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CHARTERED TOWN PLANNERS

01256 766673 | info@bell-cornwell.co.uk | bell-cornwell.co.uk

Mr Daniel Holmes
Senior Planning Officer
Horsham District Council

Our ref: 6084

Sent by email:

daniel.holmes@horsham.gov.uk

planning@horsham.gov.uk

5 February 2026

Dear Mr Holmes,

DC/25/1957 Oaklands Stud, Forest Grange, Horsham, West Sussex, RH13 6HX
Demolition of pole barn. Conversion of existing stable building into 1no. detached dwelling with associated works.

We are writing on behalf of Forest Grange Private Road Limited (FGPRL) and Forest Grange (Horsham) Management Company Ltd (FGHMCL) and their 23 shareholders and 10 shareholders respectively who are the owners of the private road and land either side of this private road, leading from the junction with Forest Road to the dwellings and associated fields forming the Forest Grange community.

This letter is submitted in objection to the Application made by Ms Andrea Starns ('the Applicant') at Oaklands Stud, Forest Grange, Horsham ('the Application Site') submitted to Horsham District Council, the relevant Local Planning Authority ('the LPA') seeking Full Planning permission for the proposed "*Demolition of pole barn. Conversion of existing stable building into 1no. detached dwelling with associated works*" ("the Development").

This application is now the second recent attempt by the Applicant to obtain planning permission for the conversion of the stables to residential development on this site in addition to four other unsuccessful attempts (including at appeal) for residential development on the site. It is evident that these applications are persistent, successive attempts in pursuit of the same development on the same piece with the goal to frustrate the planning system.



In a number of the previous recent applications and appeals, the Applicant has been reliant on the argument that the planning balance falls in favour of development due to the Council's lack of 5-year housing land supply specific to gypsy sites. This argument has not been presented in this application.

We have submitted a number of objections on behalf of FGPR and FGHMCL, however, as this application is to be determined on its merits, we reiterate comments which have been made previously.

Before turning to the merits of the application, we have highlighted below important information pertaining to the site boundary and ownership.

ADMINISTRATIVE DISCUSSION

Red Line and Ownership

There is a fundamental inaccuracy with the Applicant's red line shown on their submitted Location Plan which defines the area of the application site, including all land required to undertake the relevant development. The Applicant's red line does not accurately reflect their ownership, as per Land Registry Title WSX188935 (Appendix A). The Applicant has constructed (without permission) a pole barn on land which they do not own. Whilst the Applicant proposes to demolish the pole barn, the Applicant is in effect seeking to incorporate the land to the rear of the stables into their curtilage.

The Applicant appears to be seeking adverse possession of land outside their title. The first image below is an extract of Land Registry Title WSX188935, and which shows the land within the ownership of the Applicant. The second image has been extracted from the Land Registry database, and which clearly shows that the pole barn the Applicant is proposing to demolish. It should be noted that their title runs directly to the rear of the stables and does not include any of the amenity land, which has been shown by them within their red line. The third image is an extract of the Applicant's block plan which again makes it clear when compared to their lawful domain, to be incorrect.

