian arena and outdoor riding arena together with associated parking. Retention of existing stables and new equestrian facilities

SITE: Hobbits Stall House Lane North Heath Pulborough West Sussex RH20 2HR

WARD: Pulborough, Coldwaltham and Amberley

APPLICATION: DC/20/1519

APPLICANT: **Name:** Mr and Mrs M Skillman **Address:** C/O Agent

REASON FOR INCLUSION ON THE AGENDA: At the request of the Director of Place.

RECOMMENDATION: To approve the application, subject to the revised planning conditions.

1. ASSESSMENT

- 1.1 This application was presented at Planning Committee South, 15th December 2020, where members resolved that the application be determined by the Head of Development with a view to approval, subject to the amendment of conditions in consultation with Local Members. Following the committee meeting officers were made aware of having mistakenly misquoted Paragraph 109 of the NPPF when responding to member questions.
- 1.2 Whilst it is not clear how much weight Members would have attributed to the officers comment in their decision making, to avoid any perception of misdirection and in the interest of accuracy and transparency, following advice from the Council's Legal Department, Officers are returning this application for re-determination advising members of the correct wording of Paragraph 109. In addition, Officers have revised and updated the relevant conditions referred to in the previous resolution, and these are discussed below.

Highway Matters

- 1.3 At the planning committee meeting, dated 15th December 2020, Officers mistakenly misquoted Paragraph 109 of the NPPF following comments raised by Councillors, stating:

"the test in the NPPF is there must be a severe impact on Highway Safety in order to refuse an application"

1.4 The correct phrasing used within the NPPF 109 is:

'Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.'

1.5 The officer recommendation made in the report presented to the Committee at the 15 December meeting was reached on the basis of the precise wording of Paragraph 109 as quoted above, and the Officer recommendation therefore remains as before. The previous report remains part of the officers assessment and is appended to this report. For the avoidance of doubt WSCC have also stated that the full correct wording of Paragraph 109 was considered in their assessment of the proposal, alongside other material issues, which incorporated the relevant available data at that time. WSCC concluded that the proposal would not have an *'unacceptable impact on highway safety or result in 'severe' cumulative impacts on the operation of the highway network, therefore is not contrary to the National Planning Policy Framework (paragraph 109), and that there are no transport grounds to resist the proposal'*.

1.6 As such, Officers remain of the advice that the proposal does not warrant refusal on highways grounds as there is no unacceptable impact on highway safety, and the residual cumulative impacts on the road network would not be severe, in compliance with Paragraph 109 of the NPPF.

Conditions

1.7 At the 15 December Committee, members voted to support a motion to delegate approval to the Head of Development subject the addition and revision of the suggested schedule of conditions in consultation with the local members. These related to:

- The addition of a condition to secure the sustainability measures as per paragraph 6.64 of the Officer's report;
- The addition of a condition controlling the movement and routing of delivery and other large vehicles to and from the site, and;
- Strengthening the wording of condition 18 to better clarify the agreed use of the site.

1.8 With regards to a condition to secure the sustainability measures referenced at paragraph 6.64, members should note that current local planning policy does not require that all measures suggested by an applicant be secured. In this case Policy 35 (Climate Change) requires that flood storage and green infrastructure, water conservation, and layout/design matters should be secured to mitigate the impact of climate change, whilst Policy 37 sets out a series of further measures to improve the overall sustainability of development where appropriate. These are reflected in conditions 3, 4, 10 and 24 (ecology mitigation and enhancement), 7 (drainage strategy), 15 (landscaping), and 19 (water consumption). An additional condition is now recommended to secure details of the proposed electrical vehicle charging spaces, in accordance with the latest WSCC guidance on parking space provision.

1.9 Paragraph 55 of the NPPF requires that planning conditions must be necessary, relevant to planning and the development to be permitted, enforceable, precise and reasonable in all other respects. Having regard to the nature of the development, officers advise that the conditions listed are appropriate to meet these tests in compliance with Policies 35, 36 and 37 of the Horsham District Planning Framework.

