



**Horsham  
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Council**

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Chief Executive - **Tom Crowley**

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**Development Control (North) Committee**  
**TUESDAY 7<sup>TH</sup> FEBRUARY 2012 AT 5.30p.m.**  
**COUNCIL CHAMBER, PARK NORTH, NORTH STREET, HORSHAM**

**Councillors:**

Liz Kitchen (Chairman)	Ian Howard
Roy Cornell (Vice-Chairman)	David Jenkins
John Bailey	Christian Mitchell
Andrew Baldwin	Josh Murphy
Peter Burgess	Godfrey Newman
John Chidlow	Jim Rae
Christine Costin	David Sheldon
Helena Croft	David Skipp
Leonard Crosbie	Simon Torn
Malcolm Curnock	Claire Vickers
Laurence Deakins	Tricia Youtan
Duncan England	
Frances Haigh	
David Holmes	

*You are summoned to the meeting to transact the following business*

Tom Crowley  
Chief Executive

## **AGENDA**

1. Apologies for absence
2. To approve as correct the minutes of the meeting of the Committee held on 10<sup>th</sup> January 2012 (attached)
3. To receive any declarations of interest from Members of the Committee – ***any clarification on whether a Member has an interest should be sought before attending the meeting.***
4. To receive any announcements from the Chairman of the Committee or the Chief Executive



INVESTOR IN PEOPLE

5. To consider the reports of the following officers and to take such action thereon as may be necessary:

Head of Planning & Environmental Services

Appeals

Decisions on Lawful Development Certificates

Applications for determination by Committee – Appendix A

<b>Item No.</b>	<b>Ward</b>	<b>Reference Number</b>	<b>Site</b>
A01	<i>Denne</i>	DC/11/2461	Brookfield Blackbridge Lane Horsham
A02	<i>Roffey North</i>	DC/11/1846	30 Rusper Road Horsham
A03	<i>Itchingfield, Slinfold and Warnham</i>	DC/11/2519	R J Case and Co Ltd Bognor Road Broadbridge Heath
A04	<i>Rusper and Colgate</i>	DC/11/0710	Forest Heights Springfield Lane Colgate Horsham
A05	<i>Denne</i>	SEC106/1825	Land East of A24 Worthing Road, Horsham

6. Items not on the agenda which the Chairman of the meeting is of the opinion should be considered as urgent because of the special circumstances.

**DEVELOPMENT CONTROL (NORTH) COMMITTEE**  
**10<sup>th</sup> JANUARY, 2012**

Present: Councillors: Liz Kitchen (Chairman), Roy Cornell (Vice-Chairman), John Bailey, John Chidlow, Christine Costin, Helena Croft, Leonard Crosbie, Malcolm Curnock, Laurence Deakins, Frances Haigh, David Holmes, Ian Howard, David Jenkins, Godfrey Newman, Jim Rae, David Skipp, Simon Torn, Claire Vickers, Tricia Youtan.

Apologies: Councillors: Andrew Baldwin, Peter Burgess, Duncan England, Christian Mitchell, Josh Murphy, David Sheldon

DCN/94 **MINUTES**

The minutes of the meeting of the Committee held on 6<sup>th</sup> December 2011 were approved as a correct record and signed by the Chairman.

DCN/95 **INTERESTS OF MEMBERS**

<u>Member</u>	<u>Item</u>	<u>Nature of Interest</u>
Councillor Helena Croft	DC/11/2257	Personal – the applicant's farm adjoined the charity with which she was associated.
Councillor David Holmes	DC/11/1970	Personal – his daughter lived in Station Road.
Councillor David Holmes	DC/11/1484	Personal – he knew one of the objectors.

DCN/96 **INTERESTS OF OFFICERS**

The Chief Executive reported that John Loxley, Estate Management & Valuation Surveyor, had declared an interest in planning application DC/11/2611. The interest arose because the applicant was the officer's brother. The officer had confirmed that he would take no part in the processing or determination of the application.

DCN/97 **ANNOUNCEMENTS**

There were no announcements.

DCN/98 **APPEALS**

Notice concerning the following appeals had been received:

DCN/98 Appeals (cont.)

Appeals Lodged

Written Representations/Household Appeals Service

<u>Ref No</u>	<u>Site</u>	<u>Appellant(s)</u>
DC/11/1553	Kings Farm, Coltstaple Lane, Horsham.	Mr Richard Good
DC/11/1554	Kings Farm, Coltstaple Lane, Horsham.	Mr Richard Good

Appeal Decisions:

<u>Ref No</u>	<u>Site</u>	<u>Appellant(s)</u>	<u>Decision</u>
DC/11/0629	West Wing Forest Grange Manor, Forest Grange, Horsham.	Mr Desmond Greener	Dismissed
DC/11/0628	West Wing Forest Grange Manor, Forest Grange, Horsham.	Mr Desmond Greener	Dismissed
DC/11/0703	5 Beedingwood Drive, Colgate.	Mr Max Ferretti	Dismissed
DC/11/0397	Bridge House Riding Stables, Five Oaks Road, Slinfold.	Dr E Umerah	Dismissed
DC/10/2495	27 Millfield, Southwater.	Thakeham Homes	Dismissed
DC/10/2589	22 Coleridge Close, Horsham.	Mr G Weekes	Dismissed
DC/10/1041	Kingfisher Farm, West Chilmington Lane, Billingshurst.	Mr Maurice Black	Allowed

DCN/99 **DECISIONS ON LAWFUL DEVELOPMENT CERTIFICATES**

<u>Ref No</u>	<u>Site and Development</u>	<u>Decision</u>
DC/11/2035	Menards Fishery, Hammerpond Road, Horsham - erection of security gates on the land and the use of an extended portacabin as a residence.	Granted
DC/11/2283	Denne Farm, Bognor Road, Warnham – stationing of a mobile home used for residential purposes.	Granted

DCN/99 Decisions On Lawful Development Certificates (cont.)

DC/11/2386	The Loft, Hop Garden Farm, Lower Beeding - use of the flat in the garage, known as The Loft, at Hop Garden Farm as a unit of residential accommodation.	Granted
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DCN/100 **PLANNING APPLICATION: DC/11/1970 - DEMOLITION OF EXISTING BUILDING AND ERECTION OF FOUR STOREY APARTMENT BUILDING TO CONTAIN 11 APARTMENTS, 6 PARKING SPACES AND OTHER ANCILLARY AREAS**

**SITE: 7 STATION ROAD, HORSHAM**

**APPLICANT: MR GILL**

*(Councillor David Holmes declared a personal interest in this application as his daughter lived in Station Road).*

The Head of Planning & Environmental Services reported that this application sought planning permission for the demolition of the existing building and the erection of a four storey apartment building comprising 2 x 1 bed apartments and 9 x 2 bed apartments for open market sale, with six parking spaces, eleven bicycle spaces and ancillary areas.