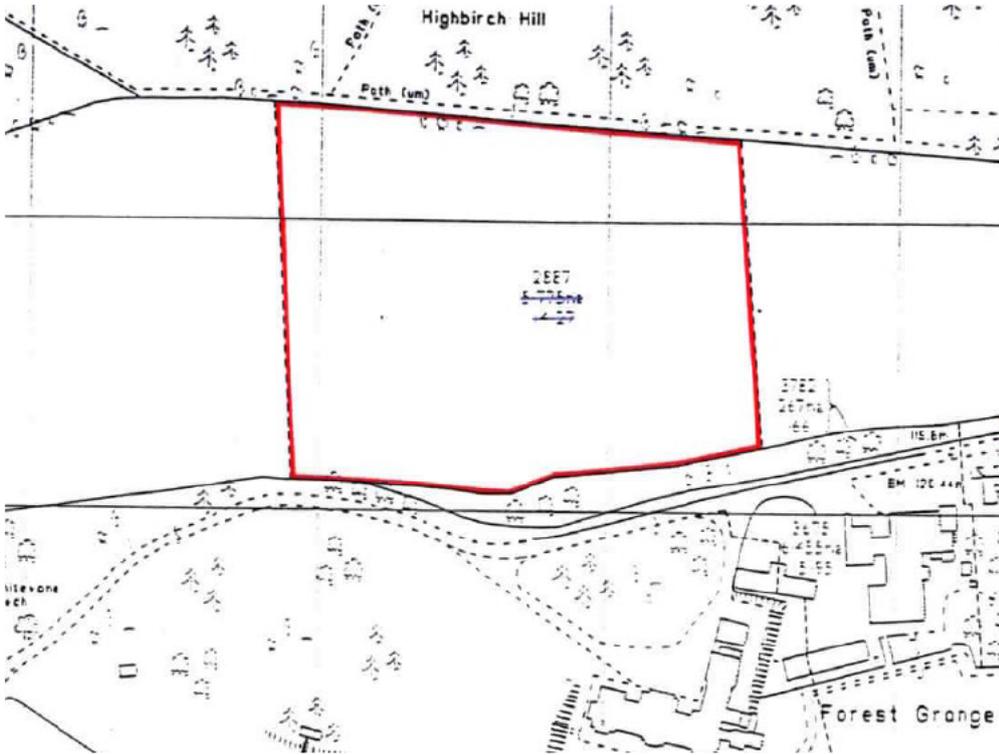


Figure 1 Land Registry

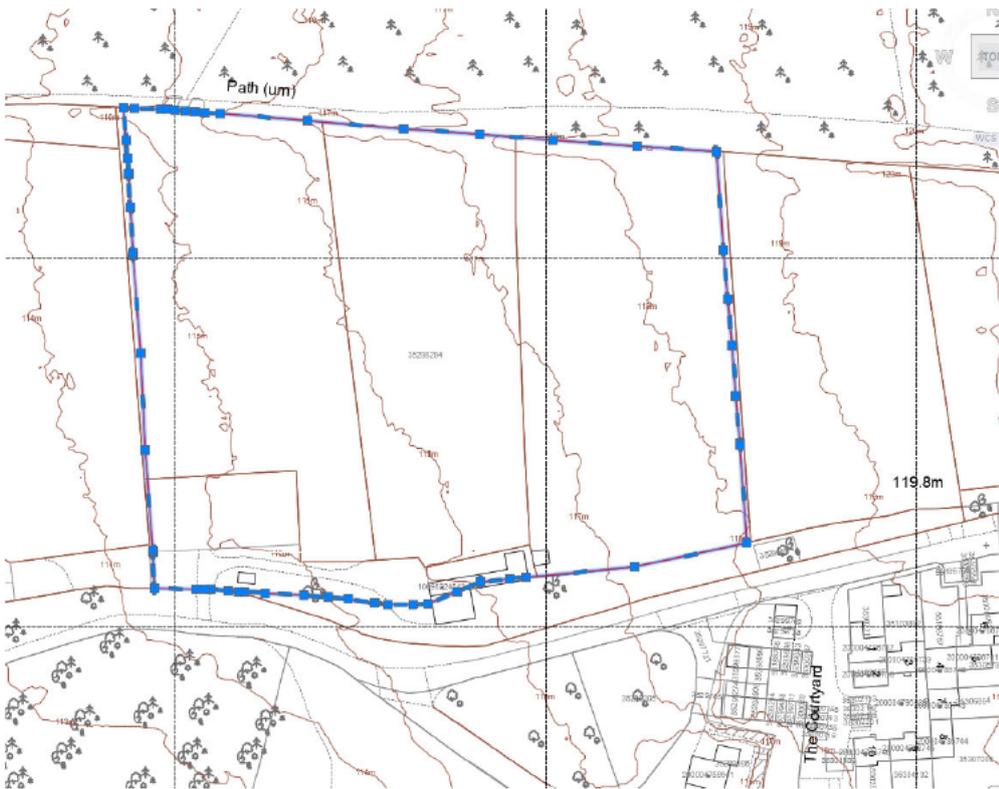


Figure 2 Land Registry dataset



Figure 3 Applicant's incorrect red line

For the avoidance of any doubt, our client does not grant or allow any development, residential or otherwise, to be established on their land.

We can confirm that our Client's solicitor has issued a Pre-Action claim letter to the Applicant. We strongly encourage the LPA not to allow further encroachment of development by the Applicant on land they do not own, forcing the issue and considerable expense onto our Client to pursue this matter through the courts.

Whilst planning permission runs with the land and not the Applicant, it is clear that the Applicant has no intention to obtain permission from the landowner (our Client) and any further grant of planning permission by the Council would in effect be condoning this behaviour.

This point of ownership is equally relevant in the council's consideration as to whether conditions or legal obligations can meet the relevant tests. In the event that planning permission were to be granted, and we believe there are too many grounds against this development, then it would not be possible for the LPA to secure planning benefits through condition as there is no reasonable prospect that those conditions could be complied with. This therefore emphasises the need for the LPA to act with caution in assessing this application and not simply adopt the stance that land ownership is a civil matter.



SITE CONTEXT

In our previous letters of objection on other development on this site, we have set out the site context however, we reiterate our previous points.

The Application Site comprises a parcel of land forming part of a large equine paddock. The extent of the site, as illustrated by the red line on the Location Plan, is not defined by clear defensible boundaries, rather it is an arbitrary line, and as noted also includes land outside the Applicant's control. On the wider parcel of land are a hay barn, sand school and large parking and turning area.

