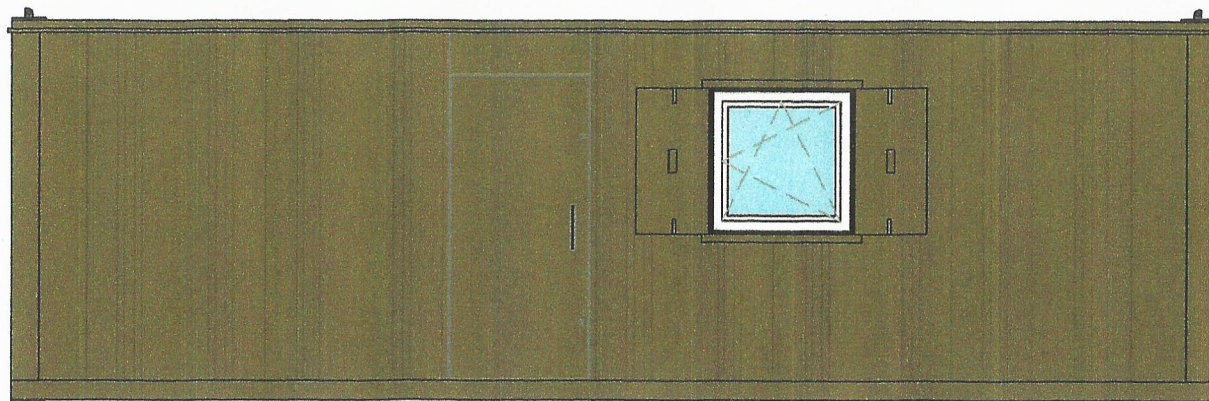
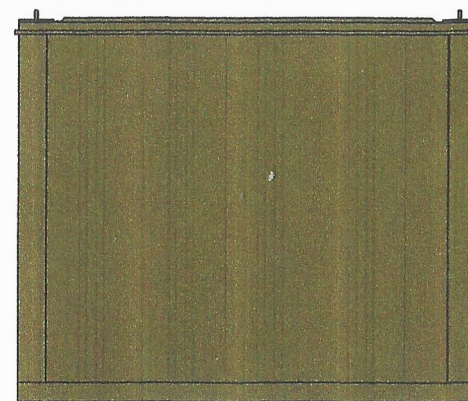
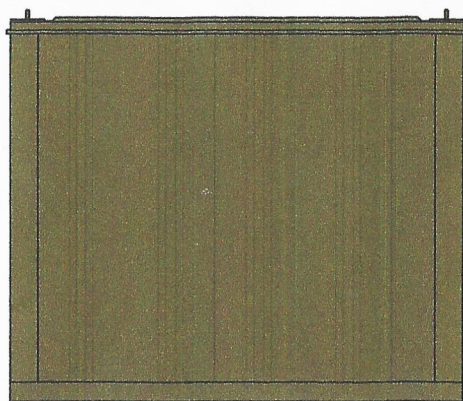




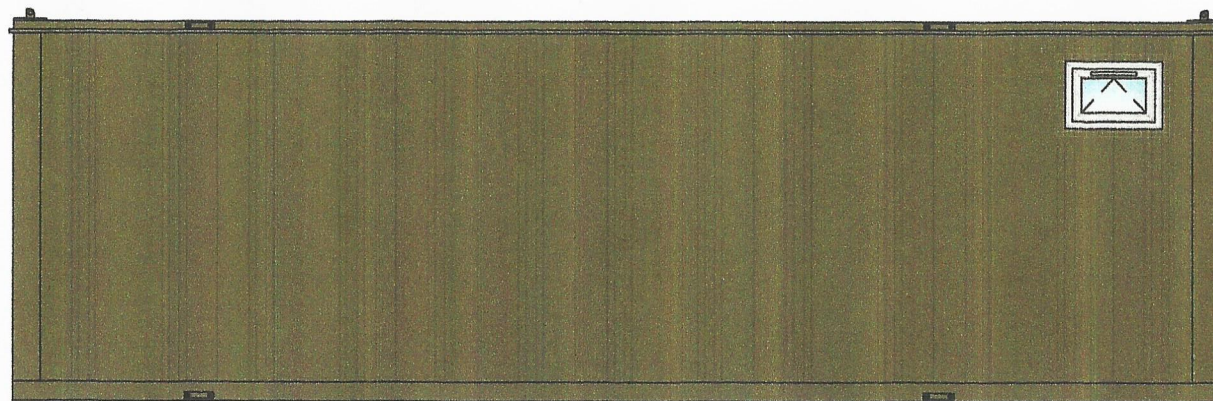
Front



Side



Side



Rear

Description:

SITING OF A RESIDENTIAL ACCOMMODATION UNIT FOR A TEMPORARY 36 MONTH PERIOD

WINDACRES FARM CHURCH STREET RUDGWICK WEST SUSSEX RH12 3EG

Title: **ELEVATIONS**

Date: **NOVEMBER 2017**

Dwg No: **WF/TRA/3** Scale: **1:50@A4**

From: Medecroft, Cox Green, Rudgwick, Horsham RH12 3DD

I object to this application (DC/21/0185), which fails on a number of counts.

The existing agricultural business has repeatedly been adjudicated as being insufficient to require on-site residential accommodation, in the countryside. In fact it has not been judged (on appeal) to even be sufficient to allow living in an on-site temporary container/cabin. So the proposal would be in breach of HDPF Policy 26.

The applicant is now proposing a new venture, poultry/eggs, asserting that this will require on-site living. If this business were ultimately to become established, then that on-site need may/may not be true, but the details of this new initiative are confidential and not in the public domain. However, for such ventures, it is standard practice to insist upon a period of consolidation/establishment of a few years before permission could be granted for a permanent residential structure. HDPF Policy 20 refers to 'established business use'; the new venture is not yet established. So, a permanent residence now cannot be justified. If the venture fails, or doesn't even start, it will be difficult to enforce removal of a permanent structure. That would be an undesirable situation. (PPS 7 Annex A still retains sound guidance which resonates with the NPPF).

But, what this new business venture could do, if it actually happens, would be to legitimise the presence of the cabin/container that the applicant continues to live in. In other words, the Covid-delayed enforcement to remove it, could be suspended whilst the poultry business is initiated and established over the next 2-3 years. That would be the only sensible outcome for this application.

Turning to the proposed dwelling. It is a massive property, almost 200 sq metres and twice the GIA of the previous application submitted under DC/20/1458 which was refused. It could easily be reconfigured to become a 5 bedroom property. If approved then a further application for a large double garage would follow. It would be an excessively large structure of inappropriate scale in the countryside. It therefore breaches the 2nd part of HDPF Policy 26.

The design of the building is more in keeping with the nearby Barleycroft Housing development. No attempt has been made to try and blend it into the countryside by (for example) making it appear as though a barn conversion (HDPF Policy 33 point 3)

Finally, the applicant maintains that since his home was demolished to make way for the Barleycroft development by Berkeley Homes plc that he has been 'homeless', apart from the container/cabin (subject of DC/20/1750).

