Horsham District Council

DELEGATED APPLICATIONS - ASSESSMENT SHEET

APPLICATION NO./ADDRESS:
DC/24/0716
Horse Ghylls Wood Farm, Capel Road, Rusper, West Sussex, RH12 4PZ

DESCRIPTION:
Retrospective application for the regularisation of the use of the small office building; Regularisation of the use of the large barn for dog-related uses (indoor arena; shop; and workshop/storage); Regularisation of the open storage of 6no. containers for self-storage; Regularisation of the open storage on land of up to 6no. buses; Regularisation of the open storage on land or up to 9no. caravans/ trailers; and amendments to the external appearance of small office building

RELEVANT PLANNING HISTORY:

DC/18/0617	Proposed change of use of land from agricultural to equestrian. Retention of a hardstanding surfaced yard for parking/storage of a horse transporter and associated car parking. The erection of stables, construction of a sand school and the erection of a storage barn with ancillary office/mess facilities along with associated land re-profiling. (Part Retrospective).	Application Permitted on 23.07.2018
DISC/18/0399	Approval of details reserved by condition 4 to approved application DC/18/0617	Application Permitted on 11.04.2019
DISC/19/0185	Approval of details reserved by condition 2 to approved application DC/18/0617	Application Permitted on 06.08.2019
DC/19/2190	Retention of 2no. stable buildings and the use of the buildings and the land to the east as a dog daycare/enrichment/training centre	Application Permitted on 13.03.2020
DC/20/1755	Prior notification for the erection of 4 bay general purpose agricultural storage building.	Prior Approval Not Required on 09.10.2020
DC/21/1290	Retention and conversion of 2 existing stable buildings and the use of the buildings and the land to the east and south as a dog daycare centre	Application Refused on 15.09.2021
DC/22/0610	Retention and conversion of 2 existing stable buildings. Change of use of the buildings and the land to the east and south as a dog daycare centre.	Pending Consideration

SITE AND SURROUNDS

The application site is located to the south of Capel Road, outside of the designated built-up area boundary. The site therefore lies within a countryside location in policy terms. The site comprises 3no. stable buildings and an area of paddock land to the east of other stable and mess buildings used by an Equestrian Transport Company. Residential properties are located to the north of the site, with the northern boundary defined by mature trees. The site is accessed from the south of Capel Road, with areas of hardstanding provided to the south and west of the existing buildings. The wider area is characterised by open countryside, with woodland to the far north and east.

DETAILED DESCRIPTION

The application seeks permission for a number of changes of use retrospectively. This would include the change of use of the large equestrian barn (approved under DC/18/0617) to be in a mix of uses including an indoor arena for the dogs, a shop, workshop and storage use. The proposal would include the change of use of the utility storage and hay barn to office use and would include be comprised of four offices in total. Within the application site to the east of the office is a small timber outbuilding without planning permission and not mentioned in the submission, nevertheless this has been included in the block plan.

Part of the application would include a mix of storage uses including container storage, bus and vehicle storage and would include staff and visitor parking area. The proposal also incorporates storage for up to 9 trailer/caravans.

RELEVANT PLANNING POLICIES

The National Planning Policy Framework (NPPF)

Horsham District Planning Framework (2015):
Policy 1 - Strategic Policy: Sustainable Development
Policy 2 - Strategic Policy: Strategic Development
Policy 3 - Strategic Policy: Development Hierarchy
Policy 4 - Strategic Policy: Settlement Expansion
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 29 - Equestrian Development
Policy 32 - Strategic Policy: The Quality of New Development
Policy 33 - Development Principles
Policy 35 - Strategic Policy: Climate Change
Policy 36 - Strategic Policy: Appropriate Energy Use
Policy 37 - Sustainable Construction
Policy 40 - Sustainable Transport
Policy 41 - Parking
Policy 42 - Strategic Policy: Inclusive Communities

Rusper Neighbourhood Plan
Policy RUS1 – Spatial Plan
Policy RUS2 – Rural Diversification
Policy RUS3 – Design
Policy RUS5 – Green Infrastructure and Biodiversity
Policy RUS10 – Dark Skies

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

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:

- Provide information requested in the HRA

HDC Landscape Architect: No Objection

The site is located on the northernmost district boundary of West Sussex/Horsham bordering Surrey County Council/ Mole Valley District. It comprises a broadly rectangular parcel of land, approximately 1.2km northwest of Rusper and is accessed via Capel Road.

The sites' western and northern boundaries are defined by established vegetation. The eastern and southern boundaries are open to the wider countryside comprising of paddocks. Topographically, the site itself is flat while the wider landscape quickly falls to the south towards a priority habitat of deciduous woodland approximately 300 metres south of the southern boundary.

