Horsham District Council

DELEGATED APPLICATIONS - ASSESSMENT SHEET

APPLICATION NO./ADDRESS:
DISC/24/0096
Leonardslee Gardens Brighton Road Lower Beeding West Sussex RH13 6PP

DESCRIPTION:
Approval of details pursuant to condition 7 (Noise Management Plan) of planning permission DC/22/1003 (Variation of previously approved application DC/20/0119 (compound with adjoining staff car park)).

DETAILED DESCRIPTION:

Planning Application DC/22/1003 was permitted on 10th July 2023. This permitted variation of Condition 1 of previously approved application DC/20/0119 (Construction of security gates and 3No. barns and enlargement of the associated gardeners' compound with adjoining staff car park). This permission was subject to operational limitations via the imposing of planning conditions, including hours of operation and authorised planning use of the development.

Approval is now sought for details pursuant to condition 7 (Noise Management Plan). The details submitted comprise a Noise Management Plan by Leonardslee Lakes and Gardens (the latest version dated 23.08.24 (Rev B)), the details of which have been subject to negotiations with Horsham District Council informed by the representations received.

RELEVANT PLANNING HISTORY:

DC/22/1003	Variation of Condition 1 of previously approved application DC/20/0119 (Construction of security gates and 3No. barns and enlargement of the associated gardeners' compound with adjoining staff car park) Variations include; fenestration and ridge height, additional open sided shelter and decking, air source heat pump, and PV panels	Permitted 27/09/2022

REPRESENTATIONS

HDC Environmental Health (subsequent to earlier consultations) dated 21st August 2024:

Reviewed noise management plan (NMP) dated 05.08.24 and have following comments:
1. Operating hours detailed are in line with permitted hours as stipulated in condition 21 of DC/22/1003.
2. Our comments on previous noise management plans dated 19.04.24 and 05.06.24 have been addressed.
3. Environmental Health provided further comments on this discharge of condition application in an email dated 31.07.24 and understand that above mentioned NMP was submitted to address these comments.
4. Welcome amendments, however, from reviewing consider matters detailed in our email have not been fully addressed. Our recommendation therefore is that LPA take this into account when they make their decision on the discharge of this condition.

31st July 2024:
Further to formal comments on this discharge of application dated 18.06.24 further comments to make.
1. Due to subsequent information from representatives we request further information in the noise

management plan (NMP). 2. Would like more clarity in the noise management plan on the operational side of events, in particular how the late events are managed, how the compound is used during these late events etc. 3. Would also be grateful for further detail on the car park associated with the compound, how and when it is used etc. Understand condition 7 is yet to be formally discharged. Appreciate that this is contrary to previous comments, however in light of recent information from representatives recommend the condition is not discharged until a revised NMP has been provided to the satisfaction of the LPA.

18th June 2024:
Environmental Health have reviewed the above-mentioned report and we have the following comments to make: 1. The operating hours detailed are in line with the permitted hours as stipulated in condition 21 of DC/22/1003. 2. Our comments on the previous noise management plans dated 19.04.24 and 05.06.24 have now been addressed. Given the above Environmental Health are satisfied that condition 7 of DC/22/1003 can be formally discharged.

5th June 2024:
1. The operating hours detailed are in line with the permitted hours as stipulated in condition 21 of DC/22/1003 – the hours detailed in the Noise Management Plan are therefore acceptable to Environmental Health.
2. From reviewing the above information it is however not clear who is responsible for implementing the management plan and ensuring it is followed. This should be a person with an appropriate level of authority and responsibility – would be grateful if information of this nature can be provided.
3. Note the comment 'Small vehicles are used during the working day'. It is not clear to Environmental Health what the relevance of this comment is.
4. In the section titled 'Operation of AC & Fan equipment' are of the view that there should also be a comment stating that extract fans, fixed plant etc will not be audible beyond the site boundary.
5. Note that the a noise complaint form is provided which is welcomed. This form should include a numbers, both office hours and out of hours during events, for residents to call.

Representations:
7 Objections received from separate property addresses; content summarised below:

- Loss of General Amenity
- Other
- Privacy Light and Noise

The HDC officer report of 10th July 2020 quite clearly stated "to avoid harmful noise and disturbance impacts it is therefore necessary to impose restrictions on the operation of the barn buildings and car park. Working hours for the garden staff are 07:30 - 16:30 on weekdays only and therefore it is expected that the use of the car park will be during these times with some minor extensions beyond these times for certain occasions. At present the garden staff do not work at weekends but it may be that occasional use at weekends by perhaps two or three staff may occur in the future at the very most". This was your own officers report to prevent loss of amenity.

HDC seem to have 'approved' use of the barn buildings and car park from 07:00 to 19:00 for seven days a week and additionally for use 'at other times to suit events being held'. So what you are approving is a loss of amenity to local residents in favour of one individual business.

