Horsham District Council

DELEGATED APPLICATIONS - ASSESSMENT SHEET

APPLICATION NO./ADDRESS:
DC/24/0860
Bridge Farm, Coolham Road, Coolham, West Sussex, RH13 8GP

DESCRIPTION:
Variation of Conditions 5 and 6 of planning DC/22/1986 (Erection of new building over HGV parking area) to allow day drivers to arrive on site from 6am and for 3 no. HGVs to return to site from 5am.

RELEVANT PLANNING HISTORY:

DC/09/0561	Land raising to make area usable for agricultural and formation of lake (Prior Notification)	Prior Approval Refused on 27.04.2009.
DC/19/1271	Redevelopment of existing haulage yard to include replacement of existing building for storage and office purposes, resurfacing and expansion of yard area for the parking of distribution vehicles and alterations to the existing access	Application Permitted on 19.08.2019.
DC/22/1986	Erection of new building over HGV parking area	Application Permitted on 28.07.2023.
DC/24/0859	Variation of Conditions 7 and 8 of planning DC/19/1271 (Erection of new building over HGV parking area) to allow day drivers to arrive on site from 6am and for 3 no. HGVs to return to site from 5am.	Pending Consideration

DETAILED DESCRIPTION AND SITE AND SURROUNDS

The application site is positioned to the west of Coolham Road, outside of any designated built-up area boundary. The existing entrance lies at the northern end of the site. The site comprises an existing haulage yard which belongs to Prestige Packaging Solutions Ltd. And has been used as a distribution depot since 2019. There is access through the site into land to the west which has been used for storage of builder's material. The land to the west of main yard on which the scaffolding use takes place is mostly surrounded by trees and vegetation and the southern boundary is bound by the river Adur. The application itself seeks permission to vary the conditions 5 and 6 such that the business can allow its drivers on site from 6am and for the return of 3 no HGV to the site from 5am.

RELEVANT PLANNING POLICIES
The National Planning Policy Framework (NPPF)

Horsham District Planning Framework (2015):
Policy 1 - Strategic Policy: Sustainable Development
Policy 7 - Strategic Policy: Economic Growth
Policy 9 - Employment Development
Policy 10 - Rural Economic Development
Policy 25 - Strategic Policy: The Natural Environment and Landscape Character

Policy 26 - Strategic Policy: Countryside Protection
Policy 30 - Protected Landscapes
Policy 31 - Green Infrastructure and Biodiversity
Policy 32 - Strategic Policy: The Quality of New Development
Policy 33 - Development Principles
Policy 37 - Sustainable Construction
Policy 38 - Strategic Policy: Flooding
Policy 39 - Strategic Policy: Infrastructure Provision
Policy 40 - Sustainable Transport
Policy 41 – Parking

Horsham District Local Plan (2023-40) (Regulation 19)
Policy 1: Sustainable Development
Policy 2: Development Hierarchy
Policy 3: Settlement Expansion
Policy 6: Climate Change
Policy 7: Appropriate Energy Use
Policy 8: Sustainable Design and Construction
Policy 9: Water Neutrality
Policy 12: Air Quality
Policy 13: The Natural Environment and Landscape Character
Policy 17: Green Infrastructure and Biodiversity
Policy 19: Development Quality
Policy 20: Development Principles
Policy 23: Infrastructure Provision
Policy 24: Sustainable Transport
Policy 25: Parking
Policy 37: Housing Provision
Policy 38: Meeting Local Housing Needs
Policy 40: Improving Housing Standards in the District

Shipley Parish Neighbourhood Plan (2019-2031)
Policy Ship HD3: High Quality Design
Policy Ship CO2 – Employment

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: Initial comment (objection)

We concur with the conclusion of your authority's HRA appropriate assessment

insofar that adverse effects on the integrity of the Arun Valley Designated sites cannot be ruled out, as such:
Further information is required to determine the significance of impacts on designated sites and the scope for mitigation, chiefly: To provide the information highlighted in the appropriate assessment.

Follow up comment (No objection)
We concur with the conclusion of your authority's HRA appropriate assessment insofar that adverse effects on the integrity of the Arun Valley Designated sites can be ruled out, as such:

We have no objections due to the number of people using the site/working there remaining the same.

Environmental Health: Objection

The application seeks to permit up to 3 HGV movements onto site between 05:00 and 07:00 hours. The main concern with the proposal is the potential for sleep disturbance to be caused to neighbouring residents by vehicle movements at a period when both traffic movement and background noise levels along Coolham Road are low. It is considered unlikely that the limited number of vehicle movements proposed by the applicant would cause significant risk of adverse noise impact.

