



TO: Planning Committee South

BY: Head of Development and Building Control

DATE: 20 February 2024

DEVELOPMENT: Removal of conditions 3 and 4 of previously approved application DC/23/0185 (Retention of an agricultural building and extended hardstanding) Relating to lighting and Storage of animal waste; and Variation of condition 2 of DC/23/0185 to allow for full flexible agricultural use.

SITE: Peacocks Paddock Stall House Lane North Heath West Sussex RH20 2HR

WARD: Pulborough, Coldwaltham and Amberley

APPLICATION: DC/23/1631

APPLICANT: **Name:** Mr and Mrs Peacock **Address:** Peacocks Paddock Stall House Lane North Heath West Sussex RH20 2HR

REASON FOR INCLUSION ON THE AGENDA: More than eight 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.

By request of Councillor Clarke

RECOMMENDATION: To approve planning permission subject to appropriate conditions

1. THE PURPOSE OF THIS REPORT

To consider the planning application.

DESCRIPTION OF THE APPLICATION

- 1.1 Section 73 consent is sought to vary condition 2 and removed conditions 3 and 4 attached to permission DC/23/0185

DESCRIPTION OF THE SITE

- 1.2 The application relates to an agricultural smallholding sited on the north-western side of Stall House Lane. The site is mostly laid to grass, with internal wire fencing field boundaries, in addition to the hardstanding and application barn. The site also accommodates a mobile caravan which is utilised as a mess hall. The site is bound by split

timber fencing with sporadic tree and foliage planting, and benefits from an access into the site from the highway. The site is located outside of the built-up area. A public footpath (2298) runs north to south adjacent to the eastern boundary of the site (outside of the application site), and neighbours Laurel Cottage to the south (a grade II listed dwelling).

2. INTRODUCTION

STATUTORY BACKGROUND

- 2.1 The Town and Country Planning Act 1990.

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 2 - Strategic Policy: Strategic Development

Policy 24 - Strategic Policy: Environmental Protection

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

Policy 26 - Strategic Policy: Countryside Protection

Policy 30 - Protected Landscapes

Policy 31 - Green Infrastructure and Biodiversity

Policy 32 - Strategic Policy: The Quality of New Development

Policy 33 - Development Principles

Policy 34 - Cultural and Heritage Assets

Policy 35 - Strategic Policy: Climate Change

Policy 36 - Strategic Policy: Appropriate Energy Use

Policy 37 - Sustainable Construction

Policy 38 - Strategic Policy: Flooding

Policy 40 - Sustainable Transport

Policy 41 – Parking

Planning Advice Notes:

Facilitating Appropriate Development

Biodiversity and Green Infrastructure

PLANNING HISTORY AND RELEVANT APPLICATIONS

DC/23/0185	Retention of an agricultural building and extended hardstanding.	Application Permitted on 23.06.2023
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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

HDC Environmental Health: Comment

The main concern with the original application proposal was the potential impacts on the amenity of the neighbouring residential occupiers.

Condition 2 was proposed because the applicants descriptions of activities at the site were sufficiently low key as to pose no risk of adverse impacts on neighbouring occupiers. However any other uses of the site such as for permanent housing of livestock may give rise adverse impacts on the dwellings located within 100m of the site. The wording of the condition was based on the applicants own description of the intended use of the site and the intent of the condition is clear. The permitted development rights for farms recognise the potential loss of amenity by prohibiting buildings housing livestock within 400m of a dwelling. I would also note the exceptions to this requirement:

"i) that the need to accommodate the livestock arises from quarantine requirements, or an emergency due to another building or structure in which the livestock could otherwise be accommodated being unavailable because it has been damaged or destroyed by fire, flood or storm; or

(ii) in the case of animals normally kept out of doors, they require temporary accommodation in a building or other structure because they are sick or giving birth or newly born, or to provide shelter against extreme weather conditions."

In this context the wording of the condition is entirely consistent with language used in the GDPO

Condition 3 relates to the provision of externally located lighting and is designed to ensure that any external lighting does not detrimentally impact the neighbouring residential occupiers. The condition is based on nationally recognised guidance for reducing obtrusive light. This is particularly important in this case as the locality is relatively dark at night. The condition does not exclude the use of lighting but seeks to ensure that glare and light trespass are prevented. The wording of the condition is widely used and is considered to meet the 6 tests.