The loss of amenity is compounded by the fact that the barn buildings and car park are not being used by the garden staff for which the planning approval was given but for all and sundry in connections with the very intrusive events laid on by Leonardslee Gardens. Residents have recorded interference as early as 06:30 and with the recent cinema nights approaching mid-night. This is without doubt a loss of amenity, a breach of the yet to be signed off noise management plan and a very clear indication that whatever restrictions are put in place, Leonardslee Gardens are going to do whatever they please.

The other very clear salient point is that the barn was approved for B8 garden use and not for events which it is very clearly being used for. To prevent loss of amenity to residents, as highlighted in the HDC officer report, the times of use for the barn buildings and associated car park should be

STRICTLY restricted to the times given in that report i.e. 07:30 -16:30 Monday to Friday and occasional weekend use by a maximum of 3 people. Those weekend times should be clearly noted and restricted to times no earlier than 08:00 and no later than 13:00 to prevent the loss of amenity that is currently occurring on a daily basis at times well in excess of the original HDC report recommendations.

It should also be highlighted that in addition to the general loss of amenity through the excessive use of the barn by non gardening staff, the local residents also suffer loss of amenity through the ever increasing number of events which are being planned and executed at times that cannot be considered as being neighbourly or needed for a rural location. To provide an example, cinema nights go on until 23:30 after which time there is a rush of traffic leaving the event. There have also been several alarm events.

As residents we have a log of the noise events (which have been forwarded on many occasions to the Environmental Health team) which until such time as the Noise Management Plan has been signed off, should not even be happening because it is a pre occupation condition. This further highlights that Leonardslee Gardens are not taking one iota of notice of planning requirements, conditions or restrictions.

7am start is too early conversely a 6pm finish is too late especially so in winter time. Heavy vehicles should be time restricted especially as they will be so close to the neighbours. going to be hell to live next door to. We have already been subjected to years of ongoing construction work and quite frankly didn't move to the area 15 years ago to put up with this. If we had been made aware of the original plans for this site in the first place instead of searching through the council website for info then we would of objected to the whole thing years ago, but we were not...and now have to live next door to a construction site. Its unfair and selfish that this development was placed where it was with no consultation with neighbouring properties seeing as they have 100's of acres of land available to them

Sunday 26th/Monday 27th May (Bank Holiday) - Machinery working on site sporadically throughout the whole weekend. over commercialisation of this Grade 1 listed garden in the High Weald Area of Outstanding Natural Beauty. The barn approved for B8 garden use and not for events which it is very clearly being used for.

So are HDC going to approve a loss of amenity to the local residents (some of which only have a fence between them and the source of the noise) or will you act on your original report recommendations that serious restrictions need to be in place to prevent loss of amenity? This is not the first time they have total ignored Horsham Planning permission conditions, it 2 would possibly suggest that they perceive the HDC is powerless in actually enforcing these conditions.

Policy 17 of the Lower Beeding Local Plan (LBLP) relates to existing employment sites with clause 7.9 notes development proposals for conversion of existing buildings and the small scale development and expansion of existing businesses.
Clause 7.10 notes that Lower Beeding Parish Council are particularly concerned that nuisance to residential neighbours is not caused by industrial use - present or future.

Policy 18 of the LBLP notes employment development would be supported where (note 3) proposals have no significant detrimental impact on residential amenity.

Starting at 0700 hrs is an unacceptable because due to the noise likely to be raised at that time of the morning, it presents harm to the amenity of occupiers in nearby properties, some of which are only a matter of a few metres from the building which has been allowed.
This is contradictory to HDC Planning Framework Policy 33 and Lower Beeding Local Plan Policy 17 and 18 because it impinges on the amenity of the residents in the properties located on the boundary and in the near vicinity of the boundary.
Leonardslee Gardens is a site of some 240 acres and yet permission was granted to build a facility of disproportionate scale to any surrounding buildings on or around the area within a few metres of where normal people reside.
The facility has roller shutter doors which are akin to an industrial estate and make a considerable noise when operated. Operation of these doors is highly likely to be at the start and end of any working day.
This will create noise, nuisance and have a detrimental impact on the residential amenity. The approval of roller shutter doors also makes the facility an industrial use.
With a start time of 0700 hrs it is reasonable to assume that staff using the facility will arrive in advance of 0700 hrs so there will be car noise, door shutting, potential raised voices.
Again, the approved plans have placed the staff parking area virtually on top of a residential property so it is reasonable to assume that the above noted noise prior to 0700 hrs will have a direct detrimental effect on the residential amenity which is in direct conflict with LBLP Policy 18 and HDCPF Policy 33

The opening times of Leonardslee Gardens are published as 0900 hrs to 1700 hrs 31st March to 27th October and 0900 hrs to 1600 hrs 29th October to 30th March with a single day's closure on 25th December.
Therefore the potential for the disturbance to residential amenity is 364 days per year and 365 days on a leap year.
With the Gardens opening time being listed as 0900 hrs there is no justification for staff to be arriving 2 hours prior to opening.
A more acceptable and reasonable time would be 0830 hrs considering the detrimental effect noted previously with staff arriving earlier.

