



TO: Planning Committee North

BY: Head of Development and Building Control

DATE: 4th July 2023

DEVELOPMENT: Variation of conditions 5 and 6 of previously approved application DC/20/2126 (Change of use of the land and buildings for the blending, screening, storage and distribution of landscape materials (Class Sui Generis). Extension of an earth bund along the northern boundary and erection of 2.2m high wall to the western boundary) to allow for the removal of the hopper and in relation to the noise levels on site.

SITE: Lower Broadbridge Farm, Billingshurst Road, Broadbridge Heath, West Sussex, RH12 3LR

WARD: Itchingfield, Slinfold and Warnham

APPLICATION: DC/23/0578

APPLICANT: **Name:** Mr Cole **Address:** Lower Broadbridge Farm, Billingshurst Road, Broadbridge Heath, West Sussex, RH12 3LR

REASON FOR INCLUSION ON THE AGENDA: Eight or more persons in different households have made written representations within the consultation period raising material planning considerations that are inconsistent with the recommendation of the Head of Development and Building Control.

RECOMMENDATION: To approve planning permission subject to appropriate conditions

1. THE PURPOSE OF THIS REPORT

1.1 To consider the planning application.

DESCRIPTION OF THE APPLICATION

1.2 The application seeks to vary conditions 5 and 6 of planning permission DC/20/2126. These conditions are as follows:

- 5 **Regulatory Condition:** Within 3 months of the date of the permission hereby granted, the hopper used in association with the bagging operation, as identified and recommended in the Technical Note prepared by WBM Acoustic Consultants reference 5057 and dated 28 July 2020, shall be replaced by an alternative bagging system, details of which shall have been submitted to the Local Planning Authority for its approval in writing. These details shall be implemented within 1 month of the scheme being approved, and shall be implemented and complied with thereafter for the duration of the use.

Reason: To safeguard the amenities of the nearby residential properties and users of land and in accordance with Policy 33 of the Horsham District Planning Framework (2015).

- 6 **Regulatory Condition:** Within 3 months of the date of the permission hereby granted, a noise management plan shall be submitted to the Local Planning Authority for its approval in writing. The noise management plan shall include the installation and operation of all fixed mechanical equipment and building services plant as detailed within the recommendations of the Technical Note prepared by WBM Acoustic Consultants reference 5057 and dated 28 July 2020. The noise management plan, and mitigation measures where appropriate, shall ensure that the maximum noise level at a location south of the buildings on the application site (at the point shown in Appendix 11 of the WBM Acoustic Technical Note) shall not exceed 60 dB LAFmax for the bagging and other activities that take place inside the bagging shed. These details shall be implemented within 1 month of the plan being approved, and shall be permanently retained and maintained in working order for the duration of the use and their operation.

Reason: To safeguard the amenities of the nearby residential properties and users of land and in accordance with Policy 33 of the Horsham District Planning Framework (2015).

1.3 The Applicant suggests a variation to the conditions as follows:

- 5 **Regulatory Condition:** The motor attached to the existing hopper used in association with the bagging operation, as identified and recommended in the Technical Note prepared by WBM Acoustic Consultants reference 5057 and dated 28th July 9 2020, shall not be used forthwith and removed from the site within one month of the date of the decision. Details of any replacement technology shall be submitted to the Local Planning Authority for its approval in writing prior to installation and shall be implemented and complied with thereafter for the duration of the use.

Reason: To safeguard the amenities of the nearby residential properties and users of land and in accordance with Policy 33 of the Horsham District Planning Framework (2015).

- 6 **Regulatory Condition:** Noise levels from all operations at the site at the site boundary with the A281 shall not exceed a maximum noise limit of 55 dB LAeq, 1 hour (freefield).

Reason: To safeguard the amenities of the nearby residential properties and users of land and in accordance with Policy 33 of the Horsham District Planning Framework (2015).

DESCRIPTION OF THE SITE

- 1.4 The application site is located to the west of Billingshurst Road, immediately adjacent to, but outside of the built-up area boundary of Broadbridge Heath. The site comprises a number of former agricultural buildings which have most recently been used for light industrial and storage purposes.
- 1.5 The site is located to the north of the dwelling known as Lower Broadbridge Farm and to the west of the dwelling known as The Bungalow. The buildings benefit from areas of hardstanding to the north and south, with the southern extent currently used for parking and some outside storage.