The footprint of the proposed building was similar to that occupied by the existing warehouse building. The proposed apartment block would have a flat roof and would be 11.4 metres at its highest point.

The site was located to the south east of Horsham Railway Station at the south western end of Station Road.

Government Policies PPS12, PPS3 and PPG13; Local Development Framework Core Strategy Policies CP1, CP2, CP3, CP5, CP11, CP12, CP13 and CP19 and Local Development Framework General Development Control Policies DC5, DC6, DC8, DC9, DC18, DC19 and DC40; were relevant to the determination of this application.

Relevant planning history included:

HU/508/68	Change of use and erection of workshop, parking of furniture in connection with furniture removal.	Granted
HU/46/69	Erection of garage/workshop.	Granted
HU/125/70	Extension to garage	Granted
HU/52/71	Erection of building use as garage/workshop	Refused
HU/248/81	Erect 2 storey building to form garage parking area, vehicle maintenance workshop with offices and furniture storage area	Granted

DCN/100 Planning Application: DC/11/1970 (cont.)

HU/13/82	Approval of details	Granted
HU/21/83	2 garages with 1 bed flat over	Granted
DC/04/0784	Conversion of warehouse with offices to 5 apartments	Granted
HU/199/96	Change of use of building to wholesale distribution of engineering supplies, variation of con. 3 HU/21/83 to allow occupation of flat by employee	Granted
DC/05/1187	Demolition of existing building and erection of building comprising 3 x 1 bed apartments, 8 x 2 bed apartments, and 2 parking spaces	Granted, subject to the completion of a planning agreement

The number of units proposed in the current application was the same as that under the previously approved scheme (DC/05/1187). However, the residential mix would be different, the building would be four storeys high and six car parking spaces were proposed.

The comments of the Public Health & Licensing Department and Horsham District Access Forum were noted. West Sussex County Council Highways raised no objection and their comments were noted. Southern Water raised no objection, subject to condition, and their comments were noted. The Neighbourhood Council strongly objected to the application and Horsham Society also objected to the proposal. Three letters of objection had been received. A representative of the applicant spoke in support of the proposal.

The main issues in the determination of this application were considered to be the principle of the development in this location; the impact and scale of the development on the character and visual amenities of the area, the amenities of neighbour and future occupiers, parking and highway safety issues, together with sustainability.

With regard to the development of the site for residential purposes, it was considered that the site was located within a sustainable location within Horsham Town and the proposed development would result in a density of approximately 256 dwellings per hectare, which was considered acceptable in this location as links to public transport were good.

With regards to the site's relationship with the adjacent railway station and railway line itself, it was considered that this would be no worse than a number of existing properties in the immediate locality and it was accepted that appropriate sound insulation measures could be incorporated within the proposed building with regard to noise insulation.

DCN/100 Planning Application: DC/11/1970 (cont.)

Although there were concerns about the appearance of the building, parking and the safety of pedestrians, and flooding and drainage issues, it was considered that the proposed four storey, flat roof building was an improvement on the previous application and that it would not be detrimental to the visual amenities of the street scene and character of the area. The proposal would be of a similar height to the neighbouring development of flats and the overall size and design of the building was considered acceptable. As the proposal would have an effect on surrounding infrastructure, it was considered appropriate to secure s106 monies to alleviate the planning concerns.

Members, therefore, considered that the proposal was acceptable in principle.

RESOLVED

- (i) That a planning agreement be entered into to secure contributions in respect of infrastructure provision.
- (ii) That, upon completion of the agreement in (i) above, application DC/11/1970 be determined by the Head of Planning & Environmental Services, in consultation with the local Members, to allow the framing of appropriate conditions; further consideration of parking arrangements including the protection of pedestrians and pedestrian visibility; further consideration in respect of the appearance of the building; investigation of flooding in the road by the station and the proposed means of drainage for the proposed development; discussions with the applicant regarding environmental features of the building and investigation of the appropriateness of a car club. The preliminary view of the Committee was that the application should be granted.

DCN/101 **PLANNING APPLICATION: DC/11/2477 - SINGLE STOREY EXTENSION TO EXISTING VEHICLE WORKSHOP TO ALLOW INSTALLATION OF MOT TEST EQUIPMENT**

**SITE: 3 VICTORY ROAD, HORSHAM, WEST SUSSEX RH12 2JF**

**APPLICANT: MR TONY KNEALE**

The Head of Planning & Environmental Services reported that this application was a revision to a scheme that had previously been refused by Committee (DC/11/1757, Minute No. DCN/65, 4.10.11 refers), which was itself a revision to an earlier scheme that had been withdrawn (DC/11/0670).

DCN/101 Planning Application: DC/11/2477 (cont.)

The current application proposed the erection of a single storey flat roof extension with lower roof height than previously proposed, inline with the existing workshop. The proposed extension would have a 'wedge' shaped footprint measuring from 7.2 metres to 4.5 metres wide; 6.9 metres deep and 2.8 metres high. The application retained the proposed use of the premises as an MOT testing station.

The previous applications had sought permission for a taller building and to raise the roof of the existing building to enable a vehicle ramp to be installed. The current application now proposed a pit to enable vehicle inspections.

The proposed extension would have a floor area of approximately 40 square metres. The extension would have two openings fitted with 'up and over' doors, one at the front to allow cars to drive into the proposed building from the road and a second to provide vehicular access to the yard area to the side of the workshop building.

The application site was located on the western side of Victory Road, close to the junction with Rushams Road, within the built up area of Horsham. At present, a car servicing/repair business operated from the site. MOT testing was currently not undertaken at the premises, but vehicles were taken off site for this purpose. Workshops and storage associated with the business were situated at the rear of the property.

The application site had limited off road parking and the road itself had on-street parking which was not controlled. The area was predominantly characterised by older style residential properties with front gardens bounded by brick walls up to one metre in height. The application site had a hard-surfaced area between the front of the property and the pavement.

Government Policies PPS1, PPS4 and PPG24; Local Development Framework Core Strategy Policies CP1, CP3, CP10 and CP11 and Local Development Framework General Development Control Policies DC9, DC19 and DC40 were relevant to the determination of this application.

Relevant planning history included:

HU/363/63	Erection of building for tool making and precision engineering.	Refused
HU/244/80	Greenhouse.	Granted
HU/211/84	Change of Use to light industrial, ancillary to existing shop.	Refused but subsequently granted on appeal
HU/61/86	Garage and workshop.	Granted



DCN/101 Planning Application: DC/11/2477 (cont.)