Also, it is now being suggested that the most appropriate long-term housing solution for the applicant is to build a new home in the countryside, in an agricultural setting.

It should be noted that the applicant owns a 'building plot' within the built-up-area-boundary of Cox Green/Rudgwick (see attached plan). This plot already has direct access onto the B2128 and also backs on to the applicant's own Windacres farmland. This site is much more appropriate for development than the site now proposed as it could readily meet HDPF Policy 3. Permission to develop that site would not be dependent upon the proven need for an agricultural enterprise requiring close-by on-site workers and is a very short distance away.

Whilst it is accepted that RW/79/94 was refused permission, even after an appeal (see attached appeal decision), it is clear that this had more to do with the scale of the property within a relatively narrow plot, by the then Cox Green plot 'standards'. Since then there has been more infill development in Cox Green, and so there is now every probability, after 25 years have passed, that an application for a slightly more modest property would readily achieve planning permission. DC/20/1458 (refused) proposed that a bungalow would be appropriate accommodation, so a bungalow (or chalet bungalow) on the Cox Green site would seem admirably to meet the accommodation needs of the applicant.

These facts need to be borne in mind when evaluating the applicant's assertions regarding his housing situation and taken into account if there are any alleged Human Rights considerations.



The Planning Inspectorate

An Executive Agency in the Department of the Environment and the Welsh Office

Room 12/15
Tollgate House
Houlton Street
Bristol BS2 9DJ

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Fax No 0117-987 8443
GTN 1374

District Planning Officer
Horsham District Council
New Park House
North Street
Horsham
West Sussex
RH12 1RL

Your Ref:
RW/79/94
Our Ref:
APP/Z3825/A/95/250264

Date: 20 July 1995

Dear Sir

TOWN AND COUNTRY PLANNING ACT 1990
APPEAL BY MR J W BAILEY.
SITE AT LAND BETWEEN TRUNDLE MEAD & APRIL RISE, COX GREEN,
RUDGWICK.

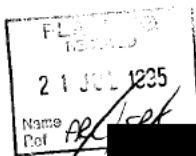
I enclose a copy of the Inspector's decision letter.

Yours faithfully

[REDACTED]
M E IRELAND

212A

ENC 1





The Planning Inspectorate

An Executive Agency in the Department of the Environment and the Welsh Office

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GTN 1374-8927

Mr A S Tomlins
Black Horse Agencies
Messrs Geering & Colyer
34 South Street
HORSHAM
West Sussex RH12 1NT

Your Ref:
AST/JB/R.10(92)
Our Ref:
T/APP/Z3825/A/95/250264/P8

Date:

20 JUL 1995

Dear Sir

TOWN AND COUNTRY PLANNING ACT 1990, SECTION 78 AND SCHEDULE 6
APPEAL BY MR J W BAILEY
APPLICATION NO: RW/79/94

1. I have been appointed by the Secretary of State for the Environment to determine this appeal against the decision of Horsham District Council to refuse outline planning permission for the erection of a detached house and garage on land between "Trundle Mead" and "April Rise", Cox Green, Rudgwick, West Sussex. All detailed matters were reserved for later consideration, although an illustrative layout plan was submitted. I have considered the written representations made by you and the Council, and also those made by Rudgwick Parish Council and by other interested persons, including those which have been made directly to the District Council and forwarded to me. I inspected the site on 10 July 1995.
2. From my consideration of the written representations, and my inspection of the site and its surroundings, I have formed the view that the main issue in this case is the impact of the proposed development on the character of the locality.
3. The Cox Green area was transferred to the Horsham District of West Sussex in 1993. The County Structure Plan includes provisions that development should relate sympathetically to the existing built environment, and that over-intensive development will be resisted. While I understand that the Mole Valley Rural Areas Local Plan remains the statutory local plan for the area, that plan was prepared and adopted by the former local planning authority, and is in the process of being superseded by the Horsham District Local Plan. This plan, which has reached the public local inquiry stage in its preparation, contains a draft policy (HS10) permitting residential development, including infilling, within defined built up areas, which include Rudgwick, provided that its design and layout is in accordance with the character of the surrounding area, and that certain other criteria are met. One of these is that the plot size of the

100%



RECYCLED PAPER

new dwellings is not significantly smaller than others in the locality. The draft plan also includes a specific chapter relating to the Rudgwick area.

4. The appeal site is located along Church Street, close to the northern edge of Rudgwick village. This section of Church Street is characterised by a continuous frontage of relatively low density ribbon development, consisting mainly of detached houses and bungalows of a mixture of styles and designs, set on plots of varying sizes. Well established trees, hedgerows and other vegetation which screen most of the properties from the road help to give the area a semi-rural character. The appeal site itself consists of an open paddock, with a frontage to Church Street of some 14m, and a depth of about 53m. The boundary with "April Rise", the bungalow immediately to the south west, is thickly screened by natural vegetation, but there is only a close boarded fence separating the site from "Trundle Mead", the adjacent house on the other side.

5. The first question that I have considered is whether the proposed development would appear cramped in comparison with other properties in the locality. While many of the original properties along this part of Church Street are situated on much larger and wider plots, it is clear that some infilling and redevelopment has subsequently taken place. You have drawn attention to a number of dwellings which have been built on relatively narrow plots, although not all of them are quite as narrow as the appeal site. However, many of these properties are reasonably well separated from at least one of their neighbours, and in some cases the juxtaposition of houses and bungalows also helps to avoid the creation of a cramped appearance. In addition, most of them are well screened, and some are rather further from the road than the proposed house would be likely to be.

6. Both "April Rise" and "Trundle Mead" are located very close to the respective side boundaries of the appeal site, which is at present almost wholly open to the road. The proximity of the proposed new house to "Trundle Mead" would be particularly apparent, and I regard the visual relationship that would be created between the two houses as one more suited to a suburban estate than to a semi-rural area. While there would be scope for new planting to create screening along the frontage, there would be less room for this to be done along the side boundary. Moreover, apart from "Trundle Mead" and one other proposed house, the properties in the vicinity are situated on plots which are much deeper than the appeal site, and while I do not consider that this would affect the appearance of the proposed development from the road, the requirements of draft policy HS 10 relating to plot size would not in my view be met.

7. I also have to consider the effect of policy RW2 in the Rudgwick chapter of the draft local plan. This provides that development within Cox Green will not normally be permitted if it would undermine the existing character of large dwellings

within single plots fronting Church Street. I recognise that this draft policy has been introduced into the plan relatively recently, and is the subject of an objection, and for this reason I attach less weight to it than to the other policies to which I have referred. Nevertheless, PPG 3 envisages the inclusion of policies of this nature in local plans where local planning authorities consider that the character of a residential area is under threat. The Council have said that they are concerned about the precedent effect of allowing this appeal at the present time, and while you have argued that there is little scope for further infilling in the locality, there is clearly scope for a number of existing properties to be demolished, and for their sites to be redeveloped at a higher density. I have little doubt that allowing the appeal would encourage development of this kind, and I consider that this is an issue of general significance which would be better left to the local plan process.