However, the planning officer has advised that the number of HGV movements cannot be restricted by condition. Therefore, there is the potential for an unrestricted number of HGV movements to occur in the period between 05:00 and 07:00. A noise impact assessment should be provided with that evaluates the potential for adverse noise impacts from this unrestricted movement during the early morning period. Section 180 of the NPPF requires that planning decisions should prevent new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution or land instability.

The NPPG advises that noise needs to be considered when development may create additional noise, or would be sensitive to the prevailing acoustic environment and that plan-making and decision making need to take account of the acoustic environment and in doing so consider:

- whether or not a significant adverse effect is occurring or likely to occur;
- whether or not an adverse effect is occurring or likely to occur; and
- whether or not a good standard of amenity can be achieved.

The NPPG also advises that the factors to be considered are the source and absolute level of the noise together with the time of day it occurs. Some types and level of noise will cause a greater adverse effect at night than if they occurred during the day – this is because people tend to be more sensitive to noise at night as they are trying to sleep. The adverse effect can also be greater simply because there is less background noise at night. For noise impacts night is generally determined as the period between 23:00 and 07:00. The additional HGV movements will occur in the night-time period.

It is important to note other legal remedies to deal with adverse noise impacts such as statutory nuisance may not be available if planning consent is granted. This is because the test of nuisance is not fixed but relies upon consideration of a range of factors including the character of the locality. The granting of planning permission of any type may change the character of the locality and therefore raise or lower the standard for statutory nuisance in that area. This can have wide implications for the regulatory bodies, local businesses, residents, and new developments.

Nuisance is not intended to secure a high level of amenity but is a basic safeguarding standard intended to deal with excessive emissions. Significant loss of amenity will often occur at lower levels of emission than would constitute a statutory nuisance. It is therefore important for planning decisions to consider properly, loss of amenity from emissions in the planning process in its wider context and not just from the limited perspective of statutory nuisance. Where statutory nuisance arises from commercial or industrial uses, the defence of best practicable means is available together with reasonable excuse. Therefore, a local authority may not be able to require the complete abatement of a statutory nuisance. Broader amenity issues therefore need to be considered under the planning regime when drawing up development plans and considering individual applications

To ensure the application is properly determined it is recommended that a noise impact assessment prepared by a competent person is provided.

WSCC Highways: No objections

West Sussex County Council, in its capacity as Local Highway Authority (LHA), have been consulted on removal of conditions attached to approval DC/22/1986. The conditions relate to opening/working hours and are requested to be amended to allow for the day drivers to arrive on site from 6am and for 3 no. HGVs to return to site from 5am. No loading or unloading will take place outside the existing approved hours. The LHA is mindful that the conditions were secured for amenity reasons and not highway safety/capacity reasons and therefore no objection is raised.

Shipley Parish Council: Objection

"At the meeting of Shipley PC held on 24th June 2024, Members unanimously voted to OBJECT to the application.

Following multiple resident complaints relating to excessive vehicle movements in clear breach of the planning conditions granted previously, Shipley PC and the local HDC Councillor contacted the HDC Planning Enforcement team. Following an investigation by the team, two retrospective applications were submitted to vary the conditions.

Given the current situation bears no relation to the statement made by the applicant's agent, as lorries are operating throughout the night as it is, the parish council has little confidence that the proposed variations to the conditions would make any difference to the continued breach of conditions by the vehicles in question. Furthermore, residents have to right to quiet enjoyment of their properties during recognised quiet hours from 7pm until 7am. Members regarded as completely inappropriate to consider extending the hours of operation from those permitted in the 2019 consent which are regarded as normal commercial operation hours that Horsham have instigated on business parks in Southwater for example to protect the same rights of residents there. Coolham however is a small residential village not a business park and the hours of operation should be curtailed to reflect that.

The parish council's objections relate to excessive noise in breach of existing conditions and highway safety."

Representations
35 objections in total from 23 different addresses and these can be summarised as follows:

- Loss of general amenity
- Traffic creation
- Noise
- Out of character for the area/ inappropriate location
- Overdevelopment
- Highways safety issues
- Owners are in breach of planning permission
- Stress caused to residents in locality
- Site ownership may change to less considerate business owner
- Danger to pedestrians and cyclists
- Objection to the council not enforcing conditions of previous planning permission
- Environmental impacts
- Objection to planning application being allowed for assessment

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:

Application DC/05/2885 sought permission for the continued use of buildings and hard surface in connection with haulage business. This was refused for the 'adverse impact on the rural character of the area and the amenities of adjoining properties'.

A subsequent application under DC/06/1373 was submitted and sought permission for the continued and was refused. This went to appeal and was allowed subject to the inspectors imposition of 'rigorous conditions, which should not be amended in future unless exceptional new circumstances arise'. The conditions were considered necessary to overcome the potential harmful impacts of the development on the open countryside and the amenity of nearby properties.