HU/234/89	Pitched roof with dormer over existing workshop.	Refused
HU/373/89	Pitched roof with dormer over existing workshop.	Granted
HU/91/90	External staircase.	Granted
HU/210/90	Change of use of ground floor room from domestic to shop.	Refused
HU/259/02	Conversion of ground floor to 1 self contained flat.	Refused
DC/11/0670	Single storey extension to and an increase in the height of the roof of the existing vehicle workshop and use as MOT testing station.	Withdrawn
DC/11/1757	Single storey extension to and an increase in the height of the roof of the existing vehicle workshop and use as MOT testing station.	Refused

The comments of the Public Health & Licensing Officer were noted. Five letters in support of the proposal had been received.

The main issues in the determination of this application were considered to be the appearance and impact of the development on the character of the area and the visual amenities of the streetscene; the impact on traffic and parking in the locality and the impact on the amenities of the neighbouring occupiers, in terms of the physical impact of the building and the impact associated with the use.

The proposed extension would be positioned to the side/rear of 3 Victory Road and would not alter the appearance of the original frontage building, which was a pair of semi-detached buildings, probably originally built as residential units.

It was noted that there had been changes in the design of the proposed extension compared to previous applications. It was considered that the extension now proposed would be in keeping with the character and visual amenities of the streetscape. Being set back from the front wall of the host building, it was considered that the building would not appear significantly different from the current situation and would not, therefore, cause material harm to the character or visual amenities of the streetscene in this respect.

It was considered that the side elevation of the building with its proposed roof height extending 0.8 metres above the boundary fence, would minimise any detrimental harm on the occupiers of the adjacent properties by way of overbearing impact. This element of the proposal was, therefore, considered acceptable in terms of its impact on the residential amenities of the neighbouring occupiers. It was also noted that there would be no change in the height of the existing workshop buildings.

DCN/101 Planning Application: DC/11/2477 (cont.)

It was considered that the provision of a pit within a brick building would reduce potential disturbance levels arising from the MOT testing use and that this use could be operated successfully alongside adjoining residential properties, without unreasonably harming the living conditions of neighbouring occupiers. It was also noted that, whilst there were implications with regard to parking in an already heavily congested area, the applicant proposed to operate the MOT testing on an 'appointment only' basis.

Members, therefore, considered that the application was acceptable.

RESOLVED

That application DC/11/2477 be granted subject to the following conditions: for the following reasons:

- 01 A2 Full Permission
- 02 M6 Specified Materials
- 03 V1 Hours of working to be:  
08:00 – 18:00 hours on Mondays – Fridays  
inclusive  
08:00 – 13:00 Saturdays  
And not on Sundays or Bank and Public Holidays
- 04 G3 Parking Turning and Access
- 05 N6 Control of activities (to read) – No works  
requiring the use of machinery, power of hand  
tools shall take place other than within the building  
and during such use the doors to the building shall  
remain closed.
- 06 Before development commences precise details  
of the type of plant or equipment to be used  
including manufacturers noise ratings shall be  
submitted to and approved in writing by the Local  
Planning Authority. Thereafter the  
plant/equipment shall be operated and maintained  
in accordance with the approved details
- 07 No development shall take place until an  
assessment on the potential for noise from the  
development affecting residential properties in the  
area has been submitted to and been approved in  
writing by the Local Planning Authority. The  
assessment shall include noise from: plant and  
equipment in association with the use of the  
premises. If the assessment indicates that noise  
from the development is likely to affect  
neighbouring residential properties then a detailed  
scheme of noise mitigation measures shall be

DCN/101 Planning Application: DC/11/2477 (cont.)

submitted to and approved in writing by the Local Planning Authority prior to the commencement of the development.

The noise mitigation measures shall be designed so that nuisance will not be caused to the occupiers of neighbouring noise sensitive premises by noise from the development.

The noise assessment shall be carried out by a suitably qualified acoustic consultant/engineer and shall take into account the provisions of PPG 24 Planning Policy Guidance: Planning and Noise.

The approved scheme shall be implemented prior to the commencement of the use and be permanently maintained thereafter.

REASON

ICAB2 The proposal does not materially affect the amenities of neighbouring occupiers or the character and visual amenities of the locality

DCN/102 **PLANNING APPLICATION: DC/11/2257 - CHANGE OF USE OF UNITS 17, 18, 19 AND 20 FROM B1 OFFICE USE TO 4 X 2-BED RESIDENTIAL UNITS - C3 USE**  
**SITE: NEWHOUSE BUSINESS CENTRE, OLD CRAWLEY ROAD, FAYGATE**

**APPLICANT: MR MAX WALTON**

*(Councillor Helena Croft declared a personal interest in this application as the applicant's farm adjoined the charity with which she was associated).*

The Head of Planning & Environmental Services reported that this application sought planning permission for a change of use of four units from B1 office use to 4 x 2 bed residential units. Minor external changes to the fenestration of the building were proposed with the insertion of ground and first floor windows in the western flank elevation and a first floor window in the eastern elevation at first floor level.

The application site was located on the eastern side of the Old Crawley Road within the countryside and outside the defined built up area boundary. The site was within the High Weald Area of Outstanding Natural Beauty, to the north east of the built up area boundary of Horsham.

Government Policies PPS1, PPS3, PPS4, PPS7 and PPG13; Local Development Framework Core Strategy Policies CP1, CP2, CP3, CP5, CP13, CP15 and CP19; Local Development Framework General Development Control Policies DC1, DC2, DC3, DC4, DC8, DC9, DC24 and

DCN/102 Planning Application: DC/11/2257 (cont.)

DC40 and South East Plan Policies CC1 and CC4 were relevant to the determination of this application.

Relevant planning history included:

CG/27/90	Change of use of redundant corn store and loose boxes to B1, B2 and/or B8 use and car parking.	Granted
CG/7/00	Conversion of agricultural building to B1 & B8 units.	Granted

The comments of the Public Health & Licensing Officer were noted. West Sussex County Council Highways raised no objection, subject to condition, and their comments were noted. The Parish Council raised no objection to the proposal and their comments were noted. The applicant and the applicant's agent spoke in support of the application.

The main issues in the determination of this application were considered to be the principle of the proposed change of use, the impact of the proposal on the visual amenities of the locality and the character of the Area of Outstanding Natural Beauty, the impact on the amenities of the occupiers of adjoining properties, parking and highway issues and the quality of the resulting residential units for future occupiers.

The applicant had indicated that the units had been marketed to be let for over 18 months unsuccessfully. It was noted that the rental being sought was representative of local values. It was also noted that 11 changes of use applications had been submitted since 1988 including B1, B2 and B8.

The applicant had stated that the proposed scheme would bring in revenue in order to properly manage the property and assist financially in keeping the farm viable.