8. I do not regard any of these considerations as decisive on its own. In particular, I recognise that new planting along the frontage of the appeal site could be used to minimise the visual impact of the proposed house, and hide its proximity to "Trundle Mead", although this would take time to mature, and the limited scope for screening along the side boundary might even then restrict its effectiveness. However, taken together, they have led me to conclude that allowing the proposed development at the present time would have a harmful impact on the character of the locality.

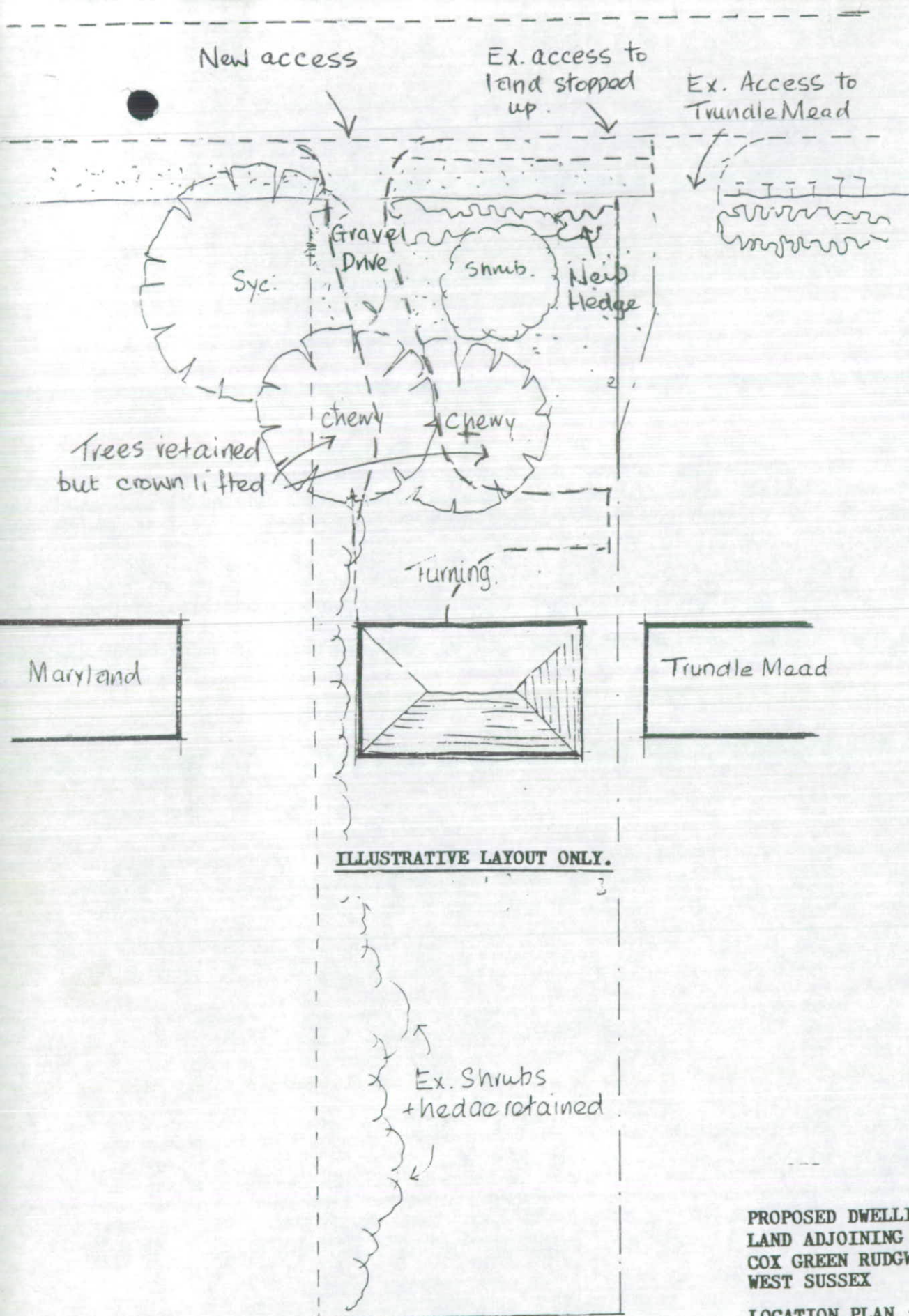
9. I have also considered the impact of the proposed development on the amenities of the occupiers of "Trundle Mead", but while I can understand their concern, the relationship between the two houses would not be an unusual one, and I do not consider that they would be affected to an unreasonable extent by what is proposed. However, this does not affect my conclusion about its impact on the locality in general. I have taken into account all the other matters raised in the written representations, but they do not alter the conclusions that I have reached.