The site is accessed via a private lane leading from Forest Road. The applicant does not own the access lane or hold a freehold or leasehold interest in the lane. The private land and the land either side of the lane falls within the ownership, and is managed by, **Forest Grange Private Road Limited**. The Applicant has the right to use the lane associated with agriculture/grazing use but not for residential purposes.

The site does not benefit from mains gas or mains foul water infrastructure. The mains water that is on site has been diverted from the private supply to the community of dwellings at Forest Grange.

In terms of the wider site area, the Application Site is located outside of a defined settlement boundary and therefore, for the purposes of planning policy the site is located within the countryside. Further, the site is located within the High Weald National Landscape (formerly Area of Outstanding Natural Beauty).

Forest Grange Manor is a Grade II statutory listed building, and which forms the centre piece of the estate with the setting formed of the previous parkland estate. The estate adjoins St Leonards Forest, a managed woodland area formed of ancient woodland. There are also areas of priority habitat formed of deciduous woodland, which fall within the ownership, and is managed by, **Forest Grange Private Road Limited**. These important priority habitats are identified in the two images below.



Figure 4 The Application Site and wider sensitive landscape and habitat

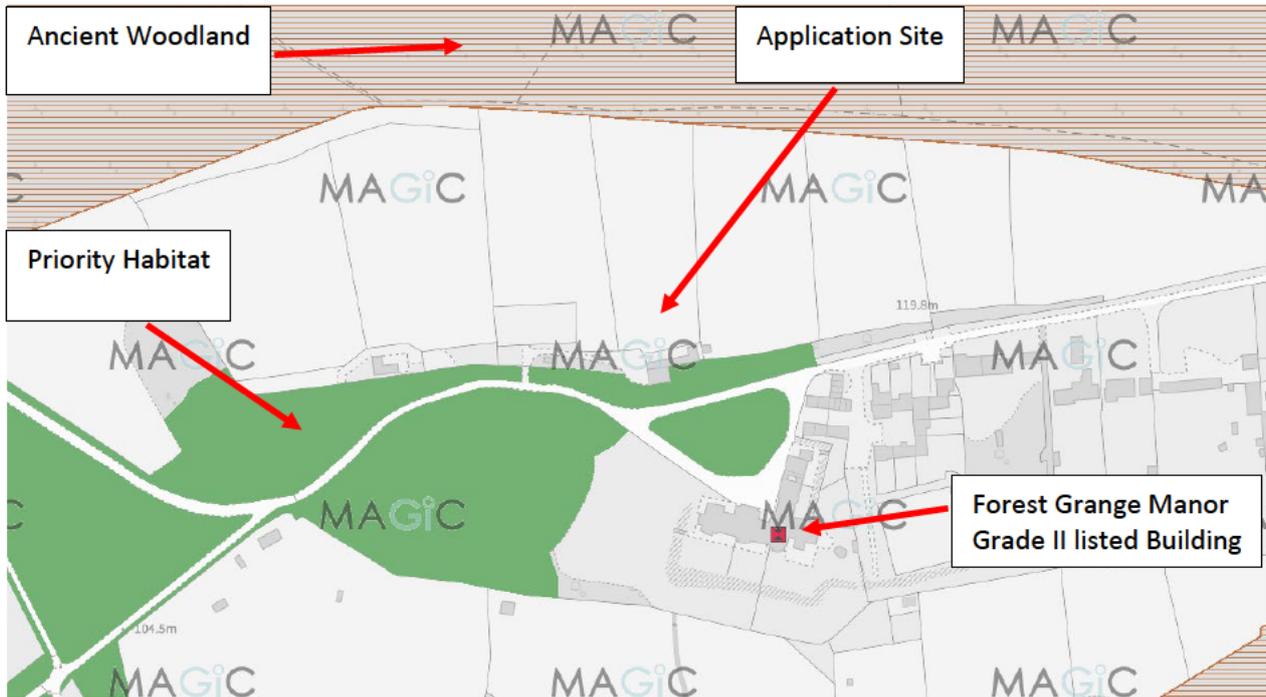


Figure 5 The Application Site and immediate constraints.

PLANNING HISTORY

The following applications are relevant in the determination of this current application.

The below applications illustrate the numerous attempts that the Applicant has made to obtain planning permission for residential development on this site, and which to date, have failed.

- DC/25/0462 Conversion and extensions to existing stables and pole barn to form 1no. detached dwelling and associated works.

This application was refused by the Council on 23 July 2025 and is now subject to an appeal.

The Council refused this application on three grounds which the applicant is seeking to address with this application.