1.10 With regards to deliveries and movements to and from the site, Officers have considered members' comments relating to the monitoring of delivery and larger vehicles. Unfortunately, a condition restricting how vehicles use the public highway to reach a development does not meet the tests of being reasonable or enforceable, particularly as this sits outside of the application site boundaries. The applicant has though provided further details of vehicular traffic relating to deliveries and movements of larger vehicles, stating that feedstuff deliveries

will be made no more than once a week on a light commercial vehicle, and horse box movements will be limited via a similar sized vehicle. In the event that larger horse transporters are needed, these vehicles are equipped with adjustable lowering suspension, meaning there is no need to avoid the route from the A29 under the bridge. Officers are satisfied that these movements corroborate with the submitted Transport Statement, and does not raise doubt with regards to safe use and operation of the highway network as above, in accordance with Paragraph 109 of the NPPF.

- 1.11 At the December committee meeting, members also questioned whether Condition 18 (formerly numbered) fully limited the proposed use of the site as a private equestrian facility, and requested that this condition be revised in consultation with local members. In response to this, the applicant has reiterated the low intensity use of the site, stating that activity on the site would be limited to the applicant (who lives next to the site at Heathcote) and the head groom who will live on site. The daily operations of the site would be supported by 2 to 3 additional grooms depending on days including the taught lessons (the only 'commercial' aspect of the development), resulting in limited daily movements to and from the site. The applicants have confirmed that horses will be bred on the site for the purposes of competition and those that are not of suitable quality would be sold on along with older horses, and that the purpose of the breeding is to breed talented horses rather than for business purposes.
- 1.12 Officers are satisfied that the activities detailed above accurately demonstrates that the operation of the site would remain within a private use, with the exception of the limited number of taught lessons comprising a small commercial element of minimal impact in terms of traffic movements and activity at the site. These movements to and from the site are accounted for with this use, as per the submitted Transport Statement. It is accepted that horses bred on site but not suited to competition would be sold, however this is not anticipated to be a regular or significant use of the site that would generate regular or high levels of traffic at the site. It should be noted that such sales could take place at any private equestrian facility, and a low level of ad hoc sales would not create a commercial activity. The applicant has further stated that there is no intention to operate DIY livery.
- 1.13 After careful consideration, and in consultation with the Planning Compliance Team Leader, Officers are satisfied that the scheduled activities secure the private use of the site and can be appropriately enforced to ensure that the use of the site remains private. Condition 18 (now condition 19 below) has been revised to be clear that the site is for private equestrian use by the occupiers of Heathcote (the applicants) and/or the onsite groom only, and that records of the training session times and attendees are to be kept at all times ready for inspection if needed.

Conclusion

- 1.14 The recommendation to approve planning permission remains as previous reflecting the full wording of Paragraph 109 of the NPPF. Members are advised to consider whether the application of the full wording of Paragraph 109 would have altered the decision previously reached, and whether the revised conditions referenced above acceptable to manage the use, transport movements and sustainability credentials of the development.

2. RECOMMENDATIONS

- 2.1 To approve planning permission, subject to the following revised schedule of conditions:

Conditions:

- 1 **Standard Plans Condition:** The development hereby permitted shall be undertaken in full accordance with the approved plans.

Reason: For the avoidance of doubt and in the interest of proper planning.

- 2 **Regulatory (Time) Condition:** The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: To comply with Section 91 of the Town and Country Planning Act 1990.

- 3 **Pre-Commencement Condition:** No development, including any demolition works, shall take place until unless the local planning authority has been provided with either:
- a) a licence for bats and great crested newts issued by Natural England pursuant to Regulation 55 of The Conservation of Habitats and Species Regulations 2017 (as amended) authorizing the specified activity/development to go ahead; or
 - b) a statement in writing from the relevant licensing body to the effect that it does not consider that the specified activity/development will require a licence for bats and great crested newts; and
 - c) confirmation of the site registration and a method statement supplied by an individual registered to use a Bat Mitigation Class Licence for Bats (relating to the demolition of the existing dwelling).