- 1.6 The larger of the subject buildings has been subdivided internally, with a number of the bays occupied by the neighbouring enterprise of Horsham Stone, which benefits from a yard area and second unit to the west of the application site. This operates independently from the application site, with access provided to the west of the buildings.
- 1.7 The wider surroundings are characterised by open countryside to the north and west, with the dense residential development of Charrington Way located to the east, and separated by mature vegetation and the A281.

2. INTRODUCTION

STATUTORY BACKGROUND

- 2.1 The Town and Country Planning Act 1990.

RELEVANT PLANNING POLICIES

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

2.3 The National Planning Policy Framework (NPPF)

2.4 Horsham District Planning Framework (2015):

- Policy 1 - Strategic Policy: Sustainable Development
- Policy 2 - Strategic Policy: Strategic Development
- Policy 3 - Strategic Policy: Development Hierarchy
- Policy 4 - Strategic Policy: Settlement Expansion
- Policy 7 - Strategic Policy: Economic Growth
- Policy 9 - Employment Development
- Policy 10 - Rural Economic Development
- Policy 24 - Strategic Policy: Environmental Protection
- Policy 25 - Strategic Policy: The Natural Environment and Landscape Character
- Policy 26 - Strategic Policy: Countryside Protection
- Policy 31 - Green Infrastructure and Biodiversity
- Policy 32 - Strategic Policy: The Quality of New Development
- Policy 33 - Development Principles
- Policy 35 - Strategic Policy: Climate Change
- Policy 36 - Strategic Policy: Appropriate Energy Use
- Policy 37 - Sustainable Construction
- Policy 40 - Sustainable Transport
- Policy 41 - Parking
- Policy 42 - Strategic Policy: Inclusive Communities

2.5 Slinfold Neighbourhood Plan (Sept 2018)

- Policy 3: Green Infrastructure
- Policy 5: Development Principles
- Policy 11: Existing Employment Centres
- Policy 12: Economy and Enterprise

2.6 Planning Advice Notes

- Facilitating Appropriate Development
- Biodiversity and Green Infrastructure

PLANNING HISTORY AND RELEVANT APPLICATIONS

DC/20/2126

Change of use of the land and buildings for the blending, screening, storage and distribution of landscape materials (Class Sui Generis). Extension of an earth bund along the northern boundary and erection of 2.2m high wall to the western boundary.

Application Permitted on
21.05.2021

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

INTERNAL CONSULTATIONS

- 3.2 **HDC Environmental Health:** Comment

Condition 5 was originally worded to reflect the proposal from the applicant to replace the bagging hopper. The operation of the bagging hopper had been identified as the main cause of complaints about noise from the site. Accordingly the condition was considered to be reasonable and proportionate. If applicant felt the condition was unreasonable they did not express that view before the original permission was issued.

For condition 6 the original wording took account of the recommendations provided by the applicants consultant with regard to noise level emitted from the site. Again the condition was worded to incorporate these recommendations.

As commented previously, EH are satisfied that the proposed variations to the conditions are acceptable. Condition 5 will ensure the bagging hopper will be taken out of use. Condition 6 will provide an appropriate noise limit for site operations having regard to the character of the locality.

- 3.3 **HDC Environmental Health (Subsequent Response):** Comment

There have been no recent statutory noise complaints that the Department have investigation at the site.

60dB max level is an absolute level and 55dB Leq is a time averaged value. The World Health Organisation threshold for serious annoyance in an outdoor amenity space is 55dB LEQ so this figure tends to be used when considering amenity. This does depend on how quiet the area is. The main issue for the application site is the A281, which is also very noisy. Would not want the business activity to be noisier than the existing noise climate which is dominated by the road noise during the day. In this circumstance, either noise target would be effective.

OUTSIDE AGENCIES

- 3.4 **WSCC Highways:** Comment

Both conditions are unrelated to any highway matter, and refer to noise and the removal of a hopper.

PUBLIC CONSULTATIONS

3.5 **Slinfold Parish Council:** Objection

- Removing the motor will not change anything. It appears to be the hopper that causes the noise.
- See no reason why a Noise Management Plan should not be submitted for approval given the noise impact on residents.
- Wording in condition 5 needs to be clarified as there is no specific date
- Noise levels and working times need to be further investigated.

3.6 7 letters of objection were received from 6 separate households, and these can be summarised as follows:

- Excessive noise generated by the Lower Broadbridge Farm Stone Works
- Earth bund makes no difference to the noise and dust levels
- Noise disturbance
- Disregard working hours
- Pollution
- Have not adhered to conditions
- Dust

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

4.1 The application has been considered having regard to Article 1 of the First Protocol of the Human Rights Act 1998, which sets out a person's rights to the peaceful enjoyment of property and Article 8 of the same Act, which sets out their rights in respect to private and family life and for the home. Officers consider that the proposal would not be contrary to the provisions of the above Articles.