We would emphatically object in the strongest possible terms to the sentence "and at other times only to service special advertised events open to the public taking place within the estate"
The facility has been granted permission on the basis of it's use being class B8 which is agricultural use. The use of the facility for non agricultural or horticultural reasons would be in direct conflict with the permitted use.

The vast majority of events that Leonardslee Gardens hold are of a use that could not be considered to be agricultural or horticultural with examples including but not limited to Jazz Nights, Cinema Nights, Illuminated, Oktoberfest.
The inference of "and at other times only to service special advertised events open to the public taking place within the estate" is that the facility will be used for non B8 reasons which as noted is in direct conflict of the permitted use.
Those events regularly extend past the normal opening hours and what could be considered normal working times for the gardening staff that would be using the facility for B8 use.

With an event being in direct conflict with it's permitted use, it is also therefore in direct conflict with LBLP Policy 18 and HDCPF Policy 33 because this unauthorised use will have a direct detrimental effect on the residential amenity.

The use for non B8 reasons could conceivably be considered as industrial use. Within the Planning approval, there was a Regulatory Condition (number 14) which is noted below.This highlights very clearly that it may only be used as B8 garden & equipment, compost and waste product storage.
For that reason alone, it's use after working hours of the Estate gardens would not be required.
However, quite specifically, to allow it's use for other times only to service special advertised events open to the public taking place within the estate would be in direct conflict with this Regulatory Condition because the events are not storage of garden equipment, compost or waste.
The majority of events held by Leonardslee Gardens fall outside of B8 use such as but not limited to Cinema Nights, Jazz Nights, Oktoberfest and Illuminated. These are Leisure and Entertainment style events which would are classed as D2. Therefore and the reason for the objection is that this facility should not be allowed to operate at other times only to service special advertised events open to the public taking place within the estate for any of these (or style of) events.
The Regulatory Condition further states that the facility shall not be used or operated as a separate or independent enterprise.
It is our understanding that the events mentioned above are operated by a separate company. They are not operated by Leonardslee Gardens. As such, the Regulatory Condition is again conflicted if these events are allowed to use the facility because they would be being used by a separate (and independent) enterprise.
As highlighted below, change of class would not be permitted due to the need to protect residential amenities under the HDPF.
The very fact that permission has been granted to build such a vast size facility within metres of residential property raises the question of how it was permitted in the first place but that matter aside it should not under any circumstances be allowed to be used for anything other than garden machinery and soil matter storage.

The Noise Management plan notes noise sources as:
- Large vehicles travelling to and from site
- Large vehicles and plant on site, specifically noting reversing bleepers
- Small vehicles traveling to and from the compound specifically noting that event setup will only take place during the normal working day

The Noise Management Plan makes no reference to the Acoustic Report that was required to be submitted with the plan.

During the course of the construction works, the pre 0800 hrs start time was not upheld for almost the entire duration of the project. Further, on at least one occasion, works were still being carried out at times up to 2100 hrs.

For this reason alone, a start time of 0700 hrs should be rejected because it has been made very clear that the amenity of the residents would be severely affected by the movement of large vehicles and noise generally. Even at 0800 hrs, Leonardslee Gardens have proved that they are unable or unwilling to attempt to comply with the start time.

Some examples of times during the construction period (there are more but this is just a selection). It should be highlighted that these were all reported to HDC Environmental Health but they decided not to act on the pre 0800 hrs Regulatory Condition on the basis that if the facility was open, they could start at 0700 hrs.

02.09.23 - loud singing / banging 2135 hrs to 2230 hrs
04.09.23 - 0715 hrs woken up by loud banging / clanging / pile driving
05.09.23 - 0705 hrs site access, loud voices, banging, cars / vehicles entering
15.09.23 - 0700 hrs site access, very loud voices, shouting, reversing vehicles
16.09.23 - 1745 hrs loud music to 2200 hrs comcluding with very loud public announcement

Illuminated - 30 day continuous evening event starting 1630 hrs with last entry 2015 hrs with cars leaving well past 2230 hrs.
This resulted in increased road noise, increased traffic at an atypical time, increased local air pollution, increased local particulate pollution and detrimental impact on dark skies.