10. For the above reasons, and in exercise of the powers transferred to me, I hereby dismiss this appeal.

Yours Faithfully



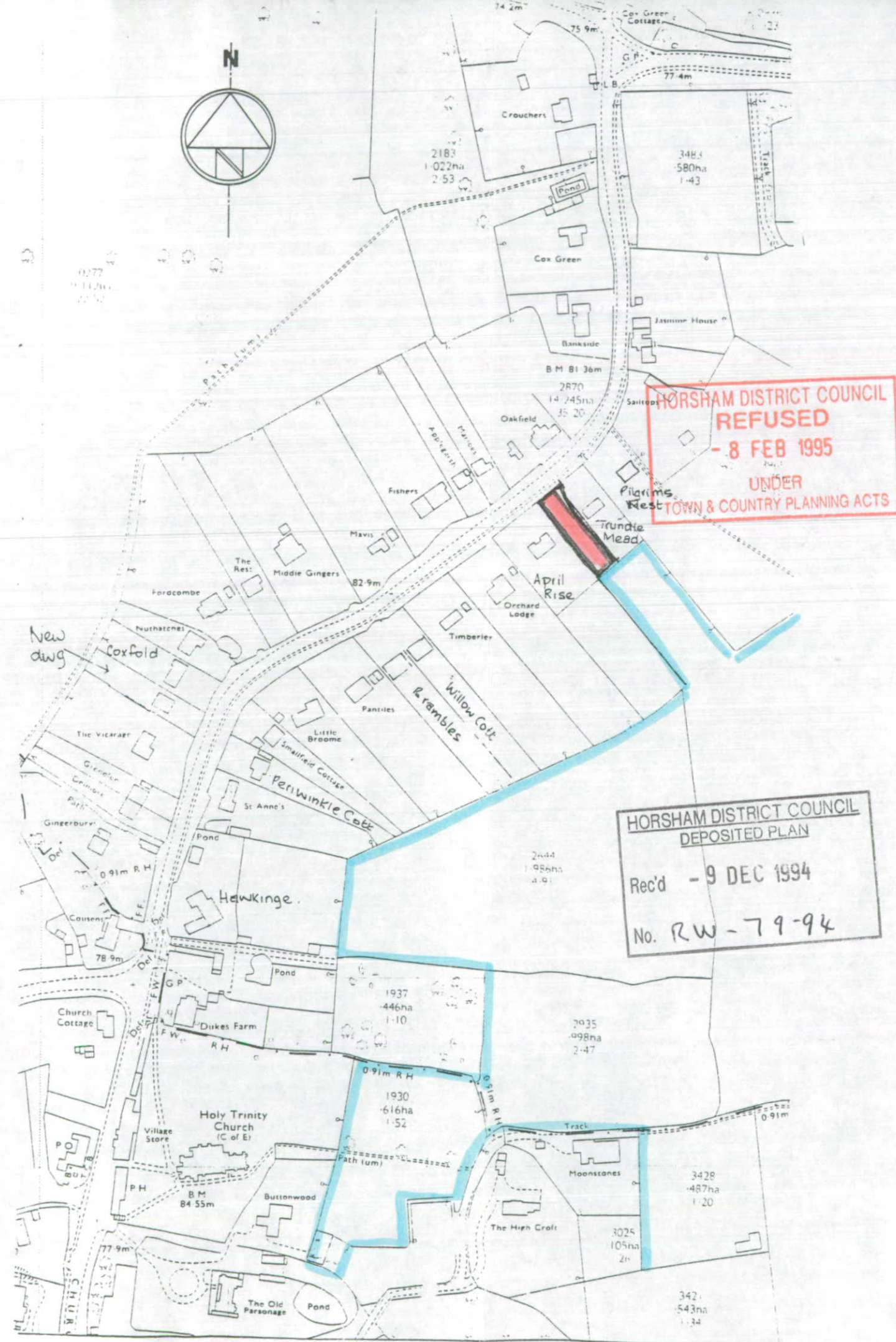
G I FULLER MA LLM
Inspector



Block Plan.

PROPOSED DWELLING
LAND ADJOINING TRUNDLEMEAD
COX GREEN RUDGWICK
WEST SUSSEX

LOCATION PLAN : SCALE 1:2500
BLOCK PLAN : SCALE 1:250



PLANNING INSPECTORATE REF: APP/Z3825/C/22/3297703

LOCAL PLANNING AUTHORITY REF: EN/22/0041

Horsham District Council

**Town & Country Planning Act 1990 (as amended):
Section 174 – Enforcement Appeal**

Appeals by Mr John Bailey against the decision of the Local
Planning Authority to issue an enforcement notice relating to the unauthorised change of
use at

Land known as Windacres Farm, Church Street,
Rudgwick, West Sussex, RH12 3EG

Local Planning Authority's Appeal Statement

1.0 Introduction

- 1.1 This is an appeal against the decision of the Local Planning Authority to issue an Enforcement Notice dated 6 April 2022 (**Appendix 1**) in respect of land at Windacres Farm, Church Street, Rudgwick, West Sussex, RH12 3EG. The breach of planning control alleged in the notice is:

Without planning permission, the change of use of the land from use for agricultural purposes to a mixed use for agriculture and for the stationing of a storage container for human habitation in the approximate position shown on the attached plan coloured green (“the Building”).

1.2 The reasons for issuing the Enforcement Notice

- (1) It appears to the Council that the above breach of planning control has occurred within the last 10 years.
- (2) The Building is located in the countryside, outside of any defined built-up area boundary, on a site not allocated for development within the Horsham District Planning Framework (2015) or an adopted Neighbourhood Plan. It has not been demonstrated to the satisfaction of the Council that the development is essential to its countryside location and that there is an essential and functional need for a rural worker to live on-site. Consequently, the siting of the Building represents inappropriate and unjustified development within the countryside, contrary to Policies 1, 3, 4, 20 and 26 of the Horsham District Planning Framework (2015).
- (3) The siting of the Building has introduced an inappropriate, incongruous and obtrusive built form into a sensitive countryside location which fails to relate sympathetically to the character and visual amenity of the surrounding landscape, contrary to Policies 25 (Strategic Policy: The Natural Environment and Landscape Character) and 33 (Development Principles of the Horsham District Planning Framework).
- (4) Insufficient information has been provided to demonstrate with a sufficient degree of certainty that the stationing of the Building 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 179 and 180 of the National Planning Policy Framework (2021), its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), and s40 of the Natural Environment and Rural Communities Act 2006 (Priority Habitats & Species).

1.3 The steps required by the notice are to:

- (1) Permanently cease the use of the Land for the stationing of the Building (coloured green on the attached plan).
- (2) Permanently cease the use of the Land or any part thereof for residential human habitation.
- (3) Permanently remove from the Land, the Building and all residential paraphernalia associated with it.
- (4) Remove from the Land all materials and debris resulting from the compliance with the above steps 1, 2 and 3.
- (5) Restore the Land to its former condition before the breach took place.

1.4 The period for compliance was set at six months from the date the notice took effect.

1.5 The enforcement notice has been appealed on grounds (a).

1.6 This statement should be read in conjunction with the appeal questionnaire.

2.0 **The Appeal Site and its Surroundings**

2.1 The site is located to the east of Church and Windacres Farm Lane and is located outside of any defined built-up area. The site is therefore within the countryside in policy terms. The site is located to the north of the existing access track adjoining Windacres Farm Lane and is located immediately adjacent to an existing storage barn. The wider area comprises enclosed fields and woodland, with the built-up area of Rudgwick, and the associated linear residential development located approximately 90m to the west.

3.0 **Government Policy**

- 3.1 In reaching its decision to take enforcement action, the Local Planning Authority was mindful of the government advice concerning the discretionary nature of the power to take enforcement action, and that it should be taken as a last resort, where there is a clear breach of planning control and it is expedient to do so. The Council has had regard to paragraph 59 in the National Planning Policy Framework (2021) and the Horsham District Planning Framework (2015).

National Planning Policy Framework

- 3.2 The National Planning Policy Framework (NPPF) 2021 sets out that there is a presumption in favour of sustainable development and that this should run through both plan-making and decision- taking (paragraph 11). In terms of the determination of planning applications this should mean the approval of developments that accord with the development plan without delay, and that where the development plan is silent or relevant policies are out of date, that permissions be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits, or policies of the NPPF indicate otherwise.
- 3.3 Paragraph 8 of the NPPF sets out three dimensions to sustainable development: economic, social and environmental:
- a) an economic objective – to help build a strong, responsive and competitive economy, by ensuring that sufficient land of the right types is available in the right places and at the right time to support growth, innovation and improved productivity; and by identifying and coordinating the provision of infrastructure;
 - b) a social objective – to support strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations; and by fostering a well-designed and safe built environment, with accessible services and open spaces that reflect current and future needs and support communities' health, social and cultural well-being; and
 - c) an environmental objective – to contribute to protecting and enhancing our natural, built and historic environment; including making effective use of land, helping to improve biodiversity, using natural resources prudently, minimising

waste and pollution, and mitigating and adapting to climate change, including moving to a low carbon economy.

- 3.4 Paragraph 59 of the NPPF deals with enforcement matters, and states that effective enforcement is important to maintain public confidence in the planning system.

