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AFA PLANNING LTD

SUPPORTING STATEMENT

S73 APPLICATION TO HORSHAM DISTRICT COUNCIL TO REMOVE A RESTRICTIVE USE CONDITION ON AN OUTBUILDING AT CHESTNUTS, HORNSHILL FARM, GUILDFORD ROAD, RUDGWICK WEST SUSSEX, RH12 3BH.

London:
The Lansdowne Building
2 Lansdowne Road, Croydon
London. CR9 2ER

Gloucestershire (Postal Address):
Unit 1, Nailors Court
The Slipway, Back of Avon
Tewkesbury. GL20 5UR

Cambridgeshire:
4 Fenice Court,
Phoenix Business Park, St Neots
Cambridgeshire. PE19 8EP

Introduction

1.1 This statement is written in support of the S73 application being made to remove a restrictive use condition from an existing outbuilding at Chestnuts, Hornshill Farm.

1.2 The application site comprises of a detached single storey dwelling known as Chestnuts, to the north east of which is an existing former garage and barn building. An aerial photograph of the site is shown in appendix 1. The site is located within the Open Countryside but is not subject to any specific planning designations as shown with the adopted Horsham Local Plan Map.

Planning History

2.1 On 13th November 1998, planning permission (Ref. RW/102.98) for the erection of a double garage and continued use of land for residential garden and continued use of the barn for domestic storage purposes. Condition 3 of this planning permission states:-

'The buildings shall be used as private domestic garages and for domestic storage purposes only in connection with Chestnuts, as a dwelling, and for no other purpose.'

The reason given for this condition is:-

'To safeguard the amenities of the neighbouring properties.'

A full copy of this planning permission is attached as Appendix 2.

2.2 DC/20/0804 – Conversion of existing barn to ancillary accommodation subordinate to the main dwelling. Withdrawn 19.11.2020.

2.3 DC/20/2375 – Conversion of existing outbuilding to ancillary accommodation to the main dwelling. Erection of a porch to front elevation and fenestration alterations. Withdrawn 08.02.21.

2.4 DC/21/0497 – Use of existing outbuilding for purposes ancillary to the main dwelling (Chestnuts) (Certificate of Lawfulness – Proposed). Withdrawn 11.05.21.

2.5 DC/21/1072 – Application to confirm the continuous use of a detached building as ancillary accommodation for (Class C3 use) purposes, in non-compliance with condition 3 of planning approval RW/102/98 for a period in excess of ten years (Lawful Development Certificate – Existing). Refused 14.04.22.

2.6 DC/22/1050 - The barn and curtilage has been use as ancillary accommodation and use to the main house for more than 10 years and the alterations to barn 2 have been done more than four years ago (Lawful Development Certificate - Existing). Refused 15.02.24.

2.7 DC/23/2048 - Erection of a detached carport, metal shed, and wooden log store (Part Retrospective). Granted 17.04.24.

The Application Site

3.1 The application site was purchased by the applicant and her husband in February 2020. The main dwelling on the site is a 4 bedroom bungalow. The applicant lives in the dwelling with her husband and extended family consisting of her adult son along with her daughter and her husband along with their three children.

3.2 The property benefits from a large curtilage with a rear garden to the west and an area of hardstanding to the north-east from the site entrance within which is a former garage and barn building. This building (herein referred to as "the Barn Building") is currently in use as an ancillary building consisting of a laundry room, storage area with the main part of the barn in use as a cinema/family room, with an office and toilet/shower located to the right of the main entrance. The two storey eastern end of the barn contains a small kitchen on the ground floor and a bathroom on the first floor, these having been updated by the owner following their purchase of the property. As can be seen in the email from the estate agents who handled the sale of the property at Appendix 3, the barn building contained a kitchenette and toilet when the property was sold. The layout of the barn building is shown on the submitted plans.