Reason: To conserve protected and Priority species and allow the Local Planning Authority to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 as amended and s40 of the NERC Act 2006 and s17 Crime & Disorder Act 1998.

- 4 **Pre-Commencement Condition:** No development shall take place (including any demolition, ground works, site clearance) until a further badger survey and updated mitigation statement has been submitted to and approved in writing by the local planning authority. This further survey shall be undertaken to identify whether any Badger activity has changed since the previous surveys were undertaken and whether further mitigation and/or works are required for badgers during the construction phase. The works shall be carried out strictly in accordance with the approved details and shall be retained in that manner thereafter.

Reason: To conserve Protected species and allow the Local Planning Authority to discharge its duties under the Badger Protection Act 1992 and s17 Crime & Disorder Act 1998.

- 5 **Pre-Commencement Condition:** With the exception of the demolition and removal of existing buildings and any concrete hardstanding no development shall commence until the following components of a scheme to deal with the risks associated with contamination, (including asbestos contamination), of the site be submitted to and approved, in writing, by the local planning authority:
- (a) A pre-demolition preliminary risk assessment which has identified:
 - all previous uses
 - potential contaminants associated with those uses
 - a conceptual model of the site indicating sources, pathways and receptors
 - Potentially unacceptable risks arising from contamination at the site.

The following aspects (b) – (c) shall be dependent on the outcome of the above preliminary risk assessment (a) and may not necessarily be required.

- (b) An intrusive site investigation scheme, based on (a) to provide information for a detailed risk assessment to the degree and nature of the risk posed by any contamination to all receptors that may be affected, including those off site.
- (c) Full details of the remediation measures required and how they are to be undertaken based on the results of the intrusive site investigation (b) and a verification plan providing details of what data will be collected in order to demonstrate that the remedial works are complete.

The scheme shall be implemented as approved. Any changes to these components require the consent of the local planning authority.

Reason: As this matter is fundamental to ensure that no unacceptable risks are caused to humans, controlled waters or the wider environment during and following the development works and to ensure that any pollution is dealt with in accordance with Policies 24 and 33 of the Horsham District Planning Framework (2015).

- 6 **Pre-Commencement Condition:** No development shall commence until precise details of the existing and proposed finished floor levels and external ground levels of the development in relation to nearby datum points adjoining the application site have been submitted to and approved by the Local Planning Authority in writing. The development shall be completed in accordance with the approved details.

Reason: As this matter is fundamental to control the development in detail in the interests of amenity and visual impact and in accordance with Policy 33 of the Horsham District Planning Framework (2015).

- 7 **Pre-Commencement Condition:** No development shall commence until a drainage strategy detailing the proposed means of foul and surface water disposal has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved scheme.

Reason: As this matter is fundamental to ensure that the development is properly drained and to comply with Policy 38 of the Horsham District Planning Framework (2015).

- 8 **Pre-Commencement Condition:** No development shall take place, including any works of demolition, until a Construction Management Plan has been submitted to and approved in writing by the Local Planning Authority. Thereafter the approved Plan shall be implemented and adhered to throughout the entire construction period. The Plan shall provide details as appropriate but not necessarily be restricted to the following matters,

- the anticipated number, frequency and types of vehicles used during construction,
- the method of access and routing of vehicles during construction,
- the parking of vehicles by site operatives and visitors,
- the loading and unloading of plant, materials and waste,
- the storage of plant and materials used in construction of the development,
- the erection and maintenance of security hoarding,
- the provision of wheel washing facilities and other works required to mitigate the impact of construction upon the public highway (including the provision of temporary Traffic Regulation Orders), details of public engagement both prior to and during construction works,
- safeguarding measures to ensure that the works do not pose danger to users of the adjacent Public Footpaths / Bridleways.