Other applications include DC/06/1859 which sought permission for a new access, this was refused as it would remove in excess of 7 metres of boundary hedge and the scale of the access would have an adverse impact on the character of the area.

A more recent application under DC/19/1271 has sought permission for the redevelopment of existing haulage yard to include replacement of existing building for storage and office purposes, resurfacing and expansion of yard area for the parking of distribution vehicles and alterations to the existing access.

The most recent application within the application site under DC/22/1986 was sought for the erection of a new building over the HGV parking area. The building granted permission under this application has the approximate dimensions of 25metres and a depth of 18 metres with a pitched roof measuring an overall height of 6.6 metres. The proposed building provided a covered area to load and unload HGV lorries, in association with the lawful use of the site. The application site previously unloaded and loaded vehicles in the open and the officer within the officers report considered that the development would provide some benefit through the reduction in noise by allowing a covered area for these operations. The present proposal seeks to vary conditions attached to this permission.

The application site is located to the west of Coolham Road outside any built-up area boundary and is therefore located within the countryside in policy terms.

Policy 10 of the HDPF establishes that rural economic development and enterprise within the district will be encourage in order to generate local employment opportunities and economic, social and environmental benefits for local communities. As aforementioned, the conditions attached to the lawful use of the site would be altered. 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.

2. Demonstrate that car parking requirements can be accommodated satisfactorily within the immediate surrounds of the buildings, or an alternative, logical solution is proposed.

No alternative wording has been suggested as part of the application, however the Cover letter submitted has requested that the applicant does not require greater flexibility in their operations within the site. This would require for the day drivers to be able to arrive on site from 6am and for the return and parking of the 3 HGVs from 5am.

The proposed alterations within the site would not be considered to be contrary to policy 10 of the HDPF, and it is considered that the principle of the development would be acceptable, subject to all other detailed planning considerations, with the final section considering the overall planning balance.

Design and Appearance:

Policies 25, 32, and 33 of the HDPF promote development that protects, conserves and enhances the landscape and townscape character from inappropriate development. Proposals should take into account townscape characteristics, with development seeking to provide an attractive, functional and accessible environment that complements the locally distinctive character of the district. Buildings should contribute to a sense of place, and should be of a scale, massing, and appearance that is of a high standard or design and layout which relates sympathetically to the landscape and built surroundings.

Paragraph 135 of the NPPF states that planning decisions should ensure that developments function well and add to the overall quality of the area; are visually attractive as a result of good architecture, layout and appropriate and effective landscaping; are sympathetic to local character and history, including the surrounding built environment and landscape setting; establish a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit; optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development; and create places that are safe, inclusive and accessible.

The application site comprises an existing haulage yard within rural countryside. The character of the area is rural in appearance with sporadic residential development.

As detailed within the planning history section of this report, the significance of the land was considered under previous planning applications and an appeal. The haulage yard use of the site within the countryside setting has already been considered and the current application would not seek to alter the existing lawful use of the site. The alteration of the wording of conditions would have potential to impact on the rural countryside character of the area, but in this instance no changes to the times of the loading and unloading of vehicles would occur. There would be an increase in the level of activity of the site, which is already somewhat at odds with the rural locality. However, given that the use of the site is lawful, similar levels of activity already exists within the locality.

The proposal would not be contrary to policies 32 and 33 of the HDPF and paragraph 135 of the NPPF.

Amenity Impacts:

Policy 32 of the HDPF states that development will be expected to provide an attractive, functional, accessible, safe, and adaptable environment that contribute a sense of place both in the buildings and spaces themselves. Policy 33 continues that development shall be required to ensure that it is designed to avoid unacceptable harm to the amenity of occupiers/users of nearby property and land.

There is a dwellinghouse to the north of the application site outside of the applicants ownership and a dwellinghouse to the south east. The reason for imposing conditions 5 and 6 of DC/22/1986 was to "*To safeguard the amenities of the neighbouring property to the south in accordance with Policy 33 of the Horsham District Planning Framework (2015)".* The cover letter and Location plan submitted outlines that the property in closest proximity to the application site is a dwellinghouse to the south within the applicant's ownership. It is acknowledged the alteration of the conditions would not be considered therefore by the applicant to result in harmful amenity, however the ownership of this dwellinghouse cannot be guaranteed in perpetuity such that an assessment of amenity to this property is still required to ensure the protection of amenity of the potential future occupiers of the dwelling.

