Horsham District Council

DELEGATED APPLICATIONS - ASSESSMENT SHEET

APPLICATION NO./ADDRESS:

DC/24/0515
Delspride , Kent Street, Cowfold, West Sussex, RH13 8BB

DESCRIPTION:

Change of use of land from agricultural to allow for dog walking.

RELEVANT PLANNING HISTORY:

DISC/21/0020	Approval of details reserved by condition 5 to approved application DC/13/2445	Application Permitted on 03.03.2021
S106/19/0020	Discharge of Section 106 Agreement associated with planning application ref CF/22/92 relating to the requirement for the conversion of the bungalow not taking place prior to the construction of the poultry units on site and the land not being sold other than as one undivided parcel.	Application Permitted on 22.03.2021
DC/21/1416	Application to confirm use as a dwelling in breach of conditions attached to CF/22/92 (Lawful Development Certificate - Existing).	Non-determination on 30.08.2022
DC/22/0468	Prior notification for the change of use of an agricultural building to flexible commercial use(s) to form an assembly workshop to be used for design, production and assembly of handmade cabinetry.	Prior Approval Required and PERMITTED on 29.04.2022
DC/22/1837	Application to confirm use as a dwelling in breach of conditions attached to CF/22/92 (Lawful Development Certificate - Existing).	Application Refused on 23.11.2022
DC/23/1055	Prior Notification for Change of Use of Agricultural Building to 3no dwellinghouses	Prior Approval Required and REFUSED on 17.07.2023
DC/24/0245	Prior Notification for the Change of Use of an existing poultry shed to a car storage facility.	Prior Approval Required and PERMITTED on 05.04.2024
DC/24/0560	Prior notification for change of use of 2no. agricultural buildings to 5no dwellinghouses.	Pending
DC/24/0629	Construction of access track and yard. Erection of private stables (retrospective).	Pending

SITE AND SURROUNDS

The buildings to the south of the application site are agricultural buildings subject to a recently granted Prior notification under DC/24/0560 for a change of use of 2 agricultural buildings to 5 dwellings. The

application site is situated within the countryside around 2km (as the crow flys) from Cowfold Built-Up-Area- Boundary. It is accessed a long a shared private track/ PROW from Kent Street.

'Delspride' is a former chicken farm that has been divided into three separate 'Lots', all within different ownership. The wider site, known as Delspride Farm, contains three main buildings together with other smaller buildings, most of which were used as chicken sheds up until mid 2020.

DETAILED DESCRIPTION

The application seeks permission for a change of use of the land from agricultural use to a dog exercise use. This would involve changing the use of the land and using an existing gate and area of hardstanding to provide access and parking for the prospective customers of the land. This use is currently taking place and the application is therefore retrospective.

At the time of the officer's site visit it was evident that the company operating from the site also used the driveway as a parking area for various vehicles related to the operation of the dog exercise business known as 'Pet priorities' and there was a timber gated access separating property known as 'Delspride' (DC/22/1837 refused Certificate for use as dwellinghouse).

RELEVANT PLANNING POLICIES

The National Planning Policy Framework (NPPF)

Horsham District Planning Framework (2015):

Policy 24 - Strategic Policy: Environmental Protection
Policy 25 - Strategic Policy: The Natural Environment and Landscape Character
Policy 26 - Strategic Policy: Countryside Protection
Policy 27 - Settlement Coalescence
Policy 28 - Replacement Dwellings and House Extensions in the Countryside
Policy 29 - Equestrian Development
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 39 - Strategic Policy: Infrastructure Provision
Policy 40 - Sustainable Transport
Policy 41 - Parking
Policy 42 - Strategic Policy: Inclusive Communities
Policy 43 - Community Facilities, Leisure and Recreation

Cowfold Neighbourhood Plan

Planning Advice Notes:
Facilitating Appropriate Development
Biodiversity and Green Infrastructure

REPRESENTATIONS AND CONSULTATIONS RESPONSES

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

Consultations:

Natural England: Objection on the basis of insufficient information.

HDC Environmental Health:

In order to ensure there is no loss of amenity for residential neighbours, this department requires a management plan to be submitted and approved by this department prior to planning permission being granted. This must include, but not be limited to:

- Noise management – any screening of the hire field so the boarding dogs do not get triggered by the possibly frequent arrival and departure of customers; a blacklisting policy for any customers whose dogs are noisy; monitoring of the noise levels by the applicant and any staff.