Reason: In the interests of highway safety and the amenities of the area, and in accordance with Policy 40 of the Horsham District Planning Framework (2015).

- 9 **Pre-Commencement (Slab Level) Condition:** No development above ground floor slab level of any part of the development hereby permitted shall take place until a schedule of materials and finishes and colours to be used for external walls, windows and roofs of the approved building(s) has been submitted to and approved by the Local Planning Authority in writing and all materials used in the construction of the development hereby permitted shall conform to those approved.

Reason: As this matter is fundamental to enable the Local Planning Authority to control the development in detail in the interests of amenity by endeavouring to achieve a building of

visual quality in accordance with Policy 33 of the Horsham District Planning Framework (2015).

- 10 **Pre-Commencement (Slab Level) Condition:** Prior to the development commencing above slab level, a Biodiversity Enhancement Strategy for protected and Priority species shall be submitted to and approved in writing by the local planning authority.

The content of the Biodiversity Enhancement Strategy shall include the following:

- a) Purpose and conservation objectives for the proposed enhancement measures;
- b) detailed designs to achieve stated objectives;
- c) locations of proposed enhancement measures by appropriate maps and plans;
- d) persons responsible for implementing the enhancement measures;
- e) details of initial aftercare and long-term maintenance (where relevant).

The works shall be implemented in accordance with the approved details and shall be retained in that manner thereafter.

Reason: To enhance Protected and Priority Species/habitats and allow the Local Planning Authority to discharge its duties under the s40 of the NERC Act 2006 (Priority habitats & species).

- 11 **Pre-Occupation Condition:** Prior to the occupation or first use of the development hereby permitted, a detailed lighting plan illustrating the proposed siting of each external light to be installed shall be submitted to and approved in writing by the Local Planning Authority. All external lighting shall be installed in accordance with approved locations detailed on the plan to be submitted to and approved by the Local Planning Authority and the specifications set out in the Lighting Technical Report submitted to the Council on 24.11.2020 (prepared by Designs for Lighting)

The external lighting shall be installed in accordance with the approved plan and the submitted Lighting Technical Report unless otherwise agreed to and approved in writing by the Local Planning Authority.

Reason: To allow the Local Planning Authority to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 as amended and s40 of the NERC Act 2006 (Priority habitats & species), and to protect neighbouring amenity in accordance with Policy 33(2) of the Horsham District Planning Framework (2015).

- 12 **Pre-Occupation Condition:** The development hereby permitted shall not be occupied or brought into use until there has been submitted to the Local Planning Authority verification that the remediation scheme required and approved under the provisions of condition 5(c) has been implemented fully in accordance with the approved details (unless varied with the written agreement of the Local Planning Authority in advance of implementation). Thereafter the scheme shall be monitored and maintained in accordance with the scheme approved under condition 5(c), unless otherwise agreed in writing by the Local Planning Authority.

Reason: As this matter is fundamental to ensure that no unacceptable risks are caused to humans, controlled waters or the wider environment during and following the development works and to ensure that any pollution is dealt with in accordance with Policies 24 and 33 of the Horsham District Planning Framework (2015).

- 13 **Pre-Occupation Condition:** The development hereby permitted shall not be occupied or brought into use until a scheme for the disposal of horse waste has been submitted and approved in writing by the Local Planning Authority. Unless otherwise agreed in writing the scheme shall include the following:
- Methods and frequency of stable cleaning, storage, collection and disposal methods.

- Detail of the location of storage of stable waste (muck heaps). These should not be located any closer than 30m from any neighbouring residential boundaries.
- No burning of waste materials on site, including stable waste.

Reason: To safeguard the amenities of adjacent occupiers in accordance with Policy 33 of the Horsham District Planning Framework (2015).

- 14 **Pre-Occupation Condition:** Prior to the first occupation of the proposed replacement dwelling, the necessary in-building physical infrastructure and external site-wide infrastructure to enable superfast broadband speeds of 30 megabytes per second through full fibre broadband connection shall be provided to the premises.