In terms of landscape impact, we note those arising from the storage of containers and buses to the west of the site where the previous approved application DC/18/0617 showed this space for a sand school.

While we note there is potential for views of the site from PRoW 1492 to the south, if previously approved landscaping is secured, impact on visual amenity will be reduced considerably and limited due to topography.

The changes in use within the buildings and subsequently alterations do not raise any concerns on landscape grounds. The external appearance of these are not detrimental to the landscape character.

Public Rights of Way (PRoW) footpath 1492 is located to the South along the northern boundary of the woodland mentioned above. This footpath also forms part of long distance trail the Sussex border path.

Previous landscape comments from DISC/18/0399 in response to the below submitted drawing state: *The submitted landscaping scheme allows for a suitable grass mix to the imported soil area and for a mixed native hedge to the east, west and southern boundaries. This approach is considered appropriate to the location and the submitted details are therefore considered acceptable.*

After receiving site photos, the boundary hedgerows to the east, south and west need to be strengthened with additional planting. The introduction of couple of trees within the hedge will be considered a positive addition in support of the landscape character of wooded ridge and RUS5: Green Infrastructure and Biodiversity. Any gaps in the hedgerow must be filled in unless supported by appropriate justification eg. for access.

The site is located within I2: Warnham and Rusper Wooded Ridge of the Horsham District Council Landscape Character Assessment (2003). Key characteristics include undulating wooded ridges, distinct escarpment to the north of Horsham, secretive wooded ghylls, strong pattern of shaws and hedgerows, intricate patchwork of small pasture fields. As above, to further support the boundaries of the site, in the interest of visual amenity and landscape character, we recommend including hedgerow trees. While we note the approved planting scheme above, it would be recommended that the hedge is strengthened delivering a double staggered row hedgerow using similar mix to the originally proposed.

Recommendation of condition.

HDC Compliance: Comments (*summary*)

The initial compliance case, concerning the alleged operation of a doggy daycare business not in accordance with the approved DC/19/2190, was assigned for investigation by the Environmental Health team. During a site visit, several additional potential breaches of planning control were observed:

- The equestrian barn appeared to have been converted into a dog daycare facility, shop, and other uses.
- A utility storage and hay barn, identified as a timber-clad building east of the main barn, seemed to have been repurposed as offices. It was also reported that the first-floor area had been

converted into a residential unit, although this was not confirmed during the visit. The current intention to use it as an office might indicate the cessation of the residential breach.
- Open-air storage of shipping containers and buses was noted on the property.
- There was further change of use of paddock land to the east, now functioning as a dog running enclosure.

The landowner, Mrs. Elizabeth O'Connor, was contacted and agreed to apply for planning permission for these developments. However, there was a delay in submitting the application due to her difficulty in finding an agent.

WSCC Highways: No objection
The site is located on Capel Road, a C-classified road subject to a speed restriction of 40 mph in this location. The site is served by an existing vehicular access point on Capel Road, and no alterations are proposed to this existing access arrangement. From inspection of WSCC mapping, there are no apparent visibility concerns with the existing point of access on to Capel Road. In addition, the proposes uses are not anticipated to give rise to a significant material intensification of use of the existing access, when compared with the pre-existing uses at this site.

This application is retrospective, with the Application Form stating that the proposed works were completed on 23/03/2020. An inspection of collision data provided to WSCC by Sussex Police from a period of the last five years reveals no recorded injury accidents within the vicinity of the site. Therefore, there is no evidence to suggest the existing access has been operating unsafely during this time or that the proposals would exacerbate an existing safety concern.

From inspection of the plans, the site exhibits ample space for the parking and turning of vehicles associated with the proposed uses at this site.

Conclusion
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 no transport grounds to resist the proposal.

Ecology Consultant: No Objection, subject to inclusion of conditions (*summary*)
The Planning Statement (Bell Cornwell, April 2024) was reviewed, and it was noted that the applicant did not provide an ecology report addressing the potential impacts on protected and Priority species and habitats, or identifying appropriate mitigation measures. The site, bordered by mature hedgerows and trees along Capel Road and partially along the western boundary with New Barn Farm, is subject to a retrospective application to regularize the use of buildings that do not impact ecological matters.

There is sufficient ecological information available to proceed with the determination, with no objections on ecological grounds, except for concerns related to Great Crested Newts, which are being addressed by the NatureSpace Partnership. This ensures that the Local Planning Authority (LPA) can meet its statutory duties, including its biodiversity duty under the NERC Act 2006.