3.3 Upon purchasing the property the applicant envisaged converting the barn building into two annexes for her children to live in. A planning application DC/20/0804 was submitted for this use, however the application was subsequently withdrawn as the Council was concerned that the annexes could not be considered as ancillary accommodation. At the time of application DC/20/0804, advice was given to the applicant by the Applications Team Leader, Guy Everest, who stated in an email dated 22nd September 2020:-

"The key issue in this case is ultimately whether the proposed accommodation could / would be occupied in an ancillary manner to the existing dwelling at the site, as otherwise it entails the formation of a dwelling in a location where such development is not encouraged.

The proposed accommodation essentially entails two self-contained units which would not have any physical or functional dependency on the main dwelling, and this arrangement coupled with the access (which would serve the two new units with limited interaction with Chestnuts) raises concerns that there is no meaningful way of preventing the proposed accommodation being used in the manner of self-contained dwellings.

I appreciate that the intention is for family members to occupy both units; however, given the level of accommodation being proposed this familial link would not in and of itself make a dwelling an annexe. In case of use I have attached two recent appeal decisions for comparable annexes where the Inspectors clarified how such accommodation is considered and the relationship / distinction between an annexe and a dwelling.

It may be the case that the existing building could be converted to single annexe, with a reduced level of accommodation (and arguably without the first floor extension), without the need for planning permission, and this may represent the optimum solution on the site. If you wish to withdraw the application this possibility could be explored outside of the planning application process."

A copy of this email is shown in Appendix 4.

3.4 The advice given by Mr Everest at this time did not seemingly take into account the restrictive condition (3) which had previously been placed on the barn in relation to its use as his advice on a proposed use would have clearly been contrary to the requirements of the condition.

3.5 A further planning application was then submitted by a different agent (DC/20/2375) for the extension and use of the barn building as a single residential annexe, however this application was also withdrawn presumably following similar advice from the Council that the residential annexe was unlikely to be considered as an ancillary use.

3.6 The applicant then instructed a further agent who submitted proposed certificate of lawfulness application for the ancillary use of the barn, however this application was withdrawn, it appears, once the Council became aware of the condition on the use of the outbuilding which restricts its use for domestic parking and domestic storage only.

3.7 The agent then advised the applicant that a certificate of existing lawfulness could be sought as it appeared the barn building had not been used in breach of the restrictive use condition for a period of over 10 years. These applications, DC/22/1050 & DC/22/1050 were both refused by the Council.

3.8 Having reviewed both of these applications it is clear that whilst there was some anecdotal evidence that the barn building had been used by the previous owner in breach of use condition, there is not sufficient evidence to show on the balance of probabilities that this had occurred for a continuous period of ten years. The previous sales particulars from 2014 for the dwelling shown in Appendix 5, show a photo of the inside of the barn building which is clearly in use at that particular time as a games room and was not in use for domestic storage as required by the relevant condition.

The Condition

4.1 The applicant upon purchasing the property was not aware of the restrictive use condition on the barn building and since purchasing the property has been using the barn building on an ancillary basis as can be seen on site today. Ordinarily such a use of an outbuilding within the curtilage of a dwelling would be considered an ancillary use and as such planning permission would not be required. However in this case the restrictive use condition only allows the barn building to be used as domestic storage and/or as a garage.

4.2 The reason the Council gave for imposing this condition back in 1998 was to safeguard the amenities of the neighbouring properties. Within the "Use of Planning Conditions" section of the National Planning Policy Guidance (NPPG) it is stated that planning conditions should only be imposed where they are necessary, relevant to planning and to the development permitted, and are enforceable, precise and reasonable in all other respects. It also goes on to state that "Some or all of the conditions (on a permission) could be removed or changed by making an application to the local planning authority under section 73 of the Town and Country Planning Act 1990.

4.3 Likewise Paragraph 56 of the NPPF states 'Planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects'. The above is known as the 6 tests. In this case, as set out below, the restrictive use condition is no longer necessary and as such does not meet these tests and therefore should be removed.