Reason: To ensure a sustainable development that meets the needs of future occupiers in accordance with Policies 10 and 37 of the Horsham District Planning Framework (2015).

- 15 **Pre-Occupation Condition:** Prior to the first occupation of any part of the development hereby permitted, full details of all hard and soft landscaping works shall have been submitted to and approved, in writing, by the Local Planning Authority. The details shall include plans and measures addressing the following:

- Details of all existing trees and planting to be retained
- Details of all proposed trees and planting, including schedules specifying species, planting size, densities and plant numbers and tree pit details
- Details of all hard-surfacing materials and finishes
- Details of all boundary treatments (including those to the proposed outdoor arena)

The approved landscaping scheme shall be fully implemented in accordance with the approved details within the first planting season following the first occupation of any part of the development. Unless otherwise agreed as part of the approved landscaping, no trees or hedges on the site shall be wilfully damaged or uprooted, felled/removed, topped or lopped without the previous written consent of the Local Planning Authority until 5 years after completion of the development. Any proposed planting, which within a period of 5 years, dies, is removed, or becomes seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species unless the Local Planning Authority gives written consent to any variation.

Reason: To ensure a satisfactory development that is sympathetic to the landscape and townscape character and built form of the surroundings, and in the interests of visual amenity in accordance with Policy 33 of the Horsham District Planning Framework (2015).

- 16 **Pre-Occupation Condition:** No part of the development shall be first occupied until the vehicle parking and turning spaces have been constructed in accordance with the approved plan. These spaces shall thereafter be retained for their designated use.

Reason: To provide adequate on-site car parking and turning space for the development, and in accordance with Policy 41 of the Horsham District Planning Framework (2015)

- 17 **Pre-Occupation Condition:** No part of the development shall be first occupied until electric vehicle charging spaces have been provided in accordance with plans and details to be submitted to and approved by the Local Planning Authority. The electric vehicle charging spaces shall thereafter be maintained and remain fully operational unless otherwise agreed and approved in writing by the Local Planning Authority.

Reason: To provide sustainable travel options in accordance with Policies 35 and 41 of the Horsham District Planning Framework (2015).

- 18 **Post-Occupation Condition:** Upon the occupation of the replacement dwelling hereby permitted, the existing dwelling indicated on plan H/19/01 shall cease to be used for any purpose whatsoever and within a period of one month thereafter the existing dwelling shall be demolished (including the removal of foundations), all materials arising from such demolition removed from the site and the site of the demolished building restored in accordance with details of landscaping to be submitted to and approved in writing by the Local Planning Authority.

Reason: The retention of existing buildings together with the new buildings would result in the proliferation of buildings on the site, detracting from the character of the area which would be contrary to Policy 33 of the Horsham District Planning Framework (2015).

- 19 **Regulatory Condition:** Other than for a maximum of 5 training sessions (defined as one trainee per session) per week, the stables, sand school, indoor arena and associated outside areas hereby permitted shall operate as a private equestrian facility for the benefit of the occupiers of Heathcote and/or the onsite grooms accommodation and shall not be used for any other commercial purposes (including for the holding of any public events or auctions) or in connection with any form of riding or livery establishment. The owners shall keep a record of all training sessions, dates and attendees at all times for inspection by the Local Planning Authority on request.

Reason: In the interests of amenity and highway impact, to enable the Local Planning Authority to regulate and control the development and in accordance with Policies 33 and 40 of the Horsham District Planning Framework (2015).

- 20 **Regulatory Condition:** The dwelling hereby permitted shall meet the optional requirement of building regulation G2 to limit the water usage of each dwelling to 110 litres per person per day. The subsequently approved water limiting measures shall thereafter be retained.

Reason: As this matter is fundamental to limit water use in order to improve the sustainability of the development in accordance with Policy 37 of the Horsham District Planning Framework (2015).