- DC/25/1428 Proposed two pitch settled gypsy accommodation site along with retention of cess pit. This application was refused 23 December 2025 and which is consistent with the decisions made by the Secretary of State in the examples set out below.
- EN/24/0264 “Without planning permission, the unauthorised material change of use of the Land from an equestrian use to a mixed use comprising equestrian and the stationing of a mobile home for the purposes of human habitation, as shown in the approximate position hatched in blue on the attached plan together with the associated operational development comprising the installation of a septic tank in the approximate position shown as hatched in brown on the attached plan”.



The Enforcement Notice was issued by HDC 29/01/2025. The Applicant appealed this Enforcement Notice and which was heard by Informal Hearing procedure 3 June 2025. The Enforcement Notice was upheld and the appeal dismissed on 12 June 2025.

The Inspector concluded that the Appellant's 'Ground A' appeal failed not least because the proposed development would have an adverse impact on the characteristic features of the High Weald National Landscape. The proposal therefore failed to demonstrate it would conserve or enhance the natural beauty of the National Landscape. Further, he concluded that the appeal conflicted with HDPF policies 23, 25, 30, and 33.

- **DC/24/0974** Proposed change of use of land from equestrian to a mixed use including settled gypsy accommodation site comprising 2 pitches. Retention of existing hardstanding and proposed biodiversity enhancements (Retrospective). Refused 24/10/2024 and Dismissed at appeal to the Secretary of State 28/04/2025.

21. For the reasons set out above, the proposed development would have an adverse impact on characteristic features of the HWNL. The proposal therefore fails to demonstrate it would conserve or enhance the natural beauty of the National Landscape. Consequently, the proposal would harm the character and appearance of the area.

22. Policy 23 of the Horsham District Planning Framework 2015 (HDPF) requires proposals for Gypsy and Traveller accommodation not have an unacceptable impact on the character and appearance of the landscape. Having regard to Framework paragraph 189 and the statutory duty for Protected Landscapes, the effects of the proposal on the character and appearance of the HWNL would amount to an unacceptable impact for the purposes of Policy.

23. The proposal would therefore conflict with the policy. 23. In addition, the proposal would conflict with HDPF Policies 25, 30 and 33 which protect the landscape character, natural beauty, and public enjoyment of the HWNL and support the retention of important landscape and natural features.

- **DC/22/2126** Application to confirm the continuous mixed use of equestrian facility including the stationing and occupation of a caravan / mobile home providing independent accommodation for a period in excess of ten years prior to the date of this application (Lawful Development Certificate - Existing). Refused 06/03/2023.

It has not been demonstrated on the balance of probability that a caravan has been stationed and occupied for residential purposes on the land for a continuous period in excess of 10 years. It has



not therefore been demonstrated that the site has been in use for mixed equestrian and residential purposes in excess of 10 years from the date the application was submitted.

- DC/24/1499 Removal of Condition 4 of previously approved application CG/33/94 (Erection of stables and haybarn) relating to the tie to the existing dwelling at Tanglewood. Approved. The Planning Committee resolved to grant this application subject to the attachment of a new condition restricting the use of the stables (bold emphasis added):

*“The **stables** and sandschool hereby permitted shall only be used for private equestrian purposes and shall not be let out or used for residential or any commercial purposes, or in connection with any form of riding establishment, stud or livery. Reason: In the interests of amenity, to enable the Local Planning Authority to regulate and control the development and in accordance with Policy 33 of the Horsham District Planning Framework (2015)”.*

PLANNING POLICY

Section 70 of the Town and Country Planning Act 1990 and Section 38(6) of the Planning and Compulsory Purchase Act 2004 require that planning applications should be determined in accordance with the Development Plan unless material considerations indicate otherwise.

The statutory test for considering the impact on a listed building (i.e. Forest Grange Manor), the setting of a listed building and the impact on a conservation area is set out in the Town and Country Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) and therefore, though the generic policy of the Development Plan and the National Planning Policy Framework must be taken into account, the statutory tests of the aforementioned Act are of most relevance.

The relevant part of the Development Plan for this part of Horsham District comprises the Horsham District Planning Framework (HDPF) which was adopted November 2015. There is no Neighbourhood Plan operative in the parish of Colgate.

The following policies of the HDPF are considered relevant in the determination of this application and which are explored later in this letter.

- Policy 1: Sustainable Development
- Policy 3 and Policy 4: Development Hierarchy and Settlement Expansion
- Policy 10: Rural economic development
- Policy 24: Environmental Protection
- Policy 25: District Character and the Natural Environment
- Policy 26: Countryside Protection
- Policy 29: Equestrian Development



- Policy 30: Protected Landscapes
- Policy 32: The Quality of New Development
- Policy 33: Development Principles
- Policy 40: Sustainable Transport

The Council has prepared an update to the HDPF due to the age of the local plan exceeding 5 years. The Council formally submitted the draft Local Plan to the Secretary of State on 26 July 2024 and hearing sessions commenced in December 2024, but subsequent sessions were postponed due to Inspector's concern on the soundness of the policies. On 4 April 2025 the Inspector notified the Council that the Plan should be withdrawn. However, following exploratory discussions between HDC and PINS a new Inspector has been appointed to take forward the examination in public. In this respect, the policies in the emerging local plan can only be attributed very limited weight.