It was noted that the proposal would incorporate limited external changes, such as the insertion of windows in the side elevations of the property. It was, therefore, considered that there would be no material adverse impact on the rural character of the area which would affect the quality, views, and distinctiveness or threaten public enjoyment of this Area of Outstanding Natural Beauty (AONB).

The immediate adjoining properties were all commercial in nature and had permission to operate as B1 (Business), B2 (General Industry) and B8 (Storage or Distribution) uses. It was, therefore, considered that the use of the building as residential units in place of the permitted business use would not have a material adverse impact on the amenities of the adjoining occupiers. Further consultation with the Public Health & Licensing Department was requested in order to ensure that this was the case.

DCN/102 Planning Application: DC/11/2257 (cont.)

It was noted that there were sufficient parking areas to serve the proposed development, as well as a turning area to enable cars to leave the site in a forward gear. Members requested that further consideration be given to the lighting of the proposed dwellings during the delegation period. As the proposal would have an effect on surrounding infrastructure, it was considered appropriate to secure s106 monies to alleviate the planning concerns.

Members, therefore, considered that the application was acceptable in principle.

RESOLVED

- (i) That a planning agreement be entered into to secure contributions in respect of infrastructure provision.
- (ii) That upon completion of the agreement in (i) above and subject to:
  - the formulation of appropriate conditions;
  - further consultation with Public Health & Licensing regarding the relationship with adjacent agricultural buildings and potential B2 and B8 users;
  - ensuring that sufficient lighting would be provided within the proposed dwellings, including consideration of the insertion of windows/roof windows in the rear elevation if appropriate:application DC/11/2257 be determined by the Head of Planning & Environmental Services. The preliminary view of the Committee was that the application should be granted.

DCN/103 **PLANNING APPLICATION: DC/11/1484 - PROPOSED STABLE BLOCK EXTENSION TO FORM A 1 BEDROOM ANNEXE**

**SITE: 37 GLADSTONE ROAD, HORSHAM**

**APPLICANT: MR JIMMY ARTHUR**

*(Councillor David Holmes declared a personal interest in this application as his knew one of the objectors).*

The Head of Planning & Environmental Services reported that this application sought planning permission for the extension to an existing stable block to form a one bedroom annexe. The building would be extended to the south west by 3.5 metres.

DCN/103 Planning Application: DC/11/1484 (cont.)

The application site was located in Gladstone Road within the built up area of Horsham. The detached stable block was sited along the rear boundary shared with No 10 Hurst Road.

Government Policies PPS1, PPG13 and PPG24; Local Development Framework Core Strategy Policies CP1, CP2 and CP3; Local Development Framework General Development Control Policies DC9 and DC40 and South East Plan Policies CC1 and CC4 were relevant to the determination of this application.

In 1968, an application for the conversion of shop premises into living accommodation had been granted (HU/426/69).

The comments of the Public Health & Licensing Officer were noted. The Neighbourhood Council objected to the proposal and seven letters of objection had been received from three neighbouring properties.

The main issues in the determination of this application were considered to be the principle of the development in this location, whether the proposal was in character with the surrounding area and the visual amenities of the street scene, the affect upon neighbouring residential amenity and its impact on trees.

The application proposed to extend the building to provide ancillary accommodation. It was considered that the annexe, which was to be constructed without the provision of a kitchen, had been shown to retain a degree of dependence on the main dwelling.

The existing structure was set to the rear of the site, approximately 40 metres from Gladstone Road. Limited views of the structure were, therefore, afforded from the streetscene. The building had a clear relationship with the dwelling and was sited within the curtilage of the property. It was considered that the addition of a minor extension to the structure, with materials to match the external appearance of the building, would have a limited impact on the character of the surrounding area.

A number of concerns had been raised by adjoining occupiers regarding the impact of the proposal on residential amenities. However, it was noted that the existing height of the building would be maintained and no windows were proposed on the rear elevation of the proposed extension that would result in overlooking. Therefore, it was considered that the proposed development would have no material adverse impact on the amenities of adjoining residential occupiers or on the trees on the site.

Members considered that the application was acceptable without discussion.

DCN/103 Planning Application: DC/11/1484 (cont.)

RESOLVED

That application DC/11/1484 be granted subject to the following conditions:

- 01 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
- 02 The materials and finishes of all new external walls and roofs of the development hereby permitted shall match in type, colour and texture those of the existing building.
- 03 The annex hereby permitted shall be used solely for purposes incidental to the occupation and enjoyment of the existing property as a dwelling and shall not be occupied as an independent planning unit of residential accommodation.
- 04 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 or Orders amending or revoking and re-enacting the same, the building(s) shall not be extended or altered in any way unless planning permission has been granted by the Local Planning Authority on application in that respect.
- 05 No works or development shall take place until full details of all hard and soft landscaping works have been approved in writing by the Local Planning Authority. All such works shall be carried out in accordance with the approved details. Any plants which within a period of 5 years from the time of planting die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species unless the Local Planning Authority gives written consent to any variation.

REASON

ICAB2 The proposal does not materially affect the amenities of neighbouring occupiers or the character and visual amenities of the locality.

DCN/104 **PLANNING APPLICATION: DC/11/2348 - FIRST FLOOR SIDE  
EXTENSION**

**SITE: 13 ROWAN WAY, HORSHAM, WEST SUSSEX RH12 4NS**

**APPLICANT: MR AND MRS ANDREW SMITH**

The Head of Planning & Environmental Services reported that this application sought planning permission for the construction of a first floor side extension, built over an existing ground floor garage. The application comprised a revised scheme from that which had been refused under application DC/11/0358. Revisions consisted of an increased setback from the front of the dwelling of three metres and a lower ridge height of approximately one metre below the existing dwelling.

The subject site, which was located within the Horsham built-up area, was a two-storey semi-detached dwelling at Rowan Way. The dwelling was one of a large number of residential properties in the area and occupied a prominent position in the street.

Local Development Framework Core Strategy Policies CP1 and CP3 and Local Development Framework General Development Control Policy DC9 were relevant to the determination of this application.

In 2011, an application for a first floor side extension had been refused (DC/11/0358).

The Parish Council raised no objection to the proposal and the applicant spoke in support of the application.

The main issues in the determination of this application were considered to be the principle of the proposed development in this location and its effect on the amenities of the occupiers of adjoining properties and the character of the local area.

In terms of impacts on the amenities of neighbouring properties, the proposed extension would have one additional window on the rear elevation. However, given its urban setting, it was considered the level of overlooking brought about by the extension would not be any greater than the levels currently experienced in the local area. Members, therefore, considered that the proposal would not lead to any material increase in the level of overlooking of the neighbouring properties.

It was also considered that the scale, siting and design of the proposed extension would not materially impact upon the established character of development in the area.

Members, therefore, considered that the application was acceptable.



DCN/104 Planning Application: DC/11/2348 (cont.)