Additionally, a number of objections have been received raising concerns not limited to amenity, character of the area and noise impact on the residents within the wider area. It is not considered that the proposed development would result in harm to the amenities of nearby properties in respect of outlook or loss of light given that no additional built form is on site.

Environmental Health have been consulted during the course of the application and have objected given that the conditions were attached to protect the amenity of the residents adjacent to the site to ensure there was no disturbance during the night-time period. They note that:

"vehicles manoeuvring to enter or leave a site have a different sound character compared to vehicles moving freely along a highway. As the vehicles will be returning before 07:00am it is likely existing traffic flows are low along Coolham Road. In this rural location road traffic is the primary driver of ambient noise climate so it is also likely that background noise levels would be very low at these times. This will increase the significance of noise and disturbance that occurs before 07:00".

The Environmental Health officer note the application would seek to limit the number of HGV movements before 07:00 but raise concern that there is no suggested alternative wording as it would be unclear how the vehicular movements would be controlled. An acoustic assessment has been sought at several points within the application process, however in this instance, no Acoustic assessment has been forthcoming. In the absence of such information, the Council is not able to fully assess the potential impact that may occur from the change to the hours as approved.

The NPPF is clear in that conditions should be applied where they are necessary to make a development acceptable where it may otherwise not be without the imposition of the relevant condition. Discussions have taken place interdepartmentally to attempt to encapsulate through condition an appropriate wording that might protect the residential amenity of nearby properties, however in the case of this retrospective application, alternatively worded conditions may not overcome amenity concern given that the level of impact is not known.

On the basis of the above considerations and insufficient information, the proposed development is considered to result in unacceptable harm to the amenities and sensitivities of neighbouring properties in accordance with Policies 32 and 33 of the Horsham District Planning Framework (2015).

Highways Impacts:

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

It is noted that a number of the letters of objection received have raised concern with the creation of traffic and other highways safety issues. However, the number of vehicles and parking provision would not be altered as a result of the proposal and no alterations to the vehicular access would occur. Furthermore, West Sussex County Council Highway authority have been consulted during the course of the application and have not raised any objection to the proposal.

For these reasons, the proposed development is considered to accord with Policies 40 and 41 of the Horsham District Planning Framework (2015).

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.

An AA was submitted to Natural England outlining the development and noting that there was limited information with regards to the water usage on site. In response to this AA Natural England concurred with the local authorities conclusion in this regard. Subsequent to this, a further AA was sent to Natural England after the alternative wording of the conditions were suggested such that it was established that the development would not increase the number of people working within the site, additional facilities that would use water or result in a material intensification of water usage on site. The second natural England consultation response was received and would concur with the local authorities opinion that the proposed development would not result in development that would increase the water abstraction with the application site.

Subject to conditions securing the mitigation measures as discussed in the body of this report, no adverse impacts would occur to the Arun Valley SAC, SPA and Ramsar sites, either alone or in combination with other plans and projects. The grant of planning permission would not therefore adversely affect the integrity of these sites or otherwise conflict with Policy 31 of the HDPF, NPPF paragraph 186 and the Council's obligations under the Conservation of Habitats and Species Regulations 2017.

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.

No information has been submitted in regards to BNG, however given the nature of development which would not result in a change of use of the land or an increase in built form, the Application would represent an exemption to BNG requirements such that the proposal is not required to demonstrate BNG.

Conclusions:

The principle of the use on site has been established under previous applications and within an appeal decision. The application would support the established business on site by allowing the day drivers to get to site at 6am and leave prior to 7am. The HGV drivers would be able to return to site earlier than previously allowed within the application site and would be able to return at 5am. The proposal is acceptable in principle given that it would contribute to the rural local economy, which is considered neutral in the planning balance. It is acknowledged that the variation of the conditions (as proposed) has potential to support the existing commercial operations on the site. This benefit is not though considered to outweigh the adverse and unacceptable impacts on neighbouring amenity. For the reasons set out, the proposed variations to conditions 5 and 6 are not considered acceptable and are recommended for refusal.

Recommendation: Application Refused

Reason for Refusal:

1 It has not been demonstrated to the satisfaction of the Local Planning Authority that the variation to conditions 5 and 6 would not result in a greater level of noise and disturbance over and above the approved hours of operation, which would otherwise adversely and unacceptably impact the amenities and sensitivities of neighbouring properties and users of land, contrary to Policy 33(2) of the Horsham District Planning Framework (2015).

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/24/0859
Schedule of plans/documents **not approved**:

Plan Type	Description	Drawing Number	Received Date
Supporting Statement	Cover letter	NONE	04.06.2024

DELEGATED

Case Officer sign/initial Hannah Darley Date: 02/10/2024

Authorising Officer sign/initial RHERMITAGE Date: 04/10/2024