ASSESSMENT OF APPLICATION

The Applicant is seeking planning permission for the demolition of the existing pole barn (not on their land) and the conversion of the existing stables to form 1no. detached 2-bedroom dwelling and associated works. Through the Applicant's own statements within this application and indeed in other recent applications, they are seeking a mixed-use site of equestrian and residential. Should the LPA allow the conversion of the existing stable buildings there will be a future need for new stables and barns for the keeping of horses, thereby leading to a further proliferation of development in the countryside. This application should not therefore be considered simply as a residential application but should consider the wider mixed use of the site.

The Applicant sets out in their Planning Statement that this application is submitted to overcome the three reasons for refusal of application DC/25/0462.

Principle

It is interesting to note that the Planning Statement turns immediately to the 'tilted balance' (as envisaged by the NPPF) without first undertaking the 'flat balance' (as required by Section 38(6)). This approach to the assessment of development is flawed.

The site is located outside of a defined settlement and therefore it falls within the countryside. Policy 26 of the HDPF seeks to protect the countryside against inappropriate development. Development must meet one of the following criteria:

- 1. Support the needs of agriculture or forestry;*
- 2. Enable the extraction of minerals or the disposal of waste;*



3. Provide for quiet informal recreational use; or

4. Enable the sustainable development of rural areas.

The application does not satisfy any of these policy requirements. Additionally, this policy requires proposals must be of a scale appropriate to its countryside character and location, stating that development should not: *“lead, either individually or cumulatively, to a significant increase in the overall level of activity in the countryside, and protects, and/or conserves, and/or enhances, the key features and characteristics of the landscape character area in which it is located, including;*

1. *The development pattern of the area, its historical and ecological qualities, tranquillity and sensitivity to change;*

2. *The pattern of woodlands, fields, hedgerows, trees, waterbodies and other features; and*

3. *The landform of the area”*

Again, the application fails on all of these policy grounds.

The Council published in September 2025 a Shaping Development in Horsham District Planning Advice Note (SDPAN) which states:

*“The Council recognises that it is likely to receive applications outside of defined BUABs and on unallocated sites as it is unable to demonstrate a five-year housing land supply. Given this position and the principles behind HDPF Policy 4, it will consider positively applications that meet **all of the criteria below:***

- *The site adjoins the existing settlement edge as defined by the BUAB;*
- *The level of expansion is appropriate to the scale and function of the settlement the proposal relates to;*
- *The proposal demonstrates that it meets local housing needs or will assist the retention and enhancement of community facilities and services;*
- *The impact of the development individually or cumulatively does not prejudice comprehensive long-term development; and*
- *The development is contained within an existing defensible boundary and the landscape character features are maintained and enhanced” (bold emphasis added).*

Having failed to satisfy the tests of Policy 26 the applicant has also failed to comply with the Council’s criteria set out in the SDPAN, specifically the site does not adjoin a settlement; it is not necessary for the



scale and function of the settlement; the site is not contained within an existing defensible boundary and the landscape character would neither be maintained or enhanced.

Additionally, Policy 10 (Rural economic development) allows for the reuse of rural buildings, but preference is given to commercial and business uses over residential in the first instance. The Applicant has not gone through this sequential exercise and rather has simply concluded that due to *“the spatial context of the site and surroundings, it is considered that a residential use would be more reflective of the surrounding land uses, and therefore more appropriate in this regard”*.

Of note in respect of the reuse of the stables is the Council’s recent determination of application DC/24/1499 which was for the removal of condition 4 pursuant to CG/33/94 which tied the stables to the dwelling known as Tanglewood. The application was resolved to grant by the Planning Committee subject to securing a new condition which states:

“The stables and sandschool hereby permitted shall only be used for private equestrian purposes and shall not be let out or used for residential or any commercial purposes, or in connection with any form of riding establishment, stud or livery”.

In allowing this application, the council would immediately be contradicting its own recent decision leading to inconsistent decision making, which can be considered as unreasonable behaviour.