However, the statement notes the absence of proposed biodiversity enhancements for protected and Priority species, which should have been included to ensure net biodiversity gains, as required by Paragraph 180d of the National Planning Policy Framework (December 2023). It is recommended that these enhancement measures be detailed in a Biodiversity Enhancement Layout and secured as a condition of any approval.

Southern Water: Comments
General comments and recommendations for the progression of the progression of how the development would deal with surface water run-off, installation of rainwater harvesting system and request for conditions relating to rainwater harvesting to prevent water contamination

Mole Valley District Council: No Objection

Parish Comments:

None received

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 10 of the Horsham District Planning Framework (HDPF) states, in part, 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.

In addition, 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 RUS2 of the Rusper Neighbourhood Plan states that proposals for the development of new business, commercial, community uses and flexible start-up business accommodation outside of the built-up area boundary of Rusper will be supported provided they adhere to other policies of the development plan.

The site is currently used for dog training and socialisation classes approved under DC/19/2190 which included a fenced outdoor area. The current application seeks a retrospective alteration to the use of the large barn on site approved under DC/18/0617 to be in a mix of uses including an indoor arena for the dogs, a shop, workshop and storage use. The application also seeks permission for the building which was previously a hay barn to four offices which would require some external alterations. The storage uses for the buses and containers would be to the westernmost part of the site and there would be a staff and visitor parking area to the southern part of the site. The proposal would represent retrospective change of use of the land from equestrian purposes to mixed use including shop, dog day care and storage.

The proposed development would contribute to a modest increase in activity in the countryside, though not substantially compared to lawful and previous uses of the site. In addition, the proposal would benefit the wider rural economy by providing smaller commercial units for local use, whilst diversifying an existing enterprise, and is considered to enable the sustainable development of the rural area, thus would be of an appropriate scale to the countryside character and location.

Design, Appearance and Landscape:

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 external alterations to the office and shop/dog arena would be modest and would not increase in additional built form on site. The structures would retain their rural character which would be appropriate for a rural business in the countryside. The storage of buses and storage containers would have a landscape impact and change the character of the site to a more informal mixed use appearance.

In terms of the storage of vehicles and containers: the Council's Landscape Officer has raised no objections to the development subject to the inclusion of conditions which seek to strengthen the existing hedgerows and soft landscaped site boundary treatments. This would be considered to screen the structures from the streetscene whilst retaining the open appearance of the site from the south. Subject to the inclusion of these conditions, there would be no objections to the proposal in regards to policies 25, 32 and 33 of the HDPF as the site would remain relatively enclosed, and the development would largely retain the rural appearance of the application site.

Amenity Impacts:

Policy 33 of the HDPF states that development should consider the scale, massing and orientation between buildings, respecting the amenities and sensitivities of neighbouring properties.

The nearest residential properties are located directly adjacent to the site, across the public highway, with residential properties located approximately 200m and 250m to the east and west respectively. Residential amenity for the purposes of planning does not focus solely on whether a statutory noise nuisance would occur as a result of the proposed development, but rather gives consideration to other forms of disturbance. Significant loss of amenity will often occur at lower levels of emission than would constitute a statutory nuisance. It is therefore important for planning authorities to consider properly, loss of amenity from noise in the planning process in a wider context and not just from the limited perspective of statutory nuisance.

The previous officer's report for DC/19/2190 considered the wider site to be within a noise-sensitive location but noted that the opening hours for the dog day care would be limited, with further restrictions on the times of drop off and pick up for the dog taxi service. It was further considered that the number of dogs on site should be restricted such that the intensity and level / type of noise resulting from an increased number of dogs on site would not detract from the character and ambience of the countryside location. The usage of the site would be altered to mixed use and would extend the material operations on site but this would not be considered to result in an increase in intensity of noise impact on site subject to the inclusion of conditions to control the use, number of dogs and hours of operations. There would be no objections to the proposal based on harm to the residential amenities of nearby properties subject to the inclusion of suitably worded conditions such that the proposal would not be in accordance to policy 33 of the HDPF.

Highways Impacts:

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

The application site benefits from an existing and established access to the south of Capel Road. The development would use the existing access. The Highways authority have been consulted as part of the application and have no objections to the proposal, with there being no evidence to suggest that this is operating unsafely or that the proposal would exacerbate such concern. It is considered that there is sufficient space on the site to provide for vehicle parking and turning. On this basis, it is not considered that the proposal would have an unacceptable impact on highway safety, or result in severe cumulative impacts on the operation of the highway network. The proposal is therefore considered to accord with Policy 41 of the Horsham District Planning Framework (2015).