RESOLVED

That application DC/11/2348 be determined by the Head of Planning & Environmental Services, to allow the framing of appropriate conditions. The preliminary view of the Committee was that the application should be granted.

*The meeting closed at 6.45 pm having commenced at 5.30pm.*

CHAIRMAN

**DEVELOPMENT CONTROL (NORTH) COMMITTEE**  
**7<sup>TH</sup> FEBRUARY 2012**  
**REPORT BY THE HEAD OF PLANNING & ENVIRONMENTAL SERVICES**

**APPEALS**

1. **Appeals Lodged**

I have received notice from the Department of Communities and Local Government that the following appeals have been lodged:-

2. **Written Representations/Householder Appeals Service**

- DC/11/1792     Alteration and part retention of existing building (former dwelling house) to form gym/pool within the garden area of the dwelling.  
Oakdean House, Sedgwick Lane, Horsham, RH13 6QE.  
For: Mr Robert Lammas
- DC/11/1713     2-storey front extension.  
2 Beechwood, Southwater, Horsham, RH13 9JU.  
For: Mrs Amanda Marchant
- DC/11/2097     Erection of one 2-bed dwelling on land to the rear of Rossbank  
Rossbank, Worthing Road, Horsham, RH13 9AT.  
For: Mr John Isbister
- DC/11/1548     Driveway gates moved back and re-siting of 2 metre high fencing.  
18 Rowan Way, Horsham, RH12 4NX.  
For: Mr Graham Dance
- DC/11/0673     Construction of a single storey end of terrace bungalow facing Peary  
Close, use of part of existing extension on northern boundary as part  
of new bungalow.  
14 Peary Close, Horsham, RH12 5GD.  
For: Ms Shelley Vickers

3. **Appeal Decisions**

I have received notice from the Department of Communities and Local Government that the following appeals have been determined:-

- DC/11/0061     Extension of restaurant closing times as follows: Monday - Thursday  
from 23:00 to 23.45, Friday and Saturday from 23.45 to 00.30,  
Sunday from 22.30 to 23.15.  
23 Freshwater Parade, Bishopric, Horsham, RH12 1QD.  
For: Mr Farhat Gondogdu  
Appeal: **DISMISSED** (Delegated)
- DC/11/0224     Outline application for development of 2.8ha with up to 70 dwellings  
(40% as affordable homes), associated open space, strategic  
landscaping and access improvements and the use of 1.5ha of land  
within the site as new public open space and woodland planting.  
Land South of Athelstan Way, Horsham, West Sussex  
For: West Sussex County Council  
Appeal: **DISMISSED** (Committee)

DC/11/0303    Relocation of driveway to provide an extension to the basement of dwelling approved under DC/09/1943 to relocate surface parking underground.  
Elenge Plat, Grouse Road, Colgate, Horsham, RH13 6HT.  
For: Mr and Mrs F Varela  
Appeal: **DISMISSED** (Committee)

**Development Control (North) Committee**  
**7<sup>th</sup> February 2012**  
**Decisions on Lawful Development Certificates**

**Menards Fishery, Hammerpond Road, Horsham - DC/11/2035** – The applicant applied for a Certificate of Lawfulness for the erection of security gates on the land and the use of an extended portacabin as a residence. The evidence proved that the security gates had been at the entrance of the site for a period in excess of ten years prior to the date of this application. The portacabin had also been on the land for a period of over ten years and its residential use for a period of four years was also proved. The Certificate was granted.

**Denne Farm, Bognor Road, Warnham - DC/11/2283** – The applicant applied for a Certificate of Lawfulness for the use of land for the stationing of a mobile home used for residential purposes. The Certificate was granted as the applicant proved that the mobile home had been sited on the land for over ten years and that during that time it had been used as a residence.

**The Loft, Hop Garden Farm, Lower Beeding – DC/11/2386** – The applicant applied for a Certificate of Lawfulness for the use of the flat in the garage , known as The Loft, at Hop Garden Farm as a unit of residential accommodation. The applicant had to prove that the Loft has been used as residential accommodation continuously for a period in excess of four years. The application was granted.

**Colt Farm, Burnthouse Lane, Lower Beeding -** an application had been received for a Certificate of Lawfulness for the use of the building known as 'The Mess Room' as an independent unit of accommodation. The applicant had to prove that the use had existed for a period in excess of four years prior to the date of the application. The Certificate was granted



## DEVELOPMENT MANAGEMENT REPORT

**TO:** Development Management Committee North

**BY:** Head of Planning and Environmental Services

**DATE:** 7<sup>th</sup> February 2012

**DEVELOPMENT:** Approval of reserved matters relating to appearance and landscaping following outline permission DC/08/1269 (demolition of existing care home and erection of 14 houses and 9 flats [ total 23 residential units ] with associated parking and access)

**SITE:** Brookfield, Blackbridge Lane, Horsham

**WARD:** Denne

**APPLICATION:** DC/11/2461

**APPLICANT:** Croudace Homes Ltd

**REASON FOR INCLUSION ON AGENDA:** Category of development

**RECOMMENDATION:** Approve the reserved matters

### 1. THE PURPOSE OF THIS REPORT

To consider the reserved matters.

#### DESCRIPTION OF THE APPLICATION

- 1.1 The application relates to the erection of 23 residential units on the site of the now vacant care home. Outline planning permission DC/08/1269 was granted on 2<sup>nd</sup> September 2011 which approved the principle of the development together with details of the layout, scale and access. This proposal seeks consent for the reserved matters of appearance and landscaping. Submitted with the application is a Design And Access Statement, landscaping proposals including a management maintenance schedule and tree survey.
- 1.2 The outline application was considered at the Committee meetings on 7<sup>th</sup> July 2009 and 6<sup>th</sup> October 2009 when it was agreed that subject to completion of a Section 106 Agreement relating to affordable housing and contributions, that planning

permission be granted. Negotiations relating to the 106 Agreement were concluded in August 2011 with the permission subsequently being issued on 2<sup>nd</sup> September 2011. The site has since been sold to the current applicant who wishes to develop the site in accordance with the outline permission.