Horsham District Planning Framework

- 3.5 The Horsham District Planning Framework (HDPF) was adopted by the Council on 27th November 2015 as the Council's policy for planning the future of the District for the period 2011-2031. In this case the most relevant policies are considered to be:
- 3.6 Policy 1 – (Strategic Policy: Sustainable Development): the site is located in the countryside and outside of the recognised settlements. The development and use is considered to cause considerable harm to the land and does not outweigh the benefits, therefore does not comply with this policy as it is considered that the use and development are not sustainable development.
- 3.7 Policy 3 – (Strategic Policy: Development Hierarchy): the site is located outside of the defined built-up area. Any infilling or redevelopment will be required to demonstrate that it is of an appropriate nature and scale to maintain characteristics and function of the settlement.
- 3.8 Policy 4 – (Strategic Policy: Settlement Expansion): the policy seeks to support the growth of settlements where they meet local housing, employment and community needs.
- 3.9 Policy 20 – (Rural Workers Accommodation): this policy supports the rural economy and enables people to live close to where they work which is particularly necessary in the more remote rural areas in the district. In some circumstances it will be appropriate to allow for the development of accommodation to house workers in the rural economy.
- 3.10 Policy 25 – (Strategic Policy: The Natural Environment and Landscape Character): the natural environment and landscape character of the District along with the protected landscapes and habitats should be protected against inappropriate development.

- 3.11 Policy 26 – (Strategic Policy: Countryside Protection): relates to sites outside the built-up area boundaries, the undeveloped nature of the countryside will be protected against inappropriate development.
- 3.12 Policy 31 – (Green Infrastructure and Biodiversity): states that proposals that would result in the loss of existing green infrastructure will be resisted unless it can be demonstrated that new opportunities will be provided that mitigates or compensates for this loss and ensures that the ecosystem services of the area are retained. Section 4a) of this policy provides a hierarchy of sites and habitats in the District that will be preserved, these include i. Special Protection Area (SPA) and Special Areas of Conservation (SAC), ii. Sites of Special Scientific Interest (SSSIs) and National Nature Reserves (NNRs) and iii. Sites of Nature Conservation Importance (SNCIs), Local Nature Reserves (LNRs) and any areas of Ancient woodland, local geodiversity or other irreplaceable habitats not already identified in i & ii above. Section 4b) states that where development is anticipated to have a direct or indirect adverse impact on sites or features for biodiversity, development will be refused unless it can be demonstrated that:
- The reason for the development clearly outweighs the need to protect the value of the site; and,
 - That appropriate mitigation and compensation measures are provided.
- 3.13 Policy 33 – (Development Principles): relates to the quality of and principles of new development including whether the development is of high-quality design, sympathetic to the character and distinctiveness of the site and surroundings.

Rudgwick Neighbourhood Plan

- 3.14 Rudgwick has a 'made' Neighbourhood Plan for the period to 2031.

4.0 **Planning History**

- 4.1 The most relevant planning history for the site is as follows -

DC/09/1231 - Relocation of Agricultural Building and demolition of existing building -
Prior Notification Prior Approval Permitted with Conditions on 22.09.2009.

DC/09/1623 - Redevelopment of site with mixed use scheme including demolition of existing 2 dwellings, derelict farm buildings and workshops and erection of 36 dwellings, parking barns, 3 x B1 office units and 3 x B1 shed units, a community facility (meeting rooms, coffee shop) and extension to existing industrial unit -

Application Permitted on 08.08.2013.

DC/12/1339 - Demolition of existing building and erection of replacement agricultural building - **Prior Approval Permitted with Conditions on 19.09.2012.**

DC/16/2917 - Demolition of 2 x existing dwellings, industrial and agricultural outbuildings and erection of 55 dwellings, 3 x offices (B1 Use Class) and industrial building extension (B2 Use Class) with associated access, drainage and landscape works - **Application Permitted on 05.04.2017.**

DC/17/2410 - Retrospective application for the erection of an agricultural storage building - **Withdrawn Application on 10.04.2018.**

DC/17/2605 - Proposed siting of a container as temporary residential accommodation for a 36-month period – **Application refused on 16.08.2018 – Appeal dismissed.**

DC/18/1563 - Retrospective erection of a side extension to existing agricultural building for storage of agricultural machinery and animal feed - **Appeal for non - deter lodged 17/10/2018.**

DC/20/0549 - Retrospective application for the retention of a lean-to agricultural storage building – **Application approved 13.05.2020.**

DC/20/0550 - Retrospective application for the retention of an agricultural storage building – **Application approved 13.05.2020.**

DC/20/0545 - Relocation of a stationary container for temporary residential use – **Application returned 31.03.2020.**

DC/20/1458 - Change of use from an agricultural building into a residential dwelling (C3 use) with agricultural occupancy condition – **Application refused 09.10.2020.**

DC/20/1524 - Relocation of stationing container as temporary residential accommodation for 12 months (see application DC/20/1458) – **Decline to Determine 28.08.2020.**

DC/20/1750 - Relocated stationing of temporary residential accommodation for 12 months (see linked Application no: DC/20/1458) – **Application withdrawn 05.10.2020.**

DC/21/0185 - Erection of a detached two storey rural workers dwelling – **Application refused 14.05.2021.**

DC/21/1200 - Temporary stationing of residential cabin – **Application refused 08.09.2021. Appeal in progress - APP/Z3825/W/22/3290509.**

DC/22/0162 - Erection of a detached agricultural/rural enterprise workers' dwelling, with an Agricultural Occupancy Condition – **Application returned 17.08.2022.**

The most relevant enforcement history is as follows –

- 4.2 EN/18/0398 - Without planning permission, the change of use of the Land from use for agricultural purposes to mixed use for agriculture and for the stationing of a storage container for human habitation which constitutes the unauthorised material change of use of the Land – **enforcement notice served 25.10.2018 and appeal against the enforcement notice dismissed APP/Z3825/C/18/3216424 on 18.11.2019. Compliance achieved and storage container removed.**

EN/22/0041 - Without planning permission, the change of use of the Land from use for agricultural purposes to mixed use for agriculture and for the stationing of a storage container for human habitation which constitutes the unauthorised material change of use of the Land - **enforcement notice served 06.04.2022 and is the subject of this appeal.**

- 4.3 A site visit was undertaken on 27.01.2022 and the photograph below was taken of the storage container in situ -



5.0 **The Local Planning Authority's comments on the appellant's grounds of appeal**

Ground (a) – That planning permission should be granted for what is alleged in the notice.

- 5.1 In relation to the ground (a) appeal, the appellants assert that that planning permission should be granted for the retention of the storage container due to the appellant requiring continuity of residential accommodation to enable him to continue to properly manage his well-established agricultural/rural enterprise.
- 5.2 The appellant's case is that there is a required need for the appellant to remain living in close proximity to the agricultural building erected adjacent to the residential unit the subject of this appeal, which as far as the Council is aware is the only agricultural building now on the appellants farm holding given all other buildings have been demolished to make way for the residential development of Windacres Farm (approved under DC/16/2917) which is now complete and occupied. The appellant previously owned this land prior to planning permission

being granted, however he sold the land to the developer who has since completed the development. The land where this residential development scheme is located is not owned by the appellant and he no longer has any interest in this land.