- 21 **Regulatory Condition:** No works relating to the construction of the development hereby approved shall take place outside of 08:00 hours to 18:00 hours Mondays to Fridays and 08:00 hours to 13:00 hours on Saturdays nor at any time on Sundays, Bank or public Holidays, unless otherwise agreed in writing by the Local Planning Authority.

Reason: To safeguard the amenities of adjacent occupiers in accordance with Policy 33 of the Horsham District Planning Framework (2015).

- 22 **Regulatory Condition:** No deliveries of construction materials or plant and machinery and no removal of any spoil from the site, shall take place outside of 08:00 hours to 18:00 hours Mondays to Fridays and 08:00 hours to 13:00 hours on Saturdays nor at any time on Sundays, Bank or public Holidays, unless otherwise agreed in writing by the Local Planning Authority.

Reason: To safeguard the amenities of adjacent occupiers in accordance with Policy 33 of the Horsham District Planning Framework (2015).

- 23 **Regulatory Condition:** There should be no importation of soil and other fill materials onto the development site unless the soil/fill has been certified as fit for purpose by a competent person and has been subject to analysis by an accredited laboratory to ensure that it is free from contamination.

Reason: To safeguard the amenities of adjacent occupiers in accordance with Policy 33 of the Horsham District Planning Framework (2015).

- 24 **Regulatory Condition:** There shall be no burning of materials or waste on site, including stable/horse waste.

Reason: To safeguard the amenities of adjacent occupiers in accordance with Policy 33 of the Horsham District Planning Framework (2015).

- 25 **Regulatory Condition:** All mitigation and enhancement measures and/or works shall be carried out in accordance with the details contained in the Ecological Impact Assessment (Lizard Landscape Design and Ecology, July 2020) as already submitted with the planning application and agreed in principle with the local planning authority prior to determination. This may include the appointment of an appropriately competent person e.g. an ecological clerk of works (ECoW,) to provide on-site ecological expertise during construction. The appointed person shall undertake all activities, and works shall be carried out, in accordance with the approved details.

Reason: To conserve and enhance Protected and Priority species and allow the Local Planning Authority to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 as amended and s40 of the NERC Act 2006 (Priority habitats & species).

- 26 **Regulatory Condition:** There shall be no exterior lighting/floodlighting unless prior written approval from the Local Planning Authority has been granted by way of formal application.

Reason: To safeguard the amenities of adjacent occupiers in accordance with Policy 33 of the Horsham District Planning Framework (2015).

- 27 **Regulatory Condition:** No plant or machinery that generates, or is likely to generate, noise audible beyond the site boundary to be installed without prior written approval from the Local Planning Authority by way of formal application.

Reason: To safeguard the amenities of adjacent occupiers in accordance with Policy 33 of the Horsham District Planning Framework (2015).

- 28 **Regulatory Condition:** There shall be no use of a PA system or the playing amplified of music at any times unless otherwise agreed to and approved in writing by the Local Planning Authority by way of formal application.

Reason: To safeguard the amenities of adjacent occupiers in accordance with Policy 33 of the Horsham District Planning Framework (2015).

INFORMATIVES

Conditions to be Discharged

Please be advised that there are conditions on this notice that will require the submission of details to be submitted for approval to the Local Planning Authority. To approve these details, you will need to submit an "Application for approval of details reserved by condition" with an application form and pay the appropriate fee. Guidance and the forms can be found at www.planningportal.gov.uk/planning/applications/paperforms

Ordinary Watercourse Consent

Under the Land Drainage Act 1991, any works (permanent or temporary) that have the potential to affect the existing watercourse or ditch's ability to convey water will require

Ordinary Watercourse Consent. Ordinary watercourses include streams, drains, ditches and passages through which water flows that do not form the network of main rivers.

Importation of Soils

No soils shall be imported within the development site unless the developer has submitted details of the chemical testing and assessment of the soils which demonstrates the suitability of the soils for the proposed use. If soils are to be imported, the assessment shall be undertaken by a suitably qualified and competent person and full details shall be submitted to and approved in writing by the local planning authority.

Background Papers: DC/20/1519