4.2 The application has also been considered in accordance with Horsham District Council's public sector equality duty, which seeks to prevent unlawful discrimination, to promote equality of opportunity and to foster good relations between people in a diverse community, in accordance with Section 149 of the Equality Act 2010. In this case, the proposal is not anticipated to have any potential impact from an equality perspective.

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 principle of development was established under planning approval reference DC/20/2126. This approved the use of the site and buildings for the blending, screening, storage and distribution of landscape materials (Use Class Sui Generis).

6.2 The application seeks a variation to condition 5 and 6 of the planning approval, which both relate to controls to reduce noise and limit the impact on the amenities of neighbouring properties. Specifically, this relates to removing the motor associated with the hopper used in the bagging operation and identifying specific noise levels that all operations must adhere to. These matters are discussed in detail below.

Amenity Impacts:

- 6.3 Policy 32 of the HDPF states that development will be expected to provide an attractive, functional, accessible, safe, and adaptable environment that contribute a sense of place both in the buildings and spaces themselves. Policy 33 continues that development shall be required to ensure that it is designed to avoid unacceptable harm to the amenity of occupiers/users of nearby property and land.
- 6.4 Paragraph 174 of the NPPF states that decisions should contribute to and enhance the natural and local environment by preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution or land instability. Paragraph 185 continues that decisions should ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions, and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development. In doing so, they should mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development, and avoid noise giving rise to significant adverse impacts on health and the quality of life. Paragraph 188 outlines that the focus of planning decisions should be on whether proposed development is an acceptable use of land, rather than the control of processes or emissions. Planning decisions should assume that these regimes will operate effectively.
- 6.5 The application site is located to the north of the residential dwelling of Lower Broadbridge Farm, and to the west of the residential dwellings located along Charrington Way. A dense line of vegetation separates the site from the nearby residential properties to the east, with the wider area predominantly comprising flat and open countryside. It is recognised that the operations have the potential to impact upon the occupiers and users of nearby property and land, with the relevant conditions imposed to address this.
- 6.6 When considering the initial application, it was noted that a number of statutory noise complaints had been received regarding the operations taking place. It was understood that these had arisen following the use of the hopper which blended materials on site. The noise emanating from this was also confirmed through the Noise Impact Assessment conducted on behalf of the Applicant. At the time, the Applicant confirmed that the use of the hopper had ceased, and alternative equipment had been sourced. Along with suggesting an alternative bagging system within the Noise Assessment, the application sought to control noise impacts through the provision of a 3m high bund that would extend around the existing and extended yard area to the north of the subject buildings. This was considered to mitigate noise intrusion to the nearby residential properties, and when coupled with the existing mature vegetation along the eastern boundary, was considered to act as an acoustic barrier, further limiting noise intrusion. The provision of the bund was not however considered to be the only appropriate mitigation measure, with the alternative bagging system as suggested within the Noise Assessment, also considered necessary. Condition 5 requiring details of this alternative bagging system was therefore recommended to further address potential noise impact and amenity issues. This was considered reasonable and necessary given the nature and activity associated with the proposed operations.
- 6.7 A previous variation of the stated conditions was considered under planning reference DC/22/1636. At this time, it was recognised that there had been no material changes in the spatial nor planning policy context of the site since the planning decision. While it was noted that a bund has been partially installed at the site, no further information, in the form of an updated Noise Assessment, has been provided to demonstrate that the bund has addressed noise impact on the nearest residential properties. A number of objection letters were received stating that adverse amenity impact was being experienced by the residential properties along Charrington Way, with noise and dust pollution noted in particular. This was considered to provide evidence that an adverse noise impact was being experienced by

nearby residential properties, with the original condition still considered to be reasonable and necessary to address the amenity harm arising from the development.

