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Ms Shazia Penne
Planning Officer
Horsham District Council

Our ref: 4388

Sent by email:
[redacted]
planning@horsham.gov.uk

30 December 2024

Dear Shazia,
DC/24/1499 Removal of Condition 4 of previously approved application CG/33/94 (Erection of stables and haybarn) relating to the tie to the existing dwelling at Tanglewood.

We write on behalf of **Forest Grange Private Road Limited** (FGPRL) and **Forest Grange (Horsham) Management Company Ltd** (FGHMCL) and following our letter of 11 November 2024. We have been notified that the application is due to be considered at the Development Management Planning Committee on 7 January 2025. We also note that the Applicant has submitted a revised Planning Statement (November 2024) with the original Planning Statement now removed from the Planning Register. We request that the original Planning Statement is made public again, at the earliest opportunity, otherwise interested parties may be prejudiced in their ability to comment on the amendments made.

Whilst we do not object to the Council's recommendation in principle, we do wish to comment on a few matters that were raised in our letter of 11 November and which have not been taken into account. Those matters raised are material considerations which the LPA need to consider, not least to potentially avoid challenge.

The Development Description for the development is for the 'removal' of condition 4 and this is followed through into the Committee Report. This is at odds to the Officer's recommendation which is to **'vary'** the planning condition. This terminology is important as the operative part of

the planning application – the development description – is therefore incorrect. We draw the council's attention to the recent Court of Appeal (Civil Division) judgment (***Test Valley BC v Fiske [2024] EWCA Civ 1541***) wherein LJ Holgate concluded that it is *ultra vires* where conditions are inconsistent in a material way with the operative part of the original permission. We therefore request, again, that the development description be amended to state that permission is sought for the variation of condition 4.

Additionally, the red line indicated by the Applicant on the submitted drawing entitled *"Existing location plan"* and dated September 2024 has not been updated, as previously requested by us in our letter of 11 November and continues to inaccurately reflect the extent of the application site indicated on the Location Plan approved by CG/33/94 to which this application relates and seeks to amend. This is important, as the application has been submitted under the scope of Section 73 of the Town and Country Planning Act 1990 (as amended) and not as a new Full Planning Application. This means that the Applicant can only amend the planning permission as originally granted. As the original permission did not include a condition listing the approved drawings (as was usual at that time) it is even more important that the scope of this variation is clear. Failure to amend the Location Plan will result in the grant of a new planning permission with a scope of development exceeding that which was granted by the original permission and which in our view would be *ultra vires.*

Further, the matter of the red line is critical, as it encompasses land outside of the ownership of the applicant and within the ownership of my client, and which was also raised in our letter dated 11 November 2024. This error has additional implications for the control of development by condition. For example, recommended condition 4 (previous condition 5 to CG/33/94) as set out in the Committee Report controls the location of waste and manure storage and burning so that it is not within 30m of nearby residential properties. To date, the Applicant has placed waste and manure on land outside their ownership, but which falls within the red line shown inaccurately on the Location Plan. Whilst the LPA may wish to assume this to be a private matter, it is entirely incumbent upon the LPA to ensure that permission is only granted on land which falls within the scope of Section 73 and within the control of the applicant. To avoid the potential for future dispute, it is recommended that the LPA and Planning Committee take this opportunity to secure

details of where waste and manure is to be located, so that it is confirmed to be wholly within the land owned by the applicant and within the scope of the original planning permission.

