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CHARTERED TOWN PLANNERS
01256 766673 | info@bell-cornwell.co.uk | bell-cornwell.co.uk

Ms Kate Turner
Senior Planning Officer
Horsham District Council

Our ref: 4343

Sent by email: planning@horsham.gov.uk

26 November 2024

Dear Planning,

Planning Reference: DC/24/1602
Site Address: Nightingale Farm Limited, Sincox Lane, Shipley, West Sussex, RH13

We are writing on behalf [redacted] the owners of Pheasants, Coolham Road, Coolham, Horsham RH13 8QE, in objection to the Application made by Mr Kevin Jacobs ('the Applicant') at Nightingales Farm, Sincox Lane, Shipley ('the Application Site') submitted to Horsham District Council, the relevant Local Planning Authority ("the LPA") for the *"Variation of Condition 9 of previously approved application DC/20/2046 (Retrospective application for the Change of use of the land to create a glamping site) to allow longer occupancy duration"* ("the Development") on 23 March 2024.

[redacted] the Pheasants is located to the north-west of the Application site, as illustrated in the image below. The Pheasants is located 238m from the Application Site. You are invited to visit the Pheasants as part of your site visit, to observe the impact of the Development on the occupiers of this neighbouring property and the wider countryside.



Figure 1 Appeal Site (red) and Pheasants (purple)

Planning Background

Retrospective permission was obtained under reference **DC/20/2046** for the *"Change of Use of the land to create a glamping site"*. The application originally included the current site and an additional parcel of land to the west of the tree belt. During the course of that application the red line defining the site was amended to reduce the area of the glamping site to that shown in Figure 2 below. The application limited the number of glamping units to 8, and which are not to be occupied for longer than 4 weeks in any one year, as controlled by condition 9.



Figure 2 Site Location

The Proposal

The Applicant seeks permission to vary Condition 9 pursuant to **DC/20/2046.** The wording of condition 9 reads:

> *The total number of glamping units on the site at any one time shall not exceed eight. No individual glamping unit shall be occupied for longer than four weeks by any individual or group in any one year.*
>
> *Reason: To maintain control over the development and to protect the appearance and character of the area in accordance with Policy 33 of the Horsham District Planning Framework (2015).*

The Applicant asserts the current wording "*presents a significant challenge to the business's financial viability and operational sustainability".* The Applicant has not presented an alternative form of wording for the Council to consider.

Confusingly, the Applicant in their conclusion to their Planning Statement has stated at paragraph 6.2 (bold emphasis added0 that "***By removing*** *or adjusting the occupancy limit, Nightingale Farm can contribute more effectively to the local economy, promote sustainable tourism, and align with both national and local planning policies*". This statement runs counter to the application form and development description. The Applicant has requested the 'variation' of Condition 9 and not the 'removal'. If the Applicant wishes to remove Condition 9 as perhaps their concluding paragraph suggests they might, then the application documentation and development description should be amended according.

Having regard to the development description and application form, we are commenting on the proposal to 'vary' Condition 9. Should the Applicant wish to seek the removal of Condition 9 then we would expect to be re-consulted accordingly.

Conditions

There are 6 tests against which a planning condition should be applied, and which is set out at Paragraph 56 of the National Planning Policy Framework (NPPF). This 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*** *[…]"(bold emphasis added)*

As set out earlier, the existing condition states:

The total number of glamping units on the site at any one time shall not exceed eight. No individual glamping unit shall be occupied for longer than 4 weeks by any individual or group in any one year. Reason: To maintain control over the development and to protect the appearance and character of the area in accordance with Policy 33 of the Horsham District Planning Framework (2015).

Unfortunately, this existing condition does not meet the relevant tests as per NPPF paragraph 56, particularly that of Precision and Enforceability. For example, the condition would allow a person to live on the site for 32 weeks in a year so long as they move to a new glamping unit every 4 weeks. Further, the length of occupation for no longer than 4 weeks in any one year, does not define the year i.e. it is not a controlled to a calendar year, and as such occupation is open to more abuse.

This surely cannot be the Council's intention to allow for development creep. Indeed, the reason for the condition was "*To maintain control over the development and to protect the appearance and character of the area in accordance with Policy 33 of the Horsham District Planning Framework (2015)".*

Whilst there is some sympathy with the Applicant's desire to clarify the condition, given its imprecision and unenforceability, this surely should not be at the expense of well- established planning policy which protects the countryside from inappropriate development, part of which is to seek to avoid new residential development where there isn't the need.

We therefore invite the Council to review the wording of Condition 9, as per the Applicant's request, to ensure that it satisfies the relevant tests as per Paragraph 56 of the NPPF but equally to ensure that the reason for the condition is also accurate.