- 6.8 The Council's Environmental Health Officer considered that there was insufficient information to support the suggested rewording of condition 6, with evidence through a Noise Assessment necessary to demonstrate that the suggested cumulative rating noise level would be achievable. Furthermore, the cessation of use of the bagging plant was not required by the condition and there was doubt whether the hopper would be permanently ceased and not brought back into use at any time. For these reasons, the proposed variation of conditions 5 and 6 were refused.
- 6.9 The Applicant has now provided an updated Noise Technical Note from WBM Acoustic Consultants dated 09 November 2022. This Assessment outlines that previous noise investigation indicated a frequent increase in noise levels for prolonged periods due to the use of the motor for the hopper. This was clearly a potential noise issue at the nearest dwellings to the site and was highlighted as such in the previous work. The use of the motor has since stopped, and the Assessment considers that the main noise issue has been addressed. The site noise conditions relate to the bagging shed activity, and as the main noise source in the shed has been silenced the noise emitted from the shed has been significantly reduced. Based on direct observations and noise measurements at the application site, the Noise Assessment considers that it has been demonstrated that the site noise limit can be complied with at the suggested noise monitoring location without the need for an alternative bagging operation. Now that the use of the motor has ceased, it is considered that the purchase and operation of an alternative bagging method would not result in any appreciable change in site noise levels. The Assessment recommends that a site noise limit for the entire operation (not solely the bagging shed) would best address potential noise amenity to the nearby residential properties. The suggested condition advises that this be 55 dB LAeq, 1 hour (freefield).
- 6.10 Following consultation with the Council's Environmental Health Officer, it is outlined that condition 5 was originally worded to reflect the proposal from the Applicant to replace the bagging hopper, where the operation of this bagging hopper had been identified as the main cause of complaints about noise from the site. Accordingly, the original condition was considered to be reasonable and proportionate. In respect of condition 6, the original wording took account of the recommendations provided by the Applicant's consultant with regard to noise levels emitted from the site.
- 6.11 Having considered the suggested variations, and taking account of the additional information submitted, the proposed variations are considered acceptable by the Council's Environmental Health Officer. As confirmed by the Environmental Health Officer, the World Health Organisation threshold for serious annoyance in an outdoor amenity space is 55dB Leq and this is considered to be an appropriate measure when considering amenity. The use of this figure does however depend on how quiet the area is. In this case the application site is bound by the A281, which is very noisy with the noise survey submitted in respect of the original application DC/20/2126 detailing an average noise level of around 60db Leq at the closest houses opposite the site on the A281.
- 6.12 In order to suitably protect the amenity of neighbouring residential properties, the business activity should be no noisier than the existing noise climate which is dominated by the road noise during the day. Environmental Health officers have advised that the suggested 55dB Leq measurement is considered to be an appropriate noise limit for site operations in this instance, instead of the 60dB Lmax previously set out in condition 6, given the site context abutting the noisy A281 and its relationship with nearby residential properties.
- 6.13 Condition 5 will ensure the bagging hopper will be taken out of use, with condition 6 providing an appropriate noise limit for site operations, having regard to the character of the locality. The proposed variation to conditions 5 and 6 are therefore considered to offer an appropriate

degree of protection to the amenity of the nearby residential properties, in accordance with the above policies.

Other Matters

- 6.14 It is recognised that concerns have been raised regarding noise, dust and pollution arising from the operation of the site (and the adjacent commercial enterprise), with concerns also raised regarding to the adherence of conditions. While potential cumulative impacts on the nearby residential properties are noted, it is considered that the conditions as recommended would appropriately reduce potential amenity conflict. On this basis, it is not considered that the proposal would result in significant cumulative impact to justify a reason for refusal on amenity grounds. The proposed variations to conditions 5 and 6 would not result in an increase in water consumption on the site, therefore no impacts would result on the Arun Valley habitat sites.

Conclusion

- 6.15 It has been demonstrated that the proposed variation to conditions 5 and 6 would sufficiently secure adequate amenity protection and would not result in adverse harm to the amenities of the nearby residential properties. As this application forms a new planning permission for the site, the remaining conditions are repeated, with conditions 5 and 6 now appearing as conditions 4 and 5 with the applicant's suggested wording of condition 4 updated to refer to a period of one month for the removal of the motor, and for any replacement to meet the noise criteria set out in condition 5.
- 6.16 Condition 7 of planning approval is no longer recommended. This condition required the submission of a post-installation noise assessment detailing compliance with the noise criteria outlined within previous condition 5 (and specifically relating to the alternative bagging system). Condition 4 as recommended requires the removal of the existing hopper, with any alternative technology requiring the submission of a full planning application. As such, condition 7 as previously imposed is no longer necessary.