The Applicant has sought to further justify the development as the site comprises ‘Previously Developed Land’ and suggesting that this makes the development ‘acceptable in principle’. This acceptance ‘in principle’ is not set out in any of the policies within the Development Plan, nor is this ‘in principle’ acceptance set out within the NPPF. The Applicant suggests that the support to the reuse of PDL land is presented within Policy 2 of the HDPF however, this is qualified that the reuse of PDL is ‘encouraged’ provided that it is not of high environmental value. It is overt that Policy 2 is qualified and not an in-principle acceptance. To suggest that development on all PDL land is acceptable in principle is a flawed position and not supported when undertaking the assessment as per the flat balance. It may be that the stable building and its immediate surrounds meet the definition of PDL however, this does not suggest that development of PDL should be allowed unqualified, and specifically not where the land is of high environmental value. Moreover, paragraph 124 of the NPPF is clear that councils *“should promote an effective use of land in meeting the need for homes and other uses while safeguarding and improving the environment”*. The site falls within protected National Landscape and adjacent to priority habitat, which is of high environmental value, as such it would fail that test.

The Applicant has provided an example of an application which was allowed by HDC under reference DC/18/0249 for the *‘Conversion and extension of existing outbuildings into a three-bedroom single storey*



dwelling. Demolition of remaining buildings with retention of one shed'. In that case, HDC accepted the reuse of the building under NPPF paragraph 84 (previously 55) which relates to isolated homes in the countryside. The NPPF does not provide a definition of what constitutes 'isolated' development; therefore, in considering whether or not the current application site is 'isolated', reference should be given to case law.

Braintree DC v SSCLG [2018] Civ 610 ('the Braintree case') forms a material consideration in the assessment of isolation. The term 'isolated' was considered by the Court of Appeal who upheld a High Court decision which concluded that the word 'isolated' should be given its ordinary meaning as being 'far away from other places, buildings and people; remote'. Lindblom LJ held that, in the context of paragraph 55 of the previous NPPF (2012), (now paragraph 84 in the NPPF 2024), 'isolated' simply connotes a dwelling that is physically separate or remote from a settlement. The Court rejected the argument that the word 'isolated' as set out within the NPPF could have a dual meaning, being physically isolated or functionally isolated (isolated from services and facilities). In applying this to the current site, the site is located within proximity of the enclave of dwellings of Forest Grange, it cannot be concluded to be isolated as per NPPF paragraph 84, but it does fall within the countryside, and as such comparisons with DC/18/0249 are irrelevant.

The Applicant has provided a number of other examples where development has been allowed. However, each application must be considered on its individual merits. It is clear from very recent appeal decision on this site (irrespective of other sites) that the harm associated with the introduction of new residential development has been concluded to be unacceptable. It is therefore irrelevant as to what has been concluded on other sites where the site constraints are entirely different.

The application not only fails to accord with policies 10 and 26 of the HDPF but also fails to meet paragraph 124 of the NPPF. It therefore is necessary to assess the site-specific criteria and then place those assessments into the wider planning balance.

Landscape:

The site is located within the High Weald National Landscape (formerly Area of Outstanding Natural Beauty). Policy 25 of the HDPF addresses 'The Natural Environment and Landscape Character' and advises that the Council will support development which "*Protects, conserves and enhances the landscape and townscape character, taking into account areas identified as being of landscape importance, the individual settlement characteristics, and maintains settlement separation*".

The purpose of a National Landscape designation is to conserve and enhance the natural beauty of the designation. Policy 30 of the HDPF addresses 'Protected Landscapes' and specifically requires the natural



beauty of projected landscapes, such as the High Weald National Landscape, to be conserved and enhanced. Development proposals will be supported where it can be demonstrated that there will be no adverse impacts to the natural beauty.

The use of the land for residential development and the associated paraphernalia that comes with residential uses of land, will not satisfy any of these policy requirements and will result in further encroachment into the countryside by inappropriate development. The development will neither conserve nor enhance this part of the High Weald National Landscape. This was supported most recently by the Planning Inspector in the determination of DC/24/0974 on this very site, and there is no reason why HDC should come to any other conclusion.

Furthermore, paragraph 189 of the NPPF sets out the Government's test that *'Great weight should be given to conserving and enhancing landscape and scenic beauty in National Parks, the Broads and National Landscapes which have the highest status of protection in relation to these issues'*.

In addition to the revised NPPF, the guidance for relevant authorities on seeking to further the purposes of Protected Landscapes was updated on 16 December 2024. Section 245 (Protected Landscapes) of the Levelling-up and Regeneration Act 2023 (LURA) amends the duty on relevant authorities in respect of their functions with regards to Protected Landscapes in England. Relevant authorities must now *'seek to further'* the statutory purposes of Protected Landscapes. This replaces the previous duty on relevant authorities to merely *'have regard to'* their statutory purposes.

A key material consideration is the very recent appeal decision DC/24/0974 for settled gypsy accommodation at this site, where the Inspector stated that *"The proposal therefore fails to demonstrate it would conserve or enhance the natural beauty of the National Landscape. Consequently, the proposal would harm the character and appearance of the area"*. The applicant has failed within this current application to demonstrate this same test.