Condition 4 requires details of how animal wastes will managed and stored. The aim is to prevent loss of amenity to neighbouring occupiers. As noted above the permitted development rights for farms recognise the potential loss of amenity by prohibiting the storage of slurry or sewage sludge within 400m of a dwelling. Therefore measures to manage manure and to prevent adverse impacts from odour, flies etc on neighbouring occupiers are a valid planning concern.

Parish Comments:

The Planning Committee of the 21st of September objected to this planning application based on the previous HDC conditions are there for good reasons and there is no reason given for why the conditions should be removed.

Representations:

11 letters of representation received from 10 separate addresses *objecting* to the proposal on the following grounds:

- Adverse impact on neighbouring amenity (lighting and smell)
- Increased light pollution
- No reason to remove the condition
- The applicant is in breach of the condition as three months has been exceeded

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 Section 73 consent is sought to vary condition 2 and remove conditions 3 and 4 attached to permission DC/23/0185:

Variation of Condition 2:

- 6.2 Condition 2 attached to the consent reads:

Regulatory Condition: *The development hereby permitted shall be used solely for the storage of hay, straw, animal feed, farming equipment and the temporary housing of livestock (between the months of March and June) in association with the agricultural activities carried out at Peacock Paddock, as identified on the approved plans, and for no other purpose.*

Reason: To ensure the development is water neutral to avoid an adverse impact on the Arun Valley SACSPA and Ramsar sites and in the interests of amenity in accordance with Policies 31 and 33 of the Horsham District Planning Framework (2015).

- 6.3 In their planning statement, the applicant contends that there was no justification for the reasoning attached to the condition which seeks to prevent further water use from the site. Furthermore, the applicant wishes greater flexibility with the use of the barn, as (for example) the applicant could not store bedding within the unit, which would be acceptable in this context. In addition, shelter may be needed on an ad hoc basis for animal welfare. Officers agree that greater flexibility could be applied to this condition to enable an ad hoc welfare use, provided that the use remains agricultural, and there is no evidence that this would increase water use given that it would not increase the capacity of the holding. However, the Council maintains that for the purposes of water neutrality, the reasoning is valid, given that any other uses may give rise to an increased water demand. Officers are proposing alternative wording to the applicant to enable a more flexible use, whilst ensuring the barn be retained for agricultural purposes:

Regulatory Condition: *The barn (shown on plan 1877.1/01, received by the Council on 01.09.2023) shall be used solely for agricultural purposes in connection with the site known as 'Peacocks Paddock' and shall not be used for any commercial or domestic purposes.*

Reason: The site lies in an area where, in accordance with Policy 26 of the Horsham District Planning Framework (2015) development which cannot be justified as essential to the needs of agriculture or forestry would not normally be permitted and to ensure the development is water neutral to avoid an adverse impact on the Arun Valley SACSPA and Ramsar sites and in the interests of amenity in accordance with Policies 31 and 33 of the Horsham District Planning Framework (2015).

- 6.4 Officers, therefore, have no objection to the variation of condition 2 as re-worded above.

Removal of Condition 3:

- 6.5 Condition 3 attached to the consent reads:

Regulatory Condition: *Within 3 months of the date of this permission hereby granted, an external lighting scheme shall be submitted to and approved in writing by the Local Planning Authority. The lighting scheme shall be in accordance with the Institute of Lighting Professional's Guidance notes for the reduction of obstructive light and shall have been designed by a suitably qualified person in accordance with the recommendations. The scheme shall be implemented in accordance with the approved scheme and thereafter retained as such. No other lighting shall be installed without the prior consent of the Local Planning Authority.*

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

- 6.6 Planning and Environmental Health Officers attended a visit to the site on 30 November 2023 where the lighting was inspected during daylight and evening hours. The lights installed (both internally and externally) were observed to be domestic units that would typically be found attached to and within a dwelling. The external lighting comprises a single dual-lit unit with a diffused illuminator (attached to the barn) and two low-level solar powered units (attached to the front gates). Internally, the installed lighting comprises three strip light units- two of which faced inwards behind the front soffit, and the other on the third bay's ceiling, the latter unit resulting in minimal external light spill. The internal lights have also been installed with movement sensors when turned on, which would turn off the lighting if no movement is detected after a few minutes.
- 6.7 Given the relatively low level of lighting currently present at the site, which is considered reasonable for its agricultural purposes, Officers are satisfied that the lighting does not result in adverse amenity harm by way of light spill to neighbouring properties or the wider landscape, especially considering the wider presence of residential units on Stall House Lane.
- 6.8 The applicant is though seeking the removal of this condition in its entirety, as opposed to a variation, stating that the condition does not meet the 'six tests' under paragraph 66 of the NPPF (2023). Officers are satisfied that in this instance a condition to control the lighting is reasonable and necessary and does meet the relevant tests, to ensure the impact on neighbouring amenities and the wider landscape is mitigated. This is particularly the case given three of the four bays are open. Given Officers consider the lighting currently installed at the site is acceptable (and the Council has photographic evidence of the installed lighting) it is considered appropriate to amend the condition to a regulatory condition, so no further lighting can be installed without the consent of the Local Planning Authority. It is not considered to be appropriate to remove the condition in its entirety.