7. RECOMMENDATIONS

- 7.1 To approve the application subject to the following conditions:

1 **Approved Plans**

- 2 **Regulatory Condition:** The vehicle wheel-cleaning facilities installed at the site entrance shall be retained in working order and operated throughout the period of work on the site to ensure that vehicles do not leave the site carrying earth and mud on their wheels in a quantity which causes a nuisance, hazard or visual intrusion from material deposited on the road system in the locality.

Reason: As this matter is fundamental in the interests of road safety and visual amenity in accordance with Policies 33 and 40 of the Horsham District Planning Framework (2015).

- 3 **Regulatory Condition:** Within 3 months of the date of the permission hereby granted, details of secure and covered cycle parking facilities for the development shall have been submitted to the Local Planning Authority for its approval in writing. The cycle parking shall be fully implemented and made available within 1 month of such approval being given. The cycle parking shall thereafter be retained for use at all times in accordance with the approved details.

Reason: To ensure that there is adequate provision for the parking of cycles in accordance with Policy 40 of the Horsham District Planning Framework (2015).

- 4 **Regulatory Condition:** The motor attached to the existing hopper used in association with the bagging operation, as identified and recommended in the Technical Note prepared by WBM Acoustic Consultants reference 5057 and dated 28th July 9 2020, shall not be used forthwith and shall be removed from the site within one month of the date of this decision. Details of any replacement technology shall be submitted to the Local Planning Authority for its approval in writing prior to installation, and this shall demonstrate compliance with the noise criteria contained within condition 5 and detail any necessary noise attenuation measures necessary to comply with the noise levels. The approved details shall be implemented and complied with thereafter for the duration of the use.

Reason: To safeguard the amenities of the nearby residential properties and users of land and in accordance with Policy 33 of the Horsham District Planning Framework (2015).

- 5 **Regulatory Condition:** Noise levels from all operations at the site, when measured from the site boundary with the A281, shall not exceed a maximum noise limit of 55 dB LAeq, 1 hour (freefield).

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).

- 6 **Regulatory Condition:** Within 3 months of the date of the permission hereby granted, a scheme to control dust shall be submitted to the Local Planning Authority for its approval in writing. The approved scheme, and associated dust control measures, shall be implemented within 1 month of the scheme being approved, and shall be implemented and complied with thereafter for the duration of the use.

Reason: In order to ensure that the safe operation of the development and to protection of the amenities of nearby residents, in accordance with Policies 33 and 40 of the Horsham District Planning Framework (2015).

- 7 **Regulatory Condition:** No works for the implementation 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.

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

- 8 **Regulatory Condition:** The landscaping scheme as outlined within the Landscape and Visual Appraisal dated March 2121 by DB Landscape Consultancy 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).

- 9 **Regulatory Condition:** The buildings shaded in grey and labelled as "Existing Bagging Plant Operation" on plan drawing BLS/2020/MK1 rev B shall be used for the purposes of blending, screening, and storage of landscape materials only. At no times shall the operations hereby permitted take place outside of the buildings.

Reason: To safeguard the amenities of the nearby neighbouring properties and in accordance with Policy 33 of the Horsham District Planning Framework (2015).

- 10 **Regulatory Condition:** The extended yard area to the north, as referenced on plan drawing BLS/2020/MK2 shall be used for the storage of pallets and parked unladen vehicles only, and shall not be used for the storage of any finished or unfinished product or material. Any pallets stored/stacked in this area shall not exceed a total height of 3m.

Reason: To safeguard the amenities of the nearby neighbouring properties and in accordance with Policy 33 of the Horsham District Planning Framework (2015).

- 11 **Regulatory Condition:** The premises shall not be open for trade or business except between the hours of 8:00 and 18:00 Monday to Friday and 09:00 and 13:00 on Saturdays, and at no times on Sundays or Public and Bank Holidays.

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

- 12 **Regulatory Condition:** No deliveries associated with the development hereby approved shall take place except between the hours of 08:00 and 18:00 Monday to Friday and 09:00 and 13:00 on Saturdays, and at no times on Sundays or Public and Bank Holidays.

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

- 13 **Regulatory Condition:** No externally located plant or equipment shall be installed or operated without the prior written approval of the Local Planning Authority by way of formal application.

Reason: To safeguard the amenities of the nearby residential properties and users of land and in accordance with Policy 33 of the Horsham District Planning Framework (2015).

- 14 **Regulatory Condition:** No external lighting or floodlighting shall be installed other than with the permission of the Local Planning Authority by way of formal application.

Reason: In the interests of the amenities of the locality and in accordance with Policy 33 of the Horsham District Planning Framework (2015).