- 5.3 The adjacent agricultural building does not hold livestock and there is no livestock on the land. Previously the fields have been ploughed to grow grain whereas prior to this historically the land was laid to grass pasture, however it is not clear if historically livestock have grazed this land.
- 5.4 The primary test set out in the NPPF and Policy 20 of the HDPF is an assessment as to whether it is essential for a rural worker to live at, or near, their place of work. In the related planning appeal case (APP/Z3825/W/22/3290509), the appellant asserts that the agricultural activities undertaken on the site require a worker to live on site. An assessment of the essential need for a rural worker to live at or near their place of work requires: an evaluation of the risks involved; the frequency and type of out-of-hours emergency that might arise; the scale and loss that could be incurred should that emergency situation occur; the potential for an on-site worker to identify the problem; and the ability of that resident worker to rectify the problem.
- 5.5 The land at Windacres Farm, and specifically the land to the immediate south of the application site, was subject of an Enforcement Notice under reference EN/18/0398. This followed the refusal of previous planning applications in 2017 which sought the retention of the residential unit. The Enforcement Notice itself relates to, without planning permission, the change of use of the land for use for agricultural purposes to a mixed use for agriculture and for stationing of a container for human habitation. This Enforcement Notice was subject of a Ground (a) Enforcement Appeal, APP/Z3825/C/18/3216424 (**Appendix 2**), where the main issues were whether the location is a suitable site for residential use, and the effect of the development on the character and appearance of the surrounding area. At this stage, the Appellant argued that the unit was needed as a temporary dwelling to enable him to manage the farm and the nearby business. The container had been located on the site and was being occupied because there was no alternative accommodation available for him to live in. The Inspector noted that no detailed evidence had been submitted in respect of the activities on the farm holding or commercial business to demonstrate the need for an on-site presence, and the Inspector considered that there was inadequate justification for the development. It was therefore concluded that insufficient evidence had been presented to demonstrate that there was an

essential need for the Appellant to live on the site, and it was therefore considered that the development failed to accord with Policy 26 of the HDPF.5.5

- 5.6 A previous enforcement appeal was dismissed with the enforcement notice upheld. The Planning Inspectorate stated that the surrounding area is characterised by its rural landscape. Although there were at the time, building works visible from the site in connection with a housing development they agreed with the previous Inspector on appeal who concluded that the site takes its character in the main from its direct association with the adjoining undeveloped open countryside land. A residential use is out of keeping in this setting and is likely to be accompanied by other paraphernalia which would introduce further domestic appearance into its rural setting. It represents inappropriate development in the countryside.
- 5.7 The Planning Inspectorate went onto say, that the storage container is industrial and urban in appearance in contrast to its rural open setting. The hedging on the field boundary to the west partially screens views of the container to/from the west but particularly when trees are not in leaf it is visible in the surrounding landscape including from public rights of way. It creates a discordant element and landscape harm that is not in keeping with the character and appearance of the locality.
- 5.8 They concluded that the development causes undue harm to the character and appearance of its rural setting contrary to relevant policies in the development plan (including 26 of the HDPF) and the Framework.
- 5.9 This appeal relates to the same storage container which has been moved to an alternative location on the site and was therefore subject to an enforcement notice, and the refused planning application, DC/21/1200 (**Appendix 3**). Planning application DC/21/1200 sought permission for the newly located storage container to be sited for a period of 3 years, this would be to enable the long-term viability of the enterprise to establish. A business plan was to be submitted with the application but this was never provided to the planning officer assessing DC/21/1200 and therefore could you be taken into account.
- 5.10 The Planning Statement which was submitted as part of DC/21/1200 states that there is an agricultural need for the accommodation. It is outlined that the land is actively farmed for arable crops, including corn, oats and wheat, as well as grass. The appellant advises that the residential unit is required to provide living accommodation to manage these activities, as well as provide adequate security for

the machinery and other commodities stored at the Farm. The accompanying Agricultural Statement alongside the above outlines that Windacres Farm extends to 33 hectares of pasture and arable, with an additional 24.3 hectares of arable and pasture land also farmed at Billingshurst on a shared farming basis, where the labour and machinery are supplied by the Applicant and all inputs and harvested crops are stored at Windacres. The Farm rotates its cropping with first and second year wheat, oats and beans, with pasture being conserved as hay or silage. In addition, it is proposed to reintroduce a free range flock of 500 hens. The Farm is run in conjunction with the Appellant's business of Rudgwick Metals, which is also based at the Farm. The sole director of the business and the land owner is the Appellant.

- 5.11 The appeal site is subject of a prolonged planning history for a residential dwelling which follows approval for the demolition of the appellants former home and the redevelopment of some of the appellants land for housing. It has been concluded at each stage that the development would not be essential to its countryside location and that it has not been sufficiently or justifiably demonstrated that there is an essential need for the appellant to live on-site. The latest planning application did not provide the required justification or demonstrate the need for a rural works to live on site and therefore the unauthorised use conflicts with Policies 20 and 26 of the HDPF.

Water Neutrality

- 5.12 It must be noted that Natural England has issued a Position Statement for development within the Sussex North Water Supply Zone, which is dated September 2021. This requires compliance with The Conservation of Habitats and Species Regulations 2017 for proposals in that part of the District where the land the subject of the enforcement notice is located, and as such this is considered to be pertinent to this appeal.
- 5.13 As the competent authority for the purposes of the Conservation of Habitats and Species Regulations 2017 (as amended) (the Habitats Regulations), and as decision maker, the Planning Inspectorate must ensure that full consideration is given to this Statement to ensure that the development complies with the Habitat

Regulations. A copy of the interim position statement from Natural England is attached at **Appendix 4**.

- 5.14 The appeal site is located in an area served by groundwater abstraction within the Sussex North Supply Area, which in turn is near to the Arun Valley SSSI, SAC, SPA and Ramsar. Natural England are undertaking condition assessments of these designated sites and have identified significant negative changes in their condition. The hydrology (water quantity and its movement) of the area is essential to maintaining the habitat upon which the designation features/species rely on. In summary, Natural England advise that development must not add to this impact and should only be permitted if it can be demonstrated that it is water neutral. This is in order to meet the legal tests of the Habitats Regulations in preventing potential impact upon the designated sites. Water neutrality means, “the use of water in the supply area before the development is the same or lower after the development is in place” (Natural England Position Statement).
- 5.15 As a result of the issue of this Statement, from now on all development that may affect water consumption needs to be screened to ascertain whether the development individually or in combination with other projects will result in a significant effect on the Arun Valley sites, in terms of assessing whether the groundwater abstraction for water supply to the site is contributing to the situation.
- 5.16 The Conservation of Habitats and Species Regulations 2017 (as amended) requires that a Habitats Regulations Assessment screening is carried out in relation to any plan or project which is likely to have a significant effect on Habitats (European) sites, either alone or in combination with other plans or projects. Habitats sites are Special Protection Areas and Special Areas of Conservation. Ramsar sites should also be given the same level of protection, as stated within the National Planning Policy Framework.
- 5.17 Where an Appropriate Assessment is carried out, a project may only be authorised after having ascertained that it will not adversely affect the integrity of the site,
- 5.18 As such all new development now needs to be assessed using a Habitats Regulations Assessment (HRA) Screening using a Matrix template, to see how the development relates to the impact on demand for mains water being created in the Sussex North Water Supply Zone that may impact on the Arun Valley SAC/ SPA/Ramsar sites. The Natural England position statement advises that ‘If the

application cannot demonstrate, through an appropriate assessment, the required water neutrality, we advise that it is either revised to achieve this in line with the above or awaits completion of the strategic approach’.