- 1.3 The existing access into the site is to be used which is from the existing junction with Blackbridge Lane. The proposals approved at outline stage include widening the existing narrow access road to allow for two vehicles to park.
- 1.4 The approved layout shows a terrace of 7 x 4 bed dwellings (2½ storeys) fronting onto Blackbridge Lane in a crescent, a 2½ storey block of two bed flats adjacent to the existing access to the north of the site, a 2 storey detached 4 bed dwelling placed centrally on the site, a 2½ storey block of two bed flats on the southern boundary and a row of 6 x two storey terraced houses backing onto the school playing fields to the east of the site and lying to the south of the existing bungalows in Blackbridge Lane. A total of 38 parking spaces are proposed for the 23 residential units.
- 1.5 The overall layout now proposed has not changed significantly however, the crescent fronting Blackbridge Lane has changed from a terrace of seven units to a central block of three units, flanked by a pair of semi-detached units either side. Also, the terrace of six units on the eastern boundary is now split into two blocks of three houses each.
- 1.6 The broad tenure mix of the units has not changed from the outline proposal comprising 9 affordable dwellings and 14 private units. However, previously the 6 affordable terraced properties on the eastern boundary comprised 5 x 3 bed houses and 1 x 4 bed house. This has now changed to 6 x 3 bed houses as the Registered Provider ( Moat Housing Association ) no longer provide 4 bed units due to the high rent levels that would have to be charged. The other affordable dwellings are as approved , being 3 x 2 bed flats. Of the 14 private units these remain as 6 x 2 bed flats, 1 x 4 bed detached house and 7 x 4 bed town houses.
- 1.7 The Design and Access Statement advises that:

*"The new crescent follows the line of the street with a set back building line to ensure a green edge for trees and planting. Flats on the corner provide an intersecting termination to the vista down Blackbridge Lane. Along the southern boundary it notes that the existing dense screening along the boundary is to be retained and along the boundary with the bungalows, Riverside and Rosebank, the existing dense screening of high conifers along the boundary to be reinforced with new planting where necessary.*

- 1.8 With regard to the landscaping it states:

*"The provision of greenery is crucial to the development helping to create a pleasant and interesting environment. All gardens and amenity spaces will be grassed with new low level hedge and shrubbery incorporated into front gardens and public areas to define spaces, provide screening and assist in softening walls and fences. New trees will be planted throughout the site to provide*

*variety on the street. All planting will be of species native to the local area. There will be paths to the front and rear of everybody with much of the hard surfaced areas constructed of porous paving with the exception being the tarmac entrance road. Details for landscaping within the site are submitted with the application along with a tree report, management plan and design objectives."*

- 1.9 With regard to the appearance of the development it is advised that:

*"It is considered that this site has the opportunity to define its own architectural style drawing from the characteristics of this area of Sussex. Common materials will be used with simple brick and tile details to enhance the building's features and to provide attractive, varied facades. Typical features to be used are shown (these include tile hanging, dormers and brick).*

## DESCRIPTION OF THE SITE

- 1.10 The site is located on the east side of Blackbridge Lane and is 0.4 ha in area. It is currently occupied by the two storey flat roofed care home known as Brookfield which is vacant. It was previously acknowledged that the buildings were in a poor condition and were redundant having been replaced by new care facilities elsewhere in the town.
- 1.11 To the south of the site is St John's Primary School separated by a line of conifers with the school fields to the east of the site. To the north-west is a small access off Blackbridge Lane which leads to Blackbridge Court and the three bungalows Riverside, Rosebank and Briar Bank which back onto the site and which are set at a lower level than the application site. The opposite side of this access is bordered by the River Arun. On the opposite side of Blackbridge Lane lies Arunside Primary School together with a small wooded area adjacent to the river. The land rises to either side of the River Arun so the application site is lower in the north and rising up to the south.
- 1.12 The area comprises mainly family housing with a small number of flatted developments together with the two primary schools.
- 1.13 The north-eastern edge of the site lies within flood zone 2 (medium risk of flooding) with the remainder within flood zone 1 (low risk). The source of the flood risk is the nearby River Arun.

## PLANNING HISTORY

- 1.14 Prior to the outline application there is no other relevant planning history other than that relating to the care home itself. In respect of the outline application (DC/08/1269), this related to the demolition of the care home and erection of 23 residential units with associated parking and access. The Section 106 Agreement (ref. Section 106/1739) relating to transport contributions and community facilities contributions and provision of affordable housing was completed in August 2011.

## 2. INTRODUCTION

### STATUTORY BACKGROUND

- 2.1 Town and Country Planning Act 1990.

### RELEVANT GOVERNMENT POLICY

- 2.2 PPS1, PPS3, PPG13.

### RELEVANT COUNCIL POLICY

- 2.3 Relevant policies of the Local Development Framework Core Strategy 2007 are: CP1, CP2, CP3, CP5, CP12, CP13, CP14 and CP19.

- 2.4 Relevant policies of the Local Development Framework General Development Control Policies are DC6, DC7, DC8, DC9, DC18 and DC40.

## 3. OUTCOME OF CONSULTATIONS

- 3.1 **West Sussex County Council** comment that the reserved matters layout as submitted is broadly similar to the indicative layout at the outline stage with access onto Blackbridge Lane via an existing cul-de-sac. The outline application includes conditions requiring the access onto Blackbridge Lane to be improved prior to any occupation of the dwellings. As regards the internal access and parking arrangements itself, this would appear to be acceptable on the basis that it is compatible with the access improvements previously advised.
- 3.2 **Southern Water** comment that a public water distribution main is positioned in the immediate vicinity of the site. *(The plan shows the water main to run around the frontage of the site along Blackbridge Lane)*. The exact position of the public water main must be determined on site by the applicant before the layout of the proposed development is finalised. All existing infrastructure should be protected during the course of construction works and no excavation, mounding or tree planting should be carried out within 3m of the public water main without consent from Southern Water. Initial investigations indicate Southern Water can provide a foul sewage disposal service to the proposed development. A formal application for connection to the public sewer should be made by the developer. The Council's Building Control Officers or Technical staff should be asked to comment on the adequacy of soakaways to dispose of surface water from the development and recommend a condition relating to surface water disposal.
- 3.3 **The Environment Agency** have no comments to make on the reserved matters application which relates to appearance and landscaping - *(note that conditions relating to levels as previously suggested by the Environment Agency are contained within the outline permission)*.
- 3.4 **Sussex Police Crime Prevention Design Adviser** comments that the crime and anti social behaviour at this location is average when compared to the rest of England and Wales. He raises concern with regard to the rear parking court for



units 1 – 7 and 12 – 17 as there is no natural surveillance. The parking for plots 18 – 23 is to the front of the units and offers good open surveillance of the parking areas.

### 3.5 Arboricultural Officer -

*'I comment further to my report on the outline proposal dated 26 Sep 08 (ref: DC/08/1269).*

- The key arboricultural concern is the very large hybrid black poplar tree on the western site boundary adjacent to Blackbridge Lane. I noted in my previous report that, despite its high amenity value, I found it in poor order, and a tree not suitable for long-term retention in the development scheme. I maintain this view, and register no objection to its removal.*
- There is insufficient space in the same area for an ultimately similarly sized replacement, but I note that the proposals indicate the planting of 18 new trees, of sizes more in keeping with the development, and find this satisfactory.*
- I also note the retention of the two large-leaved lime trees in the northern area of the site, which is pleasing.*
- I note no further arboricultural aspects on the site to refer to.*

*The scheme appears to satisfy the provisions of policy DC9 of the General Development Control Policies Framework document (December 2007) in arboricultural terms, and accordingly I register no objection. '*

## 4. HOW THE PROPOSED COURSE OF ACTION WILL PROMOTE HUMAN RIGHTS

Article 8 (right to respect of a private and family life) and Article 1 of the First Protocol (protection of property) of the Human Rights Act 1998 are relevant to the application. Consideration of Human Rights forms part of the planning assessment below.