01.12.23 - loud background music, nauseating smell of cooking until well past 2200 hrs
05.12.23 - 0705 hrs start on site, reversing trucks, loud shouting. Large trucks unloading 0745 hrs
06.12.23 - loud male voices early
07.12.23 - 0720 hrs male voices shouting, machinery being moved, reversing sounders
08.12.23 - 0715 hrs plant noises, machinery being operated, loud voices
09.12.23 - 2205 hrs large noisy machinery operating followed by car / 4x4 engine revving
11.12.23 - 0715 hrs heavy machinery entering site
12.12.23 - 0720 hrs heavy machinery entering site
13.12.23 - 0730 hrs articulated lorry entering site then unloading. Large noisy power tool being used. Lots of vehicles being moved.
13.12.23 - 2311 hrs large vehicle revving
17.12.23 - after 2200 hrs more vehicles being shunted about
19.12.23 - 1530 hrs - bass like sound very loud, well past 2130 hrs before it stopped

Over and above those, there is during the whole of the Illuminated event a general pervading noise from the diesel generators being used to provide lighting to the event tents.

Other Considerations

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

The applications seeks to discharge the details submitted pursuant to condition 7 (Noise Management Plan).

Condition 7 (Noise Management Plan)

Pre-Occupation Condition: The use hereby permitted shall not commence until a Noise Management Plan has been approved in writing by the Local Planning Authority. The Plan shall include but not be limited to, hours of operation, management responsibilities during all operating hours, measures to control noise from all activities and operations at the site (including the operation of any equipment, plant or building services) and minimising noise from vehicles, deliveries, collections and servicing. The Noise Management Plan shall be implemented and complied with thereafter for the duration of the use/development.

Reason: In order to ensure the protection of the amenities of nearby residents in accordance with Policy 33 of the Horsham District Planning Framework (2015) and Policies 17 and 18 of the Lower Beeding Neighbourhood Plan (2020)

The submitted Noise Management Plan (NMP), as authored by Leonardslee Lakes and Gardens, has been revised three times since the submission of the initial version which sought agreement from Horsham District Council (HDC). The revisions are in response to the need to address points raised by the Council's Environmental Protection team, as well informed by concerns submitted by residents. This has involved negotiations in meetings held between Officers and the Estate Manager and owners of Leonardslee Lakes and Gardens. The latest version is Revision B dated 23.08.2024.

It is important to note that the NMP is a mechanism by which to manage operations within the permitted hours as stipulated in condition 21 of DC/22/1003, in the interests of safeguarding the amenities of residents from unacceptable harms (such as noise and disturbance).

Nonetheless, HDC Officers and the owners of Leonardslee recognise condition 21 of DC/22/1003 is a common point of significant concern to local residents, in that it allows for some occupation and use of the compound within the hours of events being held at the Estate beyond the specified normal working hours permitted under condition 21. In recognition of this, the NMP qualifies the out of hours clause within Condition 21 by imposed an additional measure that explicitly prohibits use of the compound outside of the specified normal working hours unless in the event of an emergency.

This restriction significantly qualifies and limits the use of the compound outside of the specified operating hours imposed by condition 21 and is considered sufficient to address the concerns of neighbours around this particular issue and therefore negate amenity issues.

Additionally, there are several measures and controls within the NMP to address working practice across the operation and use of the compound and car park within the permitted hours, including prioritising parking in the car park farthest from the neighbour to the south and an internal disciplinary procedure for staff behaviour.

Neighbours have raised issue with the compound and car park being used by those other than garden staff. The planning permission DC/22/1003 did not restrict occupation of either. The NMP does not alter the authorised planning use of the compound. The scope of the NMP is limited to managing operations at the compound and associated car park. It is not to address impacts originating from elsewhere on the estate, such as the event field, as these matters do not form part of the planning permission.

It is not the purpose of the NMP to eliminate all impact - there may continue to be some minor residual impact (noise and disturbance) that cannot be mitigated, in reflection of the use that was permitted, and this formed part of the overall consideration of impacts at application stage. Acoustic measuring of noise from plant is controlled separately under condition 19.

The measures and controls set out in the NMP are judged sufficient to ensure the impacts of the development are within tolerance in the context of the backdrop of the permitted use of the compund, which is prescribed by condition 14 of DC/22/1003.

Conclusion

The submitted details pursuant to condition 7 are to the satisfaction of Horsham District Council Planning Officers, in consultation with Horsham District Environmental Health Officers and informed by representations received. The details pursuant to the condition are therefore acceptable.

Recommendation: Application Permitted

NOTES TO APPLICANT

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: DISC/24/0096
(The approved plans will form Condition 1 on the Decision Notice of all Permitted applications)

Schedule of plans/documents **approved**:

Plan Type	Description	Drawing Number	Received Date
Supporting Docs	Leonardslee Lakes and Gardens Noise Management Plan Dated 23.08.2024 (Rev B)		23.08.2024

DELEGATED

Case Officer sign/initial Matthew Porter Date: 30-08-2024

Authorising Officer sign/initial Adrian Smith Date: 30/08/2024