Turning to statements made by the Applicant in the Planning Statement they allege that *"the removal of the pole barn as part of the proposals would result in an enhancement of the site and would directly address the concerns raised by the Council within the previous refusal with regards to the extent of built form to be created"*. The pole barn is an existing rural building associated with a rural activity. The removal of the pole barn and introduction of a residential use and its associated activity are not comparable.

Irrespective of the removal of the pole barn, the proposal introduces an entirely new domestic character in the landscape and introduces activity to this site which is out of keeping. The development will therefore not be *'in keeping'* or *'comparable'* to the existing use or lawful activity of the site.



The Applicant has not shown on the site plan where the domestic curtilage for the site will be located or defined. Based on the red line of the application site plan, this would appear to be located, in part, to the 'rear' of the building, which is land, as already stated that falls outside of the Applicant's ownership. The paddock to the 'front' of the stable is associated with the existing equine use. The incorporation of this field (currently shown outside of the red line) would further extend the residential use and paraphernalia into this protected landscape. The failure to show the domestic curtilage belies the visual impact the development will have on the protected landscape through further incursion of domestic paraphernalia.

Additionally, the previous Inspector (ref: 3360097) noted at paragraph 10 of the decision notice that there are no other residential developments on this northern side of the access road. The introduction of residential development on this side of the lane would be out of character and discordant with the pattern of development.

Further, the applicant has stated *"The existing stable building is discreetly located, behind an area of extensive soft landscaping to the south and as such is not clearly visible from the private access road to the south of the site or any public vantage points"*. This soft landscaping which the Applicant is reliant upon falls entirely outside of their ownership and as such it cannot be relied upon to form a buffer to their development. Moreover, from recent photographs it is very clear that the site is not discreetly located.



Figure 6 View of site from private access road leading to Forest Grange



It is worth noting that some of the screening which the Applicant relies upon has been cleared, as it was invasive Rhododendron. If the Applicant requires buffering, then it is incumbent upon them to deliver said buffer on land within their ownership and control. Moreover, the screening of development does not make it acceptable where it is otherwise unacceptable in a protected landscape.

Overall, therefore the application fails to accord with policies 25, 26 and 30 of the HDPF.

Highways and Parking

The Department for Transport's 'Manual for Streets' (MfS) recognises that walking "*offers the greatest potential to replace short car trips, particularly those under 2 km*" and encourages development in locations where the daily needs of residents are within walking distance, thereby reducing the need to travel by car. MfS refers to 'walkable neighbourhoods' as being typically characterised by having a range of facilities within 10 minutes' walking distance of residential areas, which residents may access comfortably on foot.

The site is accessed via a private lane with no footpath leading to Forest Road. This private lane is approximately 970m in length. Forest Road has a speed limit of 40mph and also does not benefit from footpaths or streetlighting. There are no shops, doctors' surgery or other amenities and services which can be accessed within 2km of the site. However, even if there were services, the private lane and unlit nature of Forest Road with no footpath would not makes walking, and to some extent also cycling, an unrealistic prospect. The location of the site will entirely reinforce unsustainable travel patterns contrary to policy 40 of the HDPF.

The applicant has stated in their Application Form that 5no. car parking spaces are proposed however, these are not shown on the site plan submitted. This is important, as the Applicant has obtained planning permission to use part of the site as a Fitness Boot Camp. As part of that application, the Applicant advised that the area directly adjacent the stable and pole barn would be used for the parking of up to 20no. cars. The applicant has not demonstrated how an additional 5no. cars (or a total of 25no. cars) can be accommodated and manoeuvre on site. This reinforces the need for the LPA to consider this application in the wider context of the uses on site.

Drainage

The approved development at Forest Grange Stables (reference DC/20/0980) located approximately 300m to the east of the site included a number of technical supporting reports, unlike the Applicant's submission. One of those reports was a Drainage Statement prepared by qualified engineers. Within that statement, it notes at paragraph 2.1.3 "*that an onsite infiltration test to BRE365 was undertaken by CGS Civils. A trail pit was dug, which revealed the ground geology to be comprised of Clay; and filled up to 75%*



full with water. The water failed to soak away within a sufficient time frame and as such, the test was considered a failure”.

This is important as the Applicant has stated within their application form that surface water drainage from the site will be discharged to soakaway. This is simply not feasible due to the overlaying clay deposit and as such the application is flawed. The application form also states that foul drainage disposal is not known.

The application should be accompanied by a foul and surface drainage statement, and which is a requirement of the Council’s validation checklist and should therefore have been required by the Council. The application is deficient in this regard.

The Applicant does not have permission from Forest Grange Private Road Limited to place any plant on their land or to discharge surface or foul water to their land. The Applicant must therefore provide a statement based on evidence, as to how their site is to drain.