- 5.19 It is considered that the retention of the storage container for human habitation on the appeal site has provided a net gain, thereby having an impact on the Arun Valley site, therefore the Local Planning Authority has applied the HRA Screening Matrix, which is attached at **Appendix 5**. In the absence of mitigation measures, the Council cannot exclude the possibility that this development would have an effect on the Arun protected sites, either alone or in combination with other plans and projects.
- 5.20 As it cannot be concluded that the existing abstraction is not having an impact on the Arun protected sites, Natural England advises that developments within this Zone must not add to this impact. No evidence has been submitted as part of this appeal to mitigate the impact of this. As such, the Inspector may therefore wish to consider whether the appeal can proceed as there is no certainty of compliance with the Habitat Regulations.
- 5.21 The Local Planning Authority does not consider the retention of the storage container for human habitation to be water neutral and therefore has an adverse impact on the Arun Valley sites. In such circumstances the grant of permission would be contrary to NPPF paragraph 180 and the Council’s obligations under The Conservation of Habitats and Species Regulations 2017.
- 5.22 The Council remain of the view that the retention of the storage container for human habitation has not been demonstrated nor have the previous reasons for refusing planning permission been addressed and therefore on this basis, the Inspector is requested to dismiss the ground (a) appeal and uphold the enforcement notice in its entirety. However, should the Inspector be minded to allow the appeal, a List of Suggested Conditions is attached at **Appendix 6**.

Appendices

Appendix 1 - Enforcement Notice

Appendix 2 – Previous Enforcement Appeal Decision APP/Z3825/C/18/3216424

Appendix 3 - DC/21/1200 refusal of planning permission

Appendix 4 – Natural England Position Statement

Appendix 5 – HRA Screening Matrix

Appendix 6 – List of Suggested Conditions

IMPORTANT – THIS COMMUNICATION AFFECTS YOUR PROPERTY
TOWN AND COUNTRY PLANNING ACT 1990
ENFORCEMENT NOTICE

Material Change In Use

Issued by: HORSHAM DISTRICT COUNCIL (“the Council”)

Reference number: EN/22/0041

1. **THIS NOTICE** is issued by the Council because it appears to them that there has been a breach of planning control within paragraph (a) of section 171A(1) of the above Act, at the land described below. The Council considers that it is expedient to issue this notice, having regard to the provisions of the development plan and to other material planning considerations. The Annex at the end of the notice and the enclosures to which it refers contain important additional information.

2. **THE LAND TO WHICH THE NOTICE RELATES**

Land at Windacres Farm, Church Street, Rudgwick, RH12 3EG, shown edged in red on the attached plan (“the Land”).

3. **THE MATTERS WHICH APPEAR TO CONSTITUTE THE BREACH OF PLANNING CONTROL**

Without planning permission, the change of use of the land from use for agricultural purposes to a mixed use for agriculture and for the stationing of a storage container for human habitation in the approximate position shown on the attached plan coloured green (“the Building”).

4. **REASONS FOR ISSUING THIS NOTICE**

1. It appears to the Council that the above breach of planning control has occurred within the last 10 years.
2. The Building is located in the countryside, outside of any defined built-up area boundary, on a site not allocated for development within the Horsham District Planning Framework (2015) or an adopted Neighbourhood Plan. It has not been demonstrated to the satisfaction of the Council that the development is essential to its countryside location and that there is an essential and functional need for a rural worker to live on-site. Consequently, the siting of the Building represents inappropriate and unjustified development within the countryside, contrary to Policies 1, 3, 4, 20 and 26 of the Horsham District Planning Framework (2015).
3. The siting of the Building has introduced an inappropriate, incongruous and obtrusive built form into a sensitive countryside location which fails to relate sympathetically to the character and visual amenity of the surrounding landscape, contrary to Policies 25

(Strategic Policy: The Natural Environment and Landscape Character) and 33 (Development Principles of the Horsham District Planning Framework).

4. Insufficient information has been provided to demonstrate with a sufficient degree of certainty that the stationing of the Building 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 179 and 180 of the National Planning Policy Framework (2021), its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), and s40 of the Natural Environment and Rural Communities Act 2006 (Priority Habitats & Species).

5. WHAT YOU ARE REQUIRED TO DO

- (1) Permanently cease the use of the Land for the stationing of the Building (coloured green on the attached plan).
- (2) Permanently cease the use of the Land or any part thereof for residential human habitation.
- (3) Permanently remove from the Land, the Building and all residential paraphernalia associated with it.
- (4) Remove from the Land all materials and debris resulting from the compliance with the above steps 1, 2 and 3.
- (5) Restore the Land to its former condition before the breach took place.

6. TIME FOR COMPLIANCE

- (1) Six months from the date this notice takes effect.

7. WHEN THIS NOTICE TAKES EFFECT

This notice takes effect on 5 May 2022 unless an appeal is made against it beforehand.

Dated: 6 April 2022

Signed: 

Sharon Evans

Head of Legal and Democratic Services, Horsham District Council, Parkside, Chart Way, Horsham, West Sussex RH12 1RL

Nominated officer Jennifer Baxter

Telephone number 01403 215280

ANNEX

YOUR RIGHT OF APPEAL

You can appeal against this notice, but any appeal must be received, or posted in time to be **received**, by the Planning Inspectorate acting on behalf of the Secretary of State **before** the date specified in paragraph 7 of the notice.

The enclosed information sheet published by the Planning Inspectorate gives details of how to make an appeal. You can also find the information sheet at the following link:

<https://www.gov.uk/government/publications/enforcement-appeals-appeal-information-sheet-for-local-planning-authorities>

WHAT HAPPENS IF YOU DO NOT APPEAL

If you do not appeal against the enforcement notice, it will take effect on the date specified in paragraph 7 of the notice and you must ensure that the required steps for complying with it, for which you may be held responsible, are taken within the period[s] specified in paragraph 6 of the notice. Failure to comply with an enforcement notice which has taken effect can result in prosecution and/or remedial action by the Council.

EXPLANATORY NOTE

Horsham District Council has issued an enforcement notice relating to land at Windacres Farm, Church Street, Rudgwick, RH12 3EG and you are served with a copy of the notice as you have an interest in the Land. Copies of the notice have also been served on the parties listed at the end of this explanatory note.