## 5. HOW THE PROPOSAL WILL HELP TO REDUCE CRIME AND DISORDER

In the light of the comments from Sussex Police, the applicant has been asked to comment on the layout of the parking areas and how natural surveillance could be increased.

## 6. PLANNING ASSESSMENT

### Principle of development

- 6.1 The principle of the development of this site for residential purposes has been established by the granting of the outline permission DC/08/1269.
- 6.2 The site is within the built-up area and in a sustainable location. The number of units and the layout has previously been approved at outline stage and the submitted scheme conforms to those broad principles.

- 6.3 Thus the main issues in the determination of this reserved matters application are the impact of the proposal on the character and visual amenities of the street scene and locality, impact on residential amenities, existing trees and vegetation and the suitability of the proposed landscaping.

### **Character and appearance**

- 6.4 Development Plan policies require that new residential development should be of a high standard of design and layout in keeping with the character of nearby development and the surrounding area. The location of the site is in a residential area including both individual dwellings and flats together with two primary schools. The existing building (2 storey flat roofed care home) is set back from the road, as are the two schools, however other development along Blackbridge Lane (predominantly residential), both to the north and south of the site, fronts directly onto the road.
- 6.5 It was thus agreed at outline stage that the layout provided a good frontage to Blackbridge Lane with the crescent of town houses and a focal point being made at the access point with the erection of the block of two bed flats. Parking is internal to the site and screened with existing and proposed landscaping which comprises courtyard arrangements. The houses on the eastern boundary of the site look over towards the school playing fields. It was considered the layout was appropriate given the context of the site. The changes from the two terraces to smaller blocks of units are considered to be acceptable and help to assist in reducing the bulk and extent of built form.
- 6.6 With regard to the scale of the development, during the course of the outline application the Environment Agency required the dwellings to be set at a particular height above Ordnance Datum in order to prevent flooding. The minimum finished floor level as set out in the Flood Risk Assessment required this to be +35.35m OD. Given this requirement plans were submitted indicating the floor, eaves and ridge heights of the development in relation to adjoining properties and the road and to give an idea of how the 2 and 2½ storey blocks of buildings on the site would be assimilated into the surroundings. A condition was also imposed requiring more details of levels to be submitted for subsequent approval prior to commencement of development.
- 6.7 In respect of the street scene and the submitted elevations, the site rises from the river to the north up to the south with the crescent of houses being at the highest level on the site adjacent to St John's School. The detailed plans which form part of this application show the crescent split into three smaller blocks, stepping down from the south to the north following the fall of the land. The applicant has been requested to supply further details to demonstrate that these comply with the parameters established at outline stage being the floor levels as required by the Environment Agency and the overall ridge and eaves heights.
- 6.8 With regard to the detailed appearance of the buildings, units 1-7 are to be constructed with brick walls and slate roofs with dormer windows to the front elevation. Pitched roof porches are shown to each individual unit. The block of flats on the corner of the site, (units 8-10), is 2½ storey of brick and slate

construction with pitched roof dormers. Unit 11 is shown with brick walls with tile hanging to the upper floors and tiled roof. The flats in block 12-17 is 2½ storey with brick walls and a tiled roof, dormer windows in the roofspace and projecting bay windows. The terraces of dwellings at units 18-23 are shown with brick and tile hanging and tiled roofs.

- 6.9 Subject to the submission of samples of the palette of materials, the external appearance of the scheme is considered to be acceptable in this location.

### **Residential amenities**

- 6.10 The properties affected in this regard would be the three bungalows - Riverside, Rosebank and Briarbank set to the north east of the site. These bungalows are at a lower level than the application site and whilst there is screening along their southern boundaries they have relatively short gardens, that at Riverside being some 6.5m in length, Rosebank being 12m and Briarbank being some 10m. Previously there had been concern that the two storey dwellings (plots 18-23) could appear dominant and overbearing from the rear gardens of these bungalows particularly as the flank elevation was originally set close to the rear boundaries.
- 6.11 During the course of the outline application this element was rethought and the distance between the end of terrace unit 23 to the boundary with Rosebank was increased to 3m and the gable end of the roof was changed to a hipped design to reduce the mass and impact. With regard to the positioning of the parking on the rear boundary to Riverside, three visitor spaces were shown. This was to be separated from the rear boundary to a depth of 3m which comprising an area of landscaping and a path leading to the rear of units 21 -23.
- 6.12 The current proposal has refined the proposal in this respect in that the end elevation of unit 23 is now set some 4.5m increasing to 5m from the boundary fence of Rosebank allowing for an increased depth of planting along the boundary, plus a side access path for unit 23 and a pathway to the rear of plot 22, thus further separating the side wall of unit 23 from the rear boundary of Rosebank. In respect of the parking area, the current plans show three parking spaces for visitors along this boundary, set 3.5m from the rear boundary of Riverside, allowing for additional planting.
- 6.13 The hipped design of the roof of unit 23 has been retained, so that it slopes away from the bungalows.
- 6.14 These details are considered to be satisfactory and result in an acceptable relationship with these existing dwellings.

### **Trees and landscaping**

- 6.15 The scheme provides for the retention of the two Lime trees to the front of the site. Whilst the hybrid Black Poplar tree also has amenity value, it has serious structural deficiencies (as recognised at the time of the outline application) and is to be removed. The landscaping proposals show replacement and new tree planting along the frontage and internal to the site, plus shrubs and other landscaping.

Subject to consideration of the details of these proposals, the landscaping scheme is acceptable.