- Land management – a plan of where the specific hire area will be located; waste removal policy.

The site is currently licenced for two dog related activities which collectively allow for a maximum of 23 dogs plus any pet dogs. Currently, it is believed that the field caters for the exercise of dogs boarded at the premises, but there is plenty of space to divide the land further. An added activity may encourage additional dog barking due to the sporadic nature of the use, therefore require a management plan to be submitted and conditioned which includes noise management as well as land management. It was not clear what piece of land specifically would be used for dog walking as some needs to be available for the dog boarding dogs exclusively. There are residential neighbours in close proximity who's amenity may be impacted by noise from the activities on site if not properly managed.

There needs to be a clear map of where the hire field will be due to the licenced activities requiring exclusive use of some of the land highlighted.

WSCC Highways:

The site is located off Kent Street, an unclassified road subject to national speed limit in this location. The site will utilise the existing access point on Kent Street, with a private access road (maintained as Public Footpath no.1789) linking the maintained highway to the application site. From inspection of WSCC mapping, there are no apparent visibility concerns with the existing point of access on to Kent Street.

The proposed dog walking field will operate via booking time slots, on a 25-minute or 55-minute basis. Considering this, the LHA does not anticipate that such a use would generate a significant material intensification of use of the existing access point. The plans demonstrate suitable space for the parking and turning of cars for visitors.

In summary, the LHA does not consider that this proposal would 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 115), and that there are

Parish Comments:

Neutral comment received in respect of trees and landscaping, and mapping requested by environmental team is completed, support of safe dog walking facility.

Representations:

None received

Member Comments:

None received

HUMAN RIGHTS AND EQUALITY:

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.

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.

PLANNING ASSESSMENT

Principle of Development:

Policy 26 of the HDPF states that outside built-up area boundaries, the rural character and undeveloped nature of the countryside will be protected against inappropriate development. Any proposal must be essential to its countryside location, and in addition meet one of the following criteria: support the needs of agriculture or forestry; enable the extraction of minerals or the disposal of waste; provide for quiet informal recreational use; or enable the sustainable development of rural areas. In addition, proposals must be of a scale appropriate to its countryside character and location. Development will be considered acceptable where it does 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.

Policy 10 of the Horsham District Planning Framework (HDPF) states that sustainable rural economic development and enterprise within the District will be encouraged in order to generate local employment opportunities and economic, social, and environmental benefits for local communities. In the countryside, development which maintains the quality and character of the area, whilst sustaining its varied and productive social and economic activity will be supported in principle. Any development should be appropriate to the countryside location and must:

1. Contribute to the diverse and sustainable farming enterprises within the District or, in the case of other countryside-based enterprises and activities, contribute to the wider rural economy and/or promote recreation in, and the enjoyment of, the countryside; and either

    a. Be contained wherever possible within suitably located buildings which are appropriate for conversion or, in the case of an established rural industrial estate, within the existing boundaries of the estate; or

    b. Result in substantial environmental improvement and reduce the impact on the countryside, particularly if there are exceptional cases where new or replacement buildings are involved. New buildings or development in the rural area will be acceptable provided that it supports sustainable economic growth towards balanced living and working communities and criteria a) has been considered first.

The Applicant has submitted a Planning statement indicating that the field was previously used as part of the chicken farm. This has been substantiated through a planning history search. The submitted supporting statement indicates that there would be a limited number of dogs at any one time within the fields, and accessible via appointment only between 25 and 55 minutes between dawn and dusk.

It is acknowledged that the proposed use would lead to an increase in the level of traffic compared to the previous arrangement. Some additional traffic would be associated with customer movements, and staff use where the operators would arrive to clean the dog waste bins on site. However, the nature of the proposed development and land use would be reasonably minimal, and would be entirely reversible, thus capable of preserving the overall rural quality and appearance of the area. The

proposed development would provide some economic benefits and would contribute to the rural economy, and would meet the criteria within Policies 10 and 26 of the HDPF.

Design and Appearance:

Policies 25, 32 and 33 of the HDPF promote development that is of a high quality design, which is sympathetic to the character and distinctiveness of the site and surroundings. The landscape character of the area should be protected, conserved and enhanced, with proposals contributing to a sense of place through appropriate scale, massing and appearance.