YOUR RIGHT OF APPEAL

You can appeal against this enforcement notice but any appeal must be received by the Planning Inspectorate (or be posted or electronically communicated at such time that, in the ordinary course of post or transmission, it would be received by the Planning Inspectorate before the date specified in paragraph 6 of the notice).

The enclosed information sheet published by the Planning Inspectorate gives details of how to make an appeal.

GROUND OF APPEAL

The grounds of appeal are set out in section 174 of the Act. You may appeal on one or more of the following grounds:

- In respect of any breach of planning control which may be constituted by the matters stated in the notice, planning permission ought to be granted or, as the case may be, the condition or limitation concerned ought to be discharged (ground a);
- Those matters have not occurred (ground b);
- Those matters (if they have occurred) do not constitute a breach of planning control (ground c);
- At the date when the notice was issued no enforcement action could be taken in respect of any breach of planning control which may be constituted by those matters (ground d);
- Copies of the enforcement notice were not served as required by section 172 of the Act (ground e);
- The steps required the notice to be taken, or the activities required by the notice to cease, exceed what is necessary to remedy any breach of planning control which may be constituted by those matters or, as the case may be, to remedy any injury to amenity which has been caused by such breach (ground f);
- Any period specified in the notice accordance with section 173(9) of the Act falls short of what should reasonably be allowed (ground g).

Not all of these grounds may be relevant to you.

PLANNING APPLICATION FEE

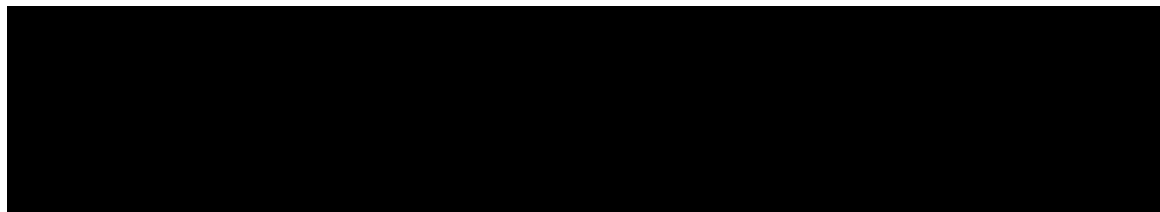
If you wish to appeal on ground a of section 174(2) of the Act, this is the equivalent of applying for planning permission for the development alleged in the notice and you will have to pay a fee of **£924.00**. You should pay the fee to Horsham District Council. If the fee is not paid that ground of appeal is not valid.

STATEMENT ON GROUNDS OF APPEAL

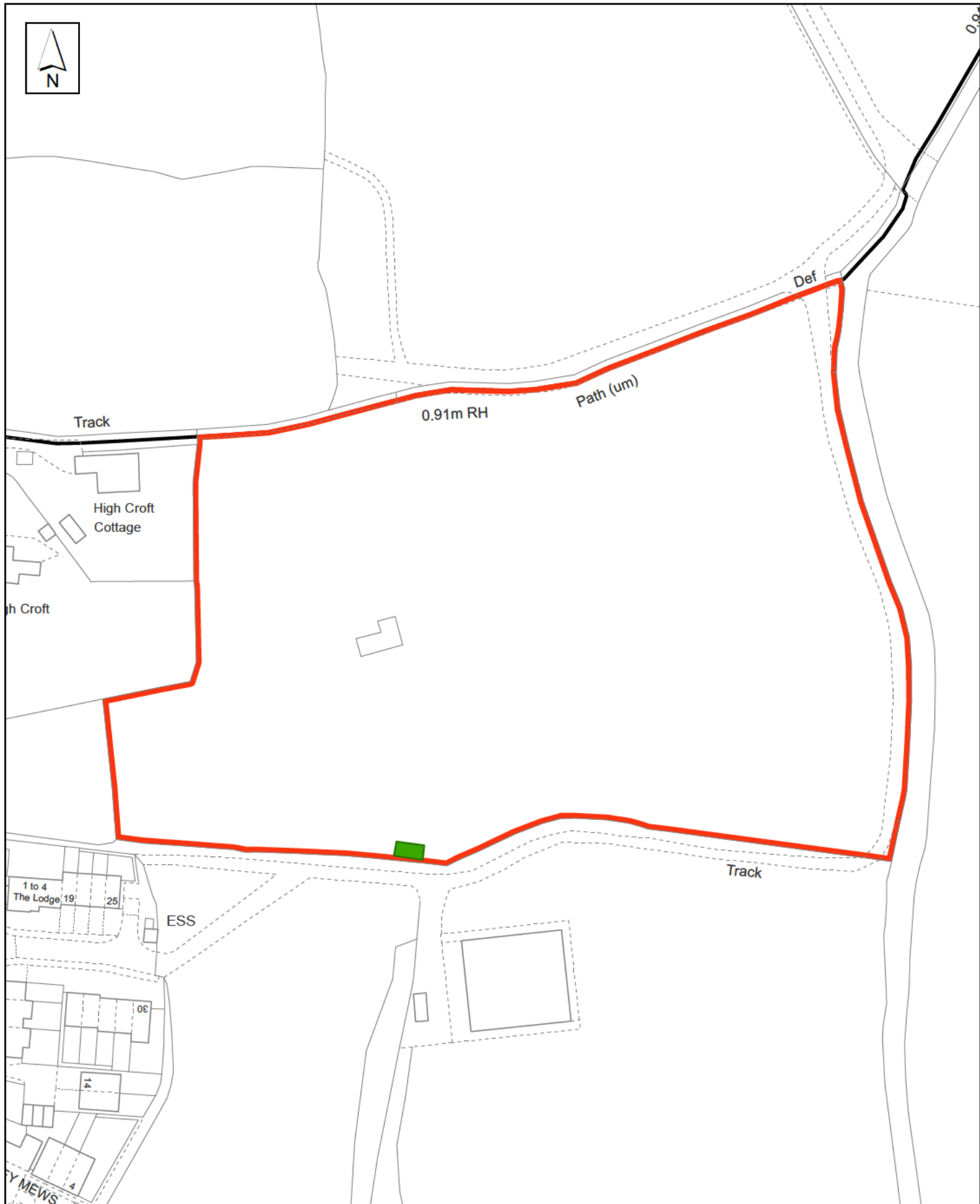
If you decide to appeal, you should state in writing the ground(s) on which you are appealing against the enforcement notice and you state briefly the facts on which you intend to rely in support of each of those grounds. If you do not do this when you make your appeal, the Secretary of State will send you a notice requiring you to do so within 14 days.

STATUTORY PROVISIONS

A copy of sections 171A, 171B and 172 – 177 of the Act is attached for your information.

PERSONS SERVED WITH A COPY OF THIS ENFORCEMENT NOTICE:

THE PLAN



Horsham District Council

Parkside, Chart Way, Horsham
West Sussex RH12 1RL

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Enforcement Plan

Reference No :

Date: 07/03/2022

Drawing No :

Scale : 1:1,500 (at A4)

Revisions :