PLANNING BALANCE

The Applicant’s Planning Statement analysis and conclusions are flawed. Firstly, whilst accepting the site fails to meet policy criteria (such as policy 26 and 30) the statement concludes that the development accords with this policy. Development cannot fail policy criteria on the one hand and then be compliant with policy on the other hand simply to suit a planning argument. This is fundamental in applying the ‘flat balance’ as required by Section 38(6).

The development is located within the countryside where policies 26 and 30 seek to protect the countryside from unacceptable development and to protect and conserve the National Landscape respectively. It is clear that the development fails to accord with these relevant policies within the HDPF.

The application also fails to accord with policy 10 and the sequential preference directed toward the commercial and business uses over residential uses in the countryside.

Having found that the application is discordant with policy it is therefore necessary to consider the weight which should be attributed to those policies given the HDPF is now over 5 years old. Whilst the HDPF may be more than 5 years old, the agent is mistaken, as the age of a Development Plan does not render all policies, or indeed all relevant policies, in the HDPF out of date. Policy 26 may be concluded to be out of date however policies which seek to protect the National Landscape (policy 30) or to stimulate rural economic development (policy 10) which accord with the NPPF are therefore not out of date.

The Applicant’s agent is again mistaken in stating that as the Council is unable to demonstrate a 5-year supply of deliverable housing sites that the presumption in favour of sustainable development is engaged



and automatically satisfied. It is first necessary to assess the application against the tests set out at paragraph 11d of the NPPF.

Paragraph 11d of the NPPF advises:

d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date⁸, granting permission unless:

- i. the application of policies in this Framework that protect areas or assets of particular importance⁷ provides a strong reason for refusing the development proposed; or**
- ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination⁹.**

The HDPF sets out relevant policies in respect of Housing, National Landscape and Countryside. These are important relevant policies in the determination of the application. The council's housing policies and policies which seek to control the location of development, such as strategic policies 3 and 4 are out of date and as noted earlier, so too is policy 26. However, policy 30 which seeks the protection of the National Landscape is consistent with the NPPF. Footnote 8 and paragraph 232 clarify what is understood to be out of date. *"However, existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of this Framework. Due weight should be given to them, according to their degree of consistency with this Framework [...]"*

As established through case law, even if one policy is out of date, it doesn't follow that *"the policies which are most important for determining the application are out-of-date"*. Instead, the decision-maker should consider the "basket" of relevant policies and reach a judgment on whether they're substantively out of date, as a whole.

Therefore, the first criteria for engagement of Paragraph 11d is not satisfied insofar as National Landscape policy is not out of date and full weight should be afforded this policy. As the council's housing policies are out of date, then one advances to the two-limbed criteria set out at point i) and ii) but this does not mean that one entirely discounts relevant policies which are in-date – it is a matter of weight.

Under the first limb, there are policies within the Framework (paragraph 189) that protect areas of particular importance and provide a strong reason for refusing the development. Footnote 7 to paragraph 11d is clear that this part of paragraph 11d(i) refers to *this Framework rather than those in development*



*plans relating to: habitats sites and/or designated as Sites of Special Scientific Interest; land designated as Green Belt, Local Green Space, a **National Landscape**, a National Park (or within the Broads Authority) or defined as Heritage Coast; irreplaceable habitats; heritage assets and areas at risk of flooding or coastal change (bold emphasis added).*

On this basis alone, limb 1 to paragraph 11(d) is not passed as there are strong reasons to refuse the application. This was supported by the Inspector in the recent appeal DC/24/0974 at paragraph 59 “*the proposal would harm the natural beauty of the HWNL and would conflict with paragraph 189 of the Framework which instructs that great weight must be given to conserving and enhancing the landscape and scenic beauty of National Landscapes, which have the highest status of protection in relation to these issues*”.

Should the LPA also consider the second limb, then in weighing up the benefits the provision of one dwelling is outweighed by the significant and demonstrable harms identified, these being:

- change to the character of protected Landscape through the introduction of a domestic use
- the provision of a dwelling in an unsustainable location
- proliferation of development in the countryside
- failure to further the statutory purposes of Protected Landscapes
- failure to provide information to confirm how the dwelling will manage on site surface and foul drainage

Overall, the application does not accord with the most important policies within the Development Plan or the NPPF, and there are no material considerations which have been presented by the Applicant to justify a departure from policy (the flat balance). The Applicant has not demonstrated that the tilted balance is both engaged and satisfied. Rather, it is clear that policies which seek to protect the National Landscape are in date and provide strong reasons to refuse the application, as per Paragraph 11d(i) and footnote 7. The benefits of one new dwelling do not outweigh the demonstrable harm. As such the application should be refused.

Your sincerely,
BELL CORNWELL LLP


KAREN TIPPER
BA(Hons) MA MRTPI
Senior Associate