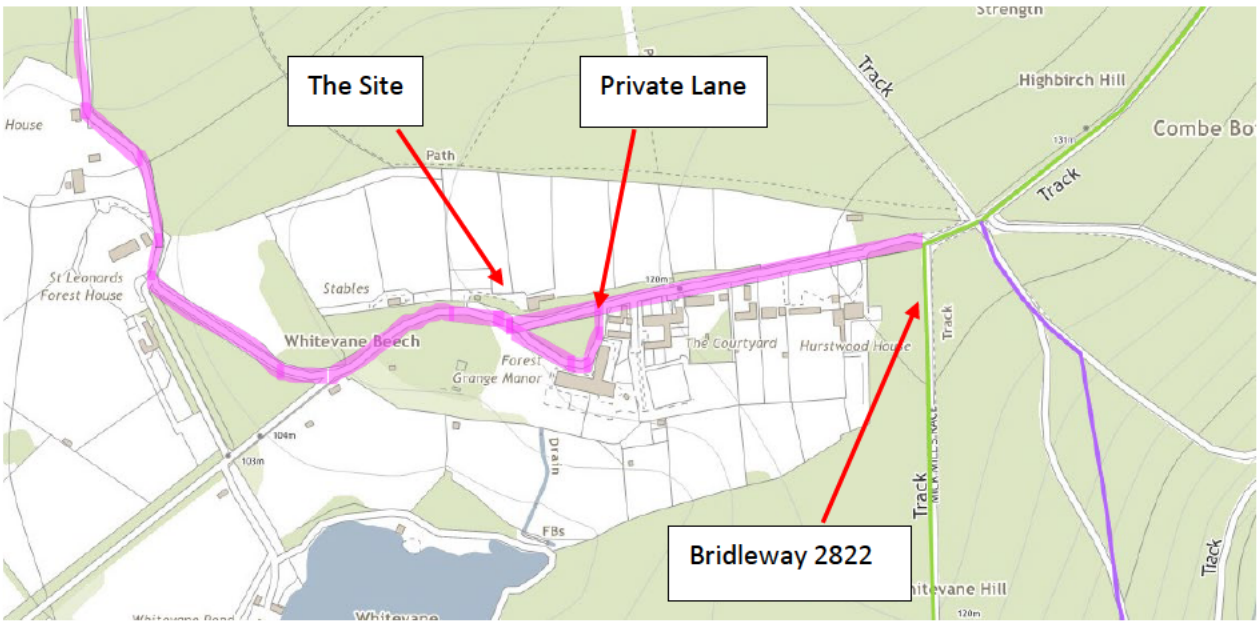
We note from the online Planning Register that the applicant has submitted a revised Planning Statement (Version 1, dated November 2024) and which was uploaded to the Planning Register on 20 November 2024. However, the Applicant's original Planning Statement has been removed from the Register and as such it is not possible for interested parties, such as my client, to ascertain what amendments have been made, and as such are prejudiced by this omission. We ask that the original (now superseded) Planning Statement is made public so that we have the opportunity to consider the changes advanced by the Applicant prior to Planning Committee.

In respect of the Applicant's revised Planning Statement, we note at paragraph 6.25 that they state: "*As with the design and appearance, no changes are proposed in relation to the use of the building / site as private stabling. As such, the removal of the condition would not result in any additional activities or alter the current context which would be potentially harmful to neighbouring amenity. The application is therefore considered to be acceptable in this regard.*". This statement is inconsistent with other statements made by the Applicant in their other applications currently at appeal (DC/23/2234 and DC/24/0974) wherein they are retrospectively seeking permission for a Boot Camp and 2no. settled Gypsy pitches respectively. Their statement is furthermore at odds with the Applicant's recently erected gates (erected 19 December) as shown in the photo below, which clearly illustrates the Applicant's intention to use the site as a stud (a commercial enterprise).



Therefore, the use of the site is not proposed to be retained as private stabling, and the removal (as sought by the applicant) and not variation would alter the activities and potential harm to neighbouring amenity. This reinforces the requirement for the Development Description and red line to be amended to ensure that it refers to a variation of condition.

Further, at paragraph 6.27, the Applicant states that "*No alterations to the existing access from the private road are proposed. Given the nature of the application, it is therefore considered that the removal of the condition would not result in any marked increase in trips to or from the site or any highway safety issues. In addition, and as detailed above, the site is located in close proximity to a formal Bridleway located to the east. The application is therefore considered to be acceptable in this regard*". As the land is no longer tied to the dwelling known as Tanglewood, the Applicant does not have any right of access over third-party land to access the bridleway to the east, as illustrated in the map below. Therefore, in order for the applicant to make use of the bridleway network within St Leonards Forest, they will need to transport their horses.



Our letter of 11 November 2024 set out our client's comments on the application and which remain valid. However, as those comments do not appear to have been taken into account, we respectfully request that the LPA consider the reiterated points contained within this letter and action those points prior to Development Management Planning Committee on 7 January 2024.

Finally, we request that Officers and Committee Members seriously consider the proposed wording of Condition 1, as set out in the Committee Report, in light of the Applicants change from 'Tanglewood Equestrian' to 'Oaklands Stud' together with the continued breach of planning control in respect of the residential use taking place on site, to ensure that **all** commercial activities are controlled and not just 'riding', as the Applicant's intended stud could be outside the scope of the current recommended condition. We have set out below an alternative wording:

"The stables and sandschool hereby permitted shall only be used for private equestrian purposes and shall not be let out or used for residential or any commercial purposes, or in connection with any form of riding establishment, stud or livery. Reason: In the interests of amenity and to enable the Local Planning Authority to regulate and control the development and in accordance with Policy 26, 29, 30 and 33 of the Horsham District Planning Framework (2015)".

Yours sincerely,

[redacted]

KAREN TIPPER BA(Hons) MA MRTPI
Senior Associate
[redacted]

Sent on behalf of Forest Grange Private Road Limited and Forest Grange (Horsham) Management Company Ltd

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