### **Sustainable construction**

6.16 This has been addressed within the Design and Access Statement, as follows:

*'Croudace will seek to use the lowest carbon intensive technologies and materials that are technologically and financially feasible for the scheme. All housing has been designed to achieve a minimum of Level 3 on the Code For Sustainable Homes Assessment as required by condition 20 of the planning permission which will involve high fabric efficiency and some renewable technologies. Subject to further study it is expected that a possible 10 15 % of all energy consumed on the development could come from photovoltaic panels installed on the building roofs. The carbon dioxide emissions of each dwelling( DER ) will be 25 % lower than the target emission rate of the dwellings. The majority of materials fittings and kitchen appliances will be A Rated for energy efficiency while Low energy down lighters are used in hall and landing locations in all dwellings.*

*All homes will have suitable non mechanical drying facilities with rotary washing lines in gardens. In order to minimise water consumption. A rated appliances and dual flush WCs will be installed. Water butts will be provided in private gardens to collect and store Rainwater, this will store all the water needed to irrigate planting. Deep flow gutters will also be used on the dwellings to decrease the flow rate of rainfall entering into the drainage system, reducing the risk of flooding.*

*The development has been designed to provide shared amenity space which will encourage social interaction while also providing every house with private sheltered gardens. Buildings on site have been positioned according to many factors to form the best possible public and private spaces varied streetscapes and to provide a safe welcoming neighbourhood . All dwellings are dual aspect with openable windows to capitalize on daylight and allow natural through ventilation . Windows and doors are orientated to open onto and overlook public spaces aiming to provide safer streets and a friendlier community . Motion sensitive security lighting will be installed where appropriate with daylight sensors to reduce energy consumption .*

*Croudace are part of the Considerate Constructors scheme and during construction will implement a site waste management program ensuring the development has as little impact on the environment locally and globally as possible.'*

## **Section 106 Agreement**

- 6.17 The original agreement S106/1739 specifies the exact tenure split and size of the affordable units. As this is changing from the 5 x 3 bed units and 1 x 4 bed unit (plots 18-23 ) to all 3 bed units, it will be necessary for a revision to the agreement to be made.

## **7. RECOMMENDATION**

- 7.1 It is recommended that the reserved matters are approved, with the following informative to be added:
- 1) INF outline conditions applicable.
- 7.2 It is further recommended that a variation to the Section 106 agreement be made to reflect the affordable housing provision now proposed.

## **8. REASONS**

IDP1 The proposal is consistent with the provisions of the development plan.

ICAB3 The proposal does not have an adverse impact upon the character and appearance of the street scene or locality.

Background Papers: DC/11/1246  
Contact Officer: Val Cheesman

WK3/DC112461/46



## DEVELOPMENT MANAGEMENT REPORT

**TO:** Development Management Committee North

**BY:** Head of Planning and Environmental Services

**DATE:** 7<sup>th</sup> February 2012

**DEVELOPMENT:** Erection of 3 dwellings (1 x Detached and 2 x Semi-Detached) with vehicular access from Millthorpe Road

**SITE:** Land to the rear of 30 Rusper Road, Horsham

**WARD:** Roffey North

**APPLICATION:** DC/11/1846

**APPLICANT:** Rookwood Homes Ltd

**REASON FOR INCLUSION ON AGENDA:** Officer Referral

**RECOMMENDATION:** That the application be delegated for approval to the Head of Planning and Environmental Services subject to the receipt of a Section 106 Legal Agreement relating to infrastructure contributions

1. Background:

- 1.1 The planning application was previously considered by Development Management Committee North on the 1<sup>st</sup> November 2011, whereupon the recommendation to delegate the application for approval subject to the receipt of a Section 106 Legal Agreement relating to infrastructure contributions was overturned and it was resolved that the application be refused on the grounds of overdevelopment, including parking provision in relation to the adjacent dwelling.
- 1.2 A number of issues were raised before the decision was reached which included the previous permitted (and still extant) planning application relating to the site, safety issues relating to cars using the twitten, access for fire services, impact on the TPO trees in the twitten and a legal agreement between a previous developer and the adjoining occupier at No 44 Millthorpe Road. Since consideration of the application at Committee, one further neighbour letter of objection has been received on the grounds of loss of privacy, light and noise.
- 1.3 Your officers consider it appropriate that the application is re-considered at Committee in order to clarify the current position of the site, the extant planning permission and what it is considered to be the appropriate planning considerations

against which the current application should be determined. A copy of the original Committee Report is appended for convenience.

## 2. Current Situation including Extant Permission:

- 2.1 There is currently planning permission on the site, under planning application reference DC/07/2826, for the erection of a pair of semi-detached dwellings which was allowed by appeal. The site area of the current application has increased in width and the width of the current proposed semi-detached properties has reduced in order to fit the proposed additional property on the site in a suitable manner. The fact that this scheme has not been implemented at the time of writing is not a determinate consideration in planning terms and the current proposal must be considered on its own individual merits with regards to the Local Planning Authorities Local Development Framework Plan and all other relevant material planning considerations.

### The Twitten and Highway Safety:

- 2.2 The extant permission includes planning permission for works to the twitten and therefore such works could be carried out without the need for further planning permission, should the developer wish to implement this scheme. Your officers feel that it is therefore important to note that the principle of the use of the twitten for an additional two properties has already been established and this use currently takes place with the existing properties along the twitten (No's 42 & 44 Millthorpe Road). The matter for consideration is therefore whether one additional dwelling to those already approved on the increased site would cause any highway safety concerns to justify a refusal of planning permission. You will note that the Inspector in his appeal decision considered the proposed use of the twitten to be satisfactory for two dwellings and West Sussex County Highways Department has raised no objection to the proposal subject to the imposition of suitable conditions.

### Access for Fire Services:

- 2.3 As outlined in section 2.2 above, permission for works to the twitten are already in place and are considered appropriate for access to the properties, including by the emergency services. It is considered that an additional unit on the site (an overall increase of two bedrooms across the site) would have no material impact on the ability of emergency services to access the properties. It is noted that 2 parking spaces would be provided for each property, all of which would be sited off the twitten.

### Impact on the TPO Trees in the Twitten:

- 2.4 In the consideration of the application previously, one member expressed concerns that major root damage to the TPO trees in the twitten would be caused. In the previous appeal decision, the inspector imposed a condition which stated; *"No development shall take place until a scheme for the protection of the sycamore trees in the twitten opposite the site has been submitted to and approved in writing with the Local Planning Authority. The approved measures shall be put in place before any works commence on site and shall thereafter be retained until the*

*development has been completed and all surplus materials have been removed from the site.*" The Councils tree officer has stated that subject to the imposition of this condition, there would be no objection to the proposal. Your officers are therefore of the opinion that a refusal of planning permission on the basis of harm to TPO trees could not be substantiated.

Legal Agreement associated with previous development:

- 2.5 It was stated in the consideration of the application at the previous committee meeting that an adjoining occupier had a legal agreement with a previous developer to obtain a strip of land for parking purposes adjoining No. 44 Millthorpe Road. This agreement is outside the remit of the determination of the current planning application and is a private legal matter between the adjoining occupier and the party to which the agreement related. Your officers do not consider that this agreement is a determining factor in the consideration of the current planning application.

Overdevelopment of the Site:

- 2.6 Concerns were raised that the application represented overdevelopment of the site and issues of the overbearing nature of the development were also highlighted. Your officers are of the view, that given the increase