

The Planning Inspectorate
Temple Quay House
2 The Square
Bristol
BS1 6PN

Our ref: DC/26/0122
Your ref: APP/6012076
Email: Sam.Nye@horsham.gov.uk

Dear Sir/Madam,

6012076 – Windacres Farm, Church Street, Rudgwick, West Sussex, RH12 3EG, United Kingdom

Following the submission of the appeal against the refusal of the Removal of Conditions application, which restricts the use of the application building to agricultural purposes only, the Local Planning Authority would refer the Inspector to the Delegated Report, and would like to further substantiate the reasons for refusal as follows:

Refusal Reason 1: -

Condition 2 of planning permission reference DC/20/0549 continues to serve a necessary planning purpose, where its removal would allow uncontrolled and unjustified activities within the countryside, which have the potential to lead to non-essential development and an unacceptable increase in the level of activity within the countryside. The removal of the condition would therefore be contrary to Policy 26 of the Horsham District Planning Framework (2015).

The Council notes that the appellant's statement is a resubmission of the statement submitted during the determination of the application process. As such, the Council refers to the reasoning set out in the Officer's Delegated Report and Decision Notice, which are submitted as part of the Council's appeal evidence, along with a list of appendices.

It is acknowledged that the application before the Council sought to remove Condition 2 of planning permission DC/20/0549, which reads as follows:

'Regulatory Condition: Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order amending or revoking and/or re-enacting that Order), the premises hereby permitted shall be used for agricultural purposes only, as defined in Section 336(1) of the Town and Country Planning Act 1990 and for no other purposes whatsoever without express planning consent from the Local Planning Authority first being obtained.

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'.

The submitted documentation detailed that the applicant wished to change the use of this building from agriculture to an alternative use, however, no further details of uses were referred to within the submitted Planning Statement or application form. No justification or

reasoning was provided with regards to why the condition is no longer necessary or reasonable.

In this instance, the condition restricts the use of the building to agriculture, ensuring that it aligns with Policy 26 of the HDPF, which seeks to protect the rural character and undeveloped nature of the countryside. The building was originally justified and permitted based on an agricultural need and without this need, there is no reasonable requirement for the building in this location.

The removal of the condition, with no further defined alternative use, would result in a building with a 'nil' use, without a planning purpose. As part of the original consent for this lean-to structure, it was demonstrated that the building was reasonably required to serve the agricultural activities of the associated holding, and that its size was justified by the associated need. The structure's use, in providing storage for the workshop and farm office area, as well as machinery and hay/straw storage, was found acceptable due to the other suitable buildings being demolished as part of the new housing estate to the west. Given that there was no evidence before the Council that suggested this arrangement was no longer the case nor that there was no longer a need, it was concluded that this condition still serves a planning purpose. Furthermore, there were concerns that in permitting the application, it would introduce the potential for the building to be used for purposes that would conflict with Policy 26, in that development in the countryside must be essential to its location and appropriately controlled in terms of its impacts.

While the applicant has referred to the condition restricting permitted development rights, it is considered that there is a clear justification in retaining the condition. It is therefore considered that the imposed condition continues to serve a necessary and reasonable planning purpose, and its removal would be contrary to the objectives of Policy 26 of the HDPF.

As part of the application process, discussions between the Council and the applicant were undertaken, relating to potential agreeable uses of the application building, in which the appellant has submitted the email correspondence between the appellant's agent and the Council. No agreeable conclusion was reached as part of this process. The full email trail has been submitted as part of this statement, Appendix 1. This correspondence demonstrates that the Council sought to engage positively with the applicant and explored whether a revised proposal could overcome the concerns that led to the refusal of the application. The Council indicated that it may have been willing to consider the variation of this condition to allow for certain commercial uses, whilst still retaining controls necessary to protect the countryside, in accordance with Policy 26 of the HDPF.

Taking the Local Plan as a whole, and the relevant material planning considerations, these uses, B8 and E(g), were considered most appropriate within a rural location and in reasonable proximity to residential properties. Such uses would provide economic benefits for the wider rural economy, where Policy 10 of the HDPF sets out that proposals for the conversion of rural buildings to business and commercial uses will be considered favourably over residential uses. In this instance, other B8 and E(g) uses are within the locality, and it would not be considered that the conversion of the building to such uses would be any more harmful in this context. It is however noted that the variation of the condition in this manner would be demonstrably different to what was originally applied for, where nearby occupiers would not have the opportunity to review and consider such material change of use. The Council therefore consider that it would not be possible to vary the condition in this way as part of the appeal, as nearby residents would be prejudiced through lack of publicity and opportunity to comment.

Notwithstanding this, the appellant maintained a desire for the unrestricted removal of the condition, or alternatively for any revised condition to facilitate future residential use through Class Q provisions. The Council advised that it could not support this approach, having regard

to the site's location outside of a defined built-up area boundary, where housing is strictly controlled through the development plan's spatial strategy, and numerous previous decisions relating to residential development at the site being refused, by both the council and at appeal, as contained within the Appendices. Subsequently, no agreement was reached, and the application proceeded to determination on the basis of the proposal as submitted.

Conclusion

The appeal before the Inspector today, relates solely to the removal of condition 2 of DC/20/0549 and not to vary the condition. The Council remain of the view that this agricultural use condition continues to serve a clear and necessary planning purpose, and its removal would allow unjustified development in the countryside without a defined or policy compliant use. As such, the proposal is considered contrary to Policy 26 of the Horsham District Planning Framework (2015). Should the Inspector wish to allow the appeal and vary the condition, the Council respectfully request that the uses as outlined in this report are considered acceptable and comply with the council's policies, avoiding the harm which has been applied for.

Therefore, for the reasons outlined in the preceding statement, the Inspector is respectfully requested to dismiss the appeal.

Yours sincerely,

Sam Nye
Planning Officer
Horsham District Council

List of Suggested Conditions

If the Inspector is minded to allow the appeal, the following conditions are recommended in order to mitigate potential impacts and ensure the development proceeds in an acceptable manner.

1. Approved Plans

- 2. Regulatory Condition:** *Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order amending or revoking and/or re-enacting that Order), the premises hereby permitted shall be used for agricultural purposes only, as defined in Section 336(1) of the Town and Country Planning Act 1990 and/ or use classes B8 and/or, E(g) and for no other purposes whatsoever without express planning consent from the Local Planning Authority first being obtained.*

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.

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

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

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

Reason: To safeguard the amenities of the locality in accordance with Policies 32 and 33 of the Horsham District Planning Framework (2015).

- 5. Regulatory Condition:** No external storage of any materials or waste shall take place at any time.

Reason: To safeguard the amenities of the locality in accordance with Policies 32 and 33 of the Horsham District Planning Framework (2015).

- 6. Regulatory Condition:** Other than for administrative purposes only, the premises shall not be open for trade or business including deliveries, collection of trade waste and dispatches except between the hours of 08:00 – 18:00 Monday to Friday, 09:00 – 13:00 on Saturdays, nor at any time on Sundays, Bank or Public Holidays.

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

- 7. Pre-Occupation Condition:** No part of the development hereby permitted shall be occupied until the parking, turning and access facilities necessary to serve the development have been made available in accordance with the areas shown on the approved Site Plan of DC/20/0549, received 16.03.2020, and shall be thereafter retained as such.

Reason: To ensure adequate parking, turning and access facilities are available to serve the development in accordance with Policy 40 of the Horsham District Planning Framework (2015).