The proposed seeks to change the use of the land, with the only operational development arising from a gate which has already been installed. This would serve as the access point for customers to drop off their dogs such that this parking area would be for customers only. The Planning statement indicates that the change of use of the land would not result in additional built form, being only used for dog exercise. Whilst the gate has not been considered as part of the description of the application, and there is concern that some of the existing buildings on site, including the garage of 'Delspride' was being used for the operation of the business this does not form part of the planning matters under assessment of this application which only seeks a change of use for the exercise of dogs. For these reasons, the proposal would not result in harm to the visual amenity and landscape character of the area.

Amenity Impacts and Environmental Health:

Policy 33(2) of the Horsham District Planning Framework states that permission will be granted for development that does not cause unacceptable harm to the amenity of the occupiers/users of nearby properties and land.

The primary concern with the proposal relates to potential noise impact and disturbances to nearby neighbouring residents. The applicant's Planning Statement outlines various measures which would act as noise control measures within the site. The use of the field as a dog exercise field is retrospective, and whilst the Planning Statement notes that the business would operate unsupervised, and by appointment only for a limited time period of 25 minutes or 55 minutes, there was at the time of the officer's site visit two members of staff. Nevertheless, on the basis of what has been submitted this assessment will consider the noise control measures put forward.

The applicant has stated that there would be a limit to the number of dogs within the site, which could be controlled via a suitably worded condition. Nevertheless, there would be potential for residential neighbours to be impacted by the development through noise disturbance, and whether the suggested limit on the number of dogs on the site is acceptable to avoid unacceptable impacts on neighbouring properties is ambiguous. The Planning statement details daytime hours only for the occupation of the field, but this lacks precision necessary to be able to condition it, although it is acknowledged this could be overcome by imposing a regulatory condition stating acceptable hours. Environmental Health have been consulted during the course of the application and object to the proposal on the basis of insufficient information, with a suggestion that a Noise Management Plan is required prior to the determination of this application. Given the nature of the application, potential for additional barking, and possible impact on neighbouring properties in the area, further clarification and information in respect of the operation of the site and the number of dogs and hours of operation would be necessary. Should the application have been considered acceptable in all other regards, this information would have been sought.

Highways Impacts:

Policies 40 and 41 of the HDPF promote development that provides safe and adequate access, suitable for all users.

The site is located off Kent Street, an unclassified road subject to national speed limit in this location.
The site will utilise the existing access point on Kent Street, with a private access road (maintained as Public Footpath no.1789) linking the maintained highway to the application site. The application proposes no alterations to the existing point of access to the wider Delspride site from the public

highway. Highways have been consulted during the course of the application and have no objections to the proposal. Overall there are no objections to the proposal in light of policies 40 and 41 of the HDPF.

Ecology:

Policy 31 of the HDPF 'Green Infrastructure and Biodiversity' states that 'Development will be supported where it can demonstrate that it maintains or enhances the existing network of green infrastructure. Proposals that would result in the loss of existing green infrastructure will be resisted unless it can be demonstrated that new opportunities will be provided that mitigates or compensates for this loss, and ensures that the ecosystem services of the area are retained' and that development proposals will be required to contribute to the enhancement of existing biodiversity, and should create and manage new habitats where appropriate.

Circular 06/2005 identifies that the presence of protected species is a material consideration when considering a development proposal that, if carried out, would be likely to result in harm to the species or its habitat. Therefore, it is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed application, is established before planning permission is granted. Information on biodiversity impacts and opportunities should inform all stages of development, and an ecological survey is usually necessary where the type and location of development are such that the impact on biodiversity may be significant and existing information is lacking or inadequate.

It is noted that the site is within a red zone for the Great Crested newt, however given the nature of the site previously and that the change of use has already occurred any harm to potential Great Crested newt is likely to have already occurred. Given the type of development therefore it is not considered that further biodiversity information would be necessary to determine the application.

Water Neutrality:

The application site falls within the Sussex North Water Supply Zone as defined by Natural England which draws its water supply from groundwater abstraction at Hardham. Natural England has issued a Position Statement for applications within the Sussex North Water Supply Zone which states that it cannot be concluded with the required degree of certainty that new development in this zone would not have an adverse effect on the integrity of the Arun Valley SAC, SPA and Ramsar sites.

Natural England advises that plans and projects affecting sites where an existing adverse effect is known will be required to demonstrate, with sufficient certainty, that they will not contribute further to an existing adverse effect. The received advice note advises that the matter of water neutrality should be addressed in assessments to agree and ensure that water use is offset for all new developments within the Sussex North Water Supply Zone.

The Water Neutrality statement outlines that the previous use of the site was agriculture, with the field being previously used for the chicken farm. There is no information submitted in respect of the amount of water used as a baseline and it is not known when the chicken farm ceased operating. The statement indicates that as the chickens previously used water on site that the proposal would be water neutral as the dogs would also use water. The dogs on site would have access to the existing water facilities previously used by the chickens as part of the agricultural use. Given that there are no existing figures, this is understood to be nil as a baseline; however, with no evidence submitted to indicate that there was previously a source of water within the fields. At the time of the officer visit there was no indication of a water trough on site and there appeared to be hose pipes leading from 'Delspride' to supply water for the development. No proposed figures have been submitted. Therefore, officers conclude that insufficient information has been provided to demonstrate that the development is water neutral. It cannot therefore be concluded that the proposed development would not result in a likely adverse impact on the Arun Valley protected sites.

Insufficient information has been provided to demonstrate with a sufficient degree of certainty that the proposed development would not contribute to an existing adverse effect upon the integrity of the internationally designated Arun Valley Special Area of Conservation, Special Protection Area and Ramsar sites by way of increased water abstraction, contrary to Policy 31 of the Horsham District

Planning Framework (2015), Paragraphs 185 and 186 of the National Planning Policy Framework (2021), thus the Local Planning Authority is unable to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), and s40 of the NERC Act 2006 (Priority Habitats & Species).

Biodiversity Net Gain (BNG):

Biodiversity Net Gain (BNG) is mandatory under Schedule 7A of the Town and Country Planning Act 1990 (as inserted by Schedule 14 of the Environment Act 2021). This requires that development must achieve at least 10% BNG on all habitats within the development site.

The applicant has submitted information to suggest that the development would be exempt from biodiversity net gain requirements as a de minimis exception. It is not considered that the development would be de minimis as it has the potential to impact the habitat on site, however it is of note that the use is currently taking place and the application is retrospective.

Conclusions:

The application seeks permission for a change of use the land from agricultural to a dog exercise field and is retrospective in nature. The development would have been subject to the inclusion of relevant conditions to control the number of dogs allowed on site, hours of operation and to have provided a Noise Management considered acceptable in principle.

Notwithstanding the above, there is a lack of information within the Water Neutrality Statement about a proposed usage, and it is not possible to determine what the likely water demand would be from the proposed development. It would be unlikely that the site has demonstrated appropriate levels of mitigation and/or offsetting measures to address the demand and meet water neutrality. Insufficient information has been provided to undertake the Assessment and it is not therefore possible for Horsham District Council to concludes that, with mitigation, the project will not have an Adverse Effect on the Integrity of the Arun Valley SAC/ SPA /Ramsar site.

It is not considered that the benefits arising from the development would overcome the harm arising to the Arun Valley Protected Sites. Given the nature of the uses now proposed, which would include light industrial activities that are likely to be water consuming, it is not considered that a temporary permission would be appropriate or acceptable.

Recommendation: Application refused

Reasons for refusal:

1. Insufficient information has been provided to demonstrate with a sufficient degree of certainty that the proposed development would not contribute to an existing adverse effect upon the integrity of the internationally designated Arun Valley Special Area of Conservation, Special Protection Area and Ramsar sites by way of increased water abstraction, contrary to Policy 31 of the Horsham District Planning Framework (2015), Paragraphs 179 and 180 of the National Planning Policy Framework (2021), its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), and s40 of the NERC Act 2006 (Priority Habitats & Species).

POSITIVE AND PROACTIVE STATEMENT

Statement pursuant to Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015. The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including

planning policies and any representations that may have been received, in order to be able to, where possible, grant permission.

Plans list for: DC/24/0515
(The approved plans will form Condition 1 on the Decision Notice of all Permitted applications)

Schedule of plans/documents **not approved**:

Plan Type	Description	Drawing Number	Received Date
Location & Block plan	Site location & Block Plan Dog Walking	200_02	19.04.2024

DELEGATED

Case Officer sign/initial Hannah Darley Date: 18/07/2024

Authorising Officer sign/initial Tamara Dale Date: 29/07/2024