Proposed Removal of Condition

5.1 The condition which is relevant to this application was placed on the barn building well over 25 years ago. The ownership of the main property has since changed along with the needs and requirements of the owner. Living within the main house at the site are the applicant and her husband along with their adult son, their daughter and her husband along with their three children.

5.2 The need for additional space for applicant's family which consists of 5 adults and three children is clearly evident and the barn building provides access to much needed ancillary space for the family. The current use of the barn building reflects the advice given Mr Everest in his email to the applicant in September 2020 shown in Appendix 4.

5.3 It is noted that the Council recently granted planning permission for a car port at the property (DC/23/2048) following a site visit where the case officer viewed the site in full including the current use of the barn building. By granting permission for the carport it is reasonable to assume that the Council are satisfied that the barn building no longer provides domestic garaging and as such this element of the relevant condition should be deemed as no longer necessary.

Principle of ancillary use

5.4 Policy 28 of the Horsham District Planning Framework (HDPF) sets out that outside the defined built-up areas, ancillary accommodation will be supported if the development can be accommodated appropriately within the curtilage of the existing dwelling. In this case the site is located outside any built up area, however the barn building which is the subject of this application is existing and has been located within the curtilage of the dwelling in its current form since at least 1998.

5.5 The further requirements of Policy 28 sets out that ancillary accommodation will be required to meet with all other appropriate policies, particularly design principles, and demonstrate that the need for additional space cannot be met from an existing dwelling or buildings suitable of conversion on the site. The size and external appearance of the barn building is not proposed to change as part of this application, just the use.

5.6 As set out above the applicant has a large family and would like to utilise this existing building within the curtilage of the property as ancillary accommodation. The self-contained, two storey eastern end of the barn building is not proposed to be rented out or used as a separate self-contained dwelling as this would not align with the applicant's requirement for an ancillary use of the building and would also be clearly contrary to Policy 28.

Impact on neighbouring properties amenity levels

5.7 The reason for imposing the restrictive use condition on the barn building was, as set out above, to safeguard the amenities of neighbouring properties. Policy 33 of the HDPF sets out that development should ensure that it is designed to avoid unacceptable harm to the amenity of occupiers/users of nearby property and land, for example through overlooking or noise, whilst having regard to the sensitivities of surrounding development.

5.8 The nearest residential properties are located approximately 50 metres to the north, beyond a number of agricultural buildings and approximately 95 metres to the south-east. Given the very significant separation distances between the barn building and its closest neighbours along with the proposed use, it is not considered that the residential amenity levels of either of these neighbouring properties would be adversely impacted upon.

Loss of Parking

5.9 Policy 41 of the HDPF states that development which involves the loss of existing parking spaces will only be allowed if suitable alternative provision has been secured elsewhere. Whilst part of the barn building was formally used as a garage, the property has ample off road parking and as set out above the

Council has recently granted permission for a space car port at the property. Therefore the loss of any former car parking spaces is adequately compensated within the existing curtilage of the property.

Conclusion

6.1 As set out above the principle of using an existing building within the curtilage of a property on an ancillary basis is acceptable in accordance with Policy 28 of the HDPF. Furthermore, such an ancillary use is not considered to harm the residential amenity levels of the any of the neighbouring properties in accordance with Policy 33. In addition any loss of parking spaces are adequately compensated within the site in accordance with Policy 41.

6.2 The removal of condition 3 of planning permission RW/102.98 would clearly comply with all of the relevant local plan policies and of particular note would not adversely harm the residential amenities of neighbouring properties which was the original reason for imposing the condition in the first place.

6.3 In accordance with the established 6 tests of a condition, it is plainly no longer necessary in light of the applicants needs to use the existing barn building on an ancillary basis and the lack of any local plan conflict to keep the restrictive use condition in place. Given the above assessment it is also clearly no longer reasonable for the condition to remain in place. It is therefore respectfully submitted that the Council should grant this application and remove condition 3 from planning permission RW/102.98.