Ecology:

Policy 31 of the HDPF states that Development proposals will be required to contribute to the enhancement of existing biodiversity, and should create and manage new habitats where appropriate. The Council will support new development which retains and /or enhances significant features of nature conservation on development sites. The Council will also support development which makes a positive contribution to biodiversity through the creation of green spaces, and linkages between habitats to create local and regional ecological networks.

The Council's Ecological consultant has noted that there is no ecological report supplied by the applicant in support of this application. This retrospective application seeks to regularise the use of buildings on site which do not impact on ecological matters. As such, they have no objections on ecological matters excluding Great Crested Newt. It is considered in this instance however that given the nature of the application is retrospective further consultation with Naturespace is not required, given that any harm to Great Crested Newts on site is already likely to have occurred. Overall, there are no objections to the proposal in respect of harm to protected species on site.

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 information submitted in respect of the existing baseline water usage is insufficient to provide certainty with regards to usage. The Water Neutrality statement advances its baseline on what horses on site could theoretically drink. It has been noted that there are no horses on site however and it is understood from planning history research and the information within the present submission that there have been no horses on site for a number of years. Similarly, the statement notes that 'up to 10 member of staff would have been on site' but have no evidence that there were this number of staff on site using water. Furthermore, the statement notes a pressure washer usage for washing vehicles for horses whose presence within the site has not been evidenced. As such, the existing usage on site was considered to be nil.

The proposed usage is alleged to comprise 69l/day and includes 6 members of staff and 30litres/day for the dog arena usage. No usage has been put forth for the office space, shop or the storage uses on site. It is not known what would be stored within the storage containers or if staff would be present on site in this regard for loading/unloading of goods. Lack of information submitted in respect of the existing usage, proposed usage, number of staff on site, fixtures and fittings such that the proposed uses on site are likely to result in additional abstraction of water, although it is not known how much more this would be. In any case, it is unlikely that the proposal has demonstrated sufficient mitigation measures to demonstrate water neutrality.

In the absence of a detailed strategy setting out how the applicant intends to demonstrate water neutrality, the Local Planning Authority is not currently in a position to ascertain whether or not the proposal would result in an adverse impact on the integrity of the interest features of the Arun Valley SPA, SAC & Ramsar site from the development either alone or in combination with other plans and projects.

With the above in mind, there is no certainty that the proposal will not contribute further to the existing adverse effect on the Arun Valley SAC, SPA and Ramsar sites, contrary to Policy 31 of the HDPF and NPPF paragraphs 185 and 186.

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 application form submitted highlights that the proposal is retrospective in nature such that it is exempt from Biodiversity net gain requirements.

Conclusions and Planning Balance:

The proposed development would contribute to the rural economy and enable sustainable development of the rural location. The proposal is considered to be of a scale appropriate for the countryside location, and is not considered to result in a cumulative increase in the level of activity in the countryside location. Subject to appropriately worded conditions, the proposal is not considered to result in harm to the amenities or sensitivities of neighbouring properties, and the proposal is not considered to result in harm to the function and safety of the highway network.

Notwithstanding the information submitted, in the absence of demonstrating water neutrality, the proposal would adversely affect the integrity of the Arun Valley SAC, Arun Valley SPA, and Arun Valley Ramsar site. This adverse impact on these protected sites is afforded significant weight, as approving such a scheme without demonstrating water neutrality would (cumulatively) result in irreversible harm to and loss of habitats and protected species. In such circumstances the grant of permission would be contrary to Policy 31 of the HDPF, NPPF paragraph 185 and the Council's obligations under the Conservation of Habitats and Species Regulations 2017.

Recommendation: Application Refused

Reason for Refusal:

1. Notwithstanding information submitted, 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 (2023), 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).

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/24/0716
Schedule of plans/documents **not approved**:

Plan Type	Description	Drawing Number	Received Date
Supporting Statement	Water Neutrality	none	28.06.2024
Location plan		NONE	07.05.2024
Floor plan	Existing	D 0324/688/05	07.05.2024
Floor plan	Existing	D 0324/688/03	07.05.2024
Floor plan	Existing	D 0324/688/02	07.05.2024
Roof plan	Existing	D 0324/688/04	07.05.2024
Elevation plan	Existing	16003/002P B	07.05.2024
Location & Block plan		D 0324/688/01	07.05.2024
Supporting Statement	Planning	NONE	07.05.2024

DELEGATED

Case Officer sign/initial Hannah Darley Date: 16/08/2024

Authorising Officer sign/initial RHERMITAGE Date: 23.08.2024