Planning Considerations

The Applicant has suggested within their Planning Statement that the recent dismissed appeal (reference: DC/23/1705) has had a direct consequence on their business: *"The failure of the recent appeal to expand the glamping site has directly led to the submission of s73 application to review the operational constraints imposed by Condition 9. As the appeal decision prevents the addition of further units, it is necessary to reconsider other factors impacting the site's viability".* They further assert that the condition places *"unreasonable limitation on the business's ability to operate effectively and meet the demands of the holiday accommodation market".*

These bold statements on the 'the businesses' viability are not supported by any evidence. It is firstly important to question what 'the business' is? Application DC/20/2046 which allowed the use of the site for glamping was on the basis that the glamping use was ancillary to the mixed use of the site, indeed the Applicant's Design and Access Statement (October 2020) stated that "*Nightingale Farm, comprising of some 12.5 hectares, is currently of mixed residential, equestrian and agricultural use*". This 2020 DAS further stated in respect of the employment and associated economic benefit that the "*Glamping business will create 2 new full time equivalent (FTE) roles and through* ***sharing resource with the co-located equestrian business*** *[…]*".

The glamping use on site is not 'the business' rather it is an ancillary use to the equestrian and agricultural uses. It is therefore unreasonable to suggest that the recent appeal dismissal for further expansion of an ancillary use into the countryside, and the need to vary condition 9, are somehow adversely affecting the viability of the business and its ability to operate effectively, when the business is the agricultural and equestrian use. In the absence of any viability information to the contrary, the Applicant's proposition on business viability should be afforded very limited weight.

Turning to the Applicant's comments regarding tourism, the Applicant again asserts that "*By limiting any individual or group to a maximum of four weeks' stay per year, the business is unable to cater to repeat customers or offer flexible, longer-term stays that have become increasingly common in the holiday accommodation sector. This restriction particularly undermines the potential for the site to attract returning customers, which is a key component of a sustainable tourism model*".

They further state that tourism patterns have shifted toward a "more dynamic model" where visitors seek flexibility through short-term stays spread throughout the year. The Applicant considers that Condition 9 places a restriction directly limiting this trend by preventing returning customers from staying at the glamping site for more than four weeks within a calendar year. This statement is incorrect on a number of grounds: The condition does not refer to a 'calendar year' nor does it state that an individual or group cannot stay at the glamping site for more than 4 weeks.

What the condition does restrict, is an individual or group from staying within a **glamping unit** for more than 4 weeks in **any one year**. Therefore, an individual or group are entitled to stay for longer single stays so long as they move to a different glamping unit should their stay exceed 4 weeks. Or, in the alternative of returning individuals or groups, they again can stay for more than 4 weeks over a year so long as cumulatively the period of stay within a single glamping unit does not exceed 4 weeks. The condition

therefore already allows for sufficient flexibility, albeit the precision of the wording could be improved. One must therefore query what the Applicant's intentions is, if a 32-week stay (i.e. 4 weeks spent within each of the 8 glamping units) is not sufficiently flexible.

Turning to the reason for the condition to be attached, this was to ensure that the Local Planning Authority could firstly, maintain control over development; and secondly, to protect the appearance and character of the area in accordance with policy 33 of the HDPF.

The Applicant has referenced the now superseded *Good Practice Guide on Planning for Tourism (2006).* Interestingly, this former guidance stated in respect of holiday accommodation that this type of use should be controlled by condition to avoid occupation by permanent households i.e. 'to maintain control over development'. We ask that the LPA be careful not to unintentionally allow for permanent households through the watering down of Condition 9, which would run contrary to other policies within the HDPF, notably policy 26 (countryside protection) which advises that outside built-up area boundaries, the rural character and undeveloped nature of the countryside will be protected against inappropriate development. Without any clear justification provided by the applicant, it is feared that a variation to condition 9 could lead to inappropriate development within the countryside.

In respect of the appearance and character of the area, policy 33 advises amongst a number of criteria, that development should avoid unacceptable harm to the amenity of occupiers of nearby property and land through overlooking or noise; and must relate sympathetically to the local landscape and justify and mitigate against any losses that may occur through the development. The Inspector in the recently dismissed appeal for the extension to the glamping site identified the urbanising impact and intrusion into the rural landscape that the use of the site has had. Whilst the variation to Condition 9 does not propose any additional physical development, the potential for the duration of occupation of the existing glamping units to be extended, could change from a transitionary use to permanent use, which would introduce different activities within this location. Again, we ask that the Local Planning Authority carefully consider the implications of a variation to Condition 9, such that any rewording does not result in harm to the countryside.

As alluded to at the start of this letter, the current condition is poorly drafted insofar as precision and enforceability. In this respect, there is a clear opportunity to improve the wording so that is complies with all 6 tests set out at NPPF paragraph 56. We draw the LPA's attention to The Planning Inspectorate's (PINS)

model conditions on occupancy, and which suggests the following condition wording relevant to Holiday Accommodation:

> *"The development shall be occupied as holiday accommodation only and shall not be occupied as a sole or main place of residence or by any persons exceeding a period of [INSERT] days in any calendar year.*
>
> *An up to date register shall be kept at the holiday accommodation hereby permitted and be made available for inspection by the local planning authority upon request. The register shall contain details of the names of all of the occupiers of the accommodation, their main home addresses and their date of arrival and departure from the accommodation".*

It is recommended therefore that the above PINS model condition should be applied in this instance, and we suggest that the council maintain a period of 4 weeks, as per the current condition until such time that the Applicant can produce tangible evidence to support their claim that 'the business' is unviable or that there is indeed demand for tourist accommodation in this location, requiring longer than 4 weeks in a calendar year.

Yours faithfully,

[redacted]

KAREN TIPPER
BA(Hons) MA MRTPI
Senior Associate
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