APPENDIX 1



Aerial photograph of the application site

London:
The Lansdowne Building
2 Lansdowne Road, Croydon
London. CR9 2ER

Gloucestershire (Postal Address):
Unit 1, Nailors Court
The Slipway, Back of Avon
Tewkesbury. GL20 5UR

Cambridgeshire:
4 Fenice Court,
Phoenix Business Park, St Neots
Cambridgeshire. PE19 8EP

APPENDIX 2

Horsham District Council

Park House
North Street
Horsham
West Sussex
RH12 1RL
Telephone
(01403) 215100

Application Number RW/102/98

TOWN AND COUNTRY PLANNING ACT, 1990
TOWN AND COUNTRY PLANNING (GENERAL DEVELOPMENT PROCEDURE) ORDER 1995

MR D J JUNIPER
HIGH WOLD GATE
STATION ROAD
WOLDINGHAM
SURREY CR3 7DA

On behalf of: MR D CHRISTIE

In pursuance of their powers under the above-mentioned Act and Order the Council hereby notify you that they PERMIT the following development, that is to say:-

ERECTION OF A DOUBLE GARAGE AND CONTINUED USE OF LAND FOR RESIDENTIAL GARDEN AND CONTINUED USE OF THE BARN FOR DOMESTIC STORAGE PURPOSES CHESTNUTS HORNSHILL FARM GUILDFORD ROAD RUDGWICK

to be carried out in accordance with your application and plan No. RW/102/98 (as modified by the undermentioned conditions, if any) submitted to the Council on 07/10/98 and subject to compliance with the conditions specified hereunder.

M.J. Baty F.J.T.

DIRECTOR OF PLANNING DATE 13/11/98

1. The development hereby permitted shall be begun before the expiration of 5 years from the date of this permission.

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

2. The external walls of the building hereby permitted shall be stained with a timber preservative before the building is brought into use all in accordance with precise details to be first agreed with the Local Planning Authority. Thereafter the building shall be maintained with the approved stain.

   Reason: In the interests of amenity.

Horsham
District
Council

Park House
North Street
Horsham
West Sussex
RH12 1RL
Telephone
(01403) 215100

Application Number RW/102/98

3. The buildings shall be used as private domostic garages and for domestic storage purposes only in connection with Chestnuts, as a dwelling, and for no other purpose.

   Reason: To safeguard the amenities of the neighbouring properties.

4. The materials and finishes of all new roofs of the development hereby permitted shall match in colour and texture those of the existing building.

   Reason: In the interests of amenity.

N.B. IT IS IMPORTANT THAT YOU SHOULD READ THE NOTES ENCLOSED WITH THIS FORM. Your copy of the application determined as above is returned herewith for your records.

APPENDIX 3

From: Cameron Shall [redacted]
Sent: 25 May 2022 13:51
To: [redacted]
Subject: Chestnuts

Hi Helen,

Thank you for your call earlier.

Please see attached the property particulars from 2019. As you can see the two story addition to the main barn was partitioned from the main barn building and did in fact have a small kitchenette and toilet. We didn't take pictures of it as it was used more for storage at the time.

We have been involved with the property for a number of years and to my knowledge the layout of the barn buildings has been the same dating back to at least 2017, if not earlier.

Kind Regards,

Cameron Shall MNAEA | Senior Negotiator & Valuer | Courtney Green Ltd

Courtney Green Ltd
25 Carfax, Horsham, West Sussex RH12 1EE
Tel: 01403 252222
Web: www.courtneygreen.co.uk

APPENDIX 4

From: Phil Wellstead [redacted]
Sent: 04 November 2020 09:37
To: Guy.Everest [redacted]
Cc: Helen King [redacted] Nick Griffin [redacted]
Subject: Re: DC/20/0804 - Chestnuts Hornshill Farm Guildford Road

Hi Guy,

Further to your email above, please withdraw this application whilst we consider our next steps.

Please confirm by reply.

Regards

THE PLANNING MAN.CO.UK

Phil Wellstead
The Planning Man
[redacted]
www.theplanningman.co.uk

Please consider your environmental responsibility. Before printing this e-mail message, ask yourself whether you really need a hard copy.

On Tue, 22 Sep 2020 at 12:17, Guy.Everest [redacted] > wrote:

Dear Phil

[redacted]

The key issue in this case is ultimately whether the proposed accommodation could / would be occupied in an ancillary manner to the existing dwelling at the site, as otherwise it entails the formation of a dwelling in a location where such development is not encouraged.

The proposed accommodation essentially entails two self-contained units which would not have any physical or functional dependency on the main dwelling, and this arrangement coupled with the access (which would serve the two new units with limited interaction with Chestnuts) raises concerns that there is no meaningful way of preventing the proposed accommodation being used in the manner of self-contained dwellings.

I appreciate that the intention is for family members to occupy both units; however, given the level of accommodation being proposed this familial link would not in and of itself make a dwelling an

annexe. In case of use I have attached two recent appeal decisions for comparable annexes where the Inspectors clarified how such accommodation is considered and the relationship / distinction between an annexe and a dwelling.

I'm happy to revisit any of the above but believe the available options are as set out below:-

- The application be determined as submitted, in which case a refusal is likely and this could be appealed with the Planning Inspectorate who would revisit the case; or

- The application be withdrawn to allow possible amendments to be explored before a possible resubmission.

It may be the case that the existing building could be converted to single annexe, with a reduced level of accommodation (and arguably without the first floor extension), without the need for planning permission, and this may represent the optimum solution on the site. If you wish to withdraw the application this possibility could be explored outside of the planning application process.

I hope this is of some assistance and please let me know if you have any queries on the above.

Kind regards

Guy

Coronavirus (COVID-19):
For information regarding our services during the current situation please visit the Planning Services update on our website

Guy Everest
Applications Team Leader

[redacted]

Horsham District Council

Horsham District Council, Parkside, Chart Way, Horsham, West Sussex RH12 1RL

APPENDIX 5

Directions

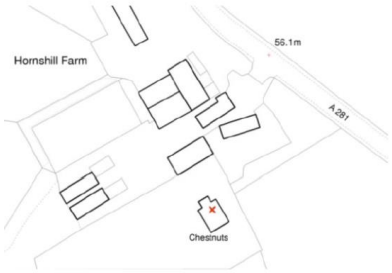
From our Billingshurst office proceed north up the High Street and at the second roundabout take the second exit north up the A29. Having reached Five Oaks (after approximately 1.3 miles) take the second exit onto the A29 and after just under 0.5 of a mile turn left into Haven Road. Having reached the junction with the A281 (after just under 3 miles) turn left onto the A281 towards Guildford and the entrance to Chestnuts and Hornshill Farm will then be found on the left hand side after about 0.75 of a mile just past the crossroads by the right hand bend.

- Rudgwick 1.5 miles
- Billingshurst 6 miles
- Horsham 8.25 miles
- Guildford 13 miles
- All distances approximate

60202/15414

For more information or to view this property please contact
Henry Adams Billingshurst Ltd
35 High Street
Billingshurst
RH14 9PR

T: 01403 782991
E: billingshurst@henryadams.co.uk













Agents Notes - We endeavour to make our particulars accurate and reliable. They are for guidance only and are intended to give a fair overall summary of the property. They do not form part of any contract or offer, and should not be relied upon as a statement or representation of fact. Measurements, areas and distances are approximate only. Photographs may include lifestyle shots and pictures of local views. Also there may be internal/external photographs including chattels not included with the property for sale. No undertaking is given as to the structural condition of the property, or any necessary consents or the operating ability or efficiency of any service, system or appliance. Intending purchasers must satisfy themselves with regard to each of these points. If there is any particular aspect of the property about which you would like further information, please contact us, especially before you travel to the property.
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