Regulatory Condition: *No additional lighting shall be installed on the site other than that previously inspected by the Council on the site on 30 November 2023, unless otherwise agreed to and approved in writing by the Local Planning Authority. Any replacement lighting shall be of a similar specification to that of the existing lighting.*

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

- 6.11 Whilst Officers do not agree that the condition should be removed in its entirety, it is recommended to the committee that condition 3 is varied as per the wording above.

Removal of Condition 4:

- 6.12 Condition 4 attached to the consent reads:

Regulatory Condition: *Within 3 months of the date of this permission hereby granted, details of the location and size of the storage of animal waste shall be submitted to an approved in writing by the Local Planning Authority (in consultation with Local Members). The approved detail shall thereafter be retained as such unless otherwise agreed to and approved in writing by the Local Planning Authority.*

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

- 6.13 As advised within their statement, condition 4 was attached to the permission during the committee debate by Councillors when considering DC/23/0185. Following a visit to the site on 30 November 2023 with Council Officers (comprising Planning and Environmental Health Officers) it was discussed a muck heap would not typically be expected for the animals kept on site (sheep and pigs)- sheep waste is typically left on the site and returned to the earth, and pig waste is managed and removed from the site for welfare purposes. Muck heaps are typically used for non-agrarian animals, such as horses. Whilst a condition requiring details of a muck heap is not an unreasonable requirement given the proximity of neighbours, given the small scale of the agricultural holding, and the type of animal currently using this site, Officers agree that the condition is not necessary, and could be removed from the consent.

Conclusion

- 6.14 Officers agree that condition 2 attached to DC/23/0185 could be varied to promote a more flexible agricultural use of the barn on site, and condition 4 be removed entirely, as it is not relevant / necessary to the use being undertaken on the site. However, Officers do not agree that condition 3 should be removed in its entirety- in order to protect neighbouring amenity, Officers are of the view that the existing lighting should be conditioned to be retained and no further lighting installed, and therefore the condition be varied. Section 73(2) of the Town and Country Planning Act 1990 (TCPA) states:

(2) On such an application the local planning authority shall consider only the question of the conditions subject to which planning permission should be granted, and—

(a) if they decide that planning permission should be granted subject to conditions differing from those subject to which the previous permission was granted, or that it should be granted unconditionally, they shall grant planning permission accordingly, and

(b) if they decide that planning permission should be granted subject to the same conditions as those subject to which the previous permission was granted, they shall refuse the application.

- 6.15 Planning legislation enables the Local Planning Authority to grant a permission with conditions differing to the wording of the conditions attached to a previous consent. Though the applicant has applied to remove condition 3 as above, Officers consider that the condition be instead varied, therefore exercising its right to apply conditions of differing wording on the permission for the proposed amendments to DC/23/0185 under Section 73(2)(a) of the TCPA.

7. RECOMMENDATIONS

Conditions:

1 **A List of the Approved Plans**

- 2 **Regulatory Condition:** The barn (shown on plan 1877.1/01, received by the Council on 01.09.2023) shall be used solely for agricultural purposes in connection with the site known as 'Peacocks Paddock' and shall not be used for any commercial or domestic purposes.

Reason: The site lies in an area where, in accordance with Policy 26 of the Horsham District Planning Framework (2015) development which cannot be justified as essential to the needs of agriculture or forestry would not normally be permitted and to ensure the development is water neutral to avoid an adverse impact on the Arun Valley SACSPA and Ramsar sites and in the interests of amenity in accordance with Policies 31 and 33 of the Horsham District Planning Framework (2015).

- 3 **Regulatory Condition:** No additional lighting shall be installed on the site other than that previously inspected by the Council on the site on 30 November 2023. Any replacement lighting shall be of a similar specification to that of the existing lighting. No other lighting shall be installed unless otherwise agreed to and approved in writing by the Local Planning Authority.

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

Background Papers: DC/23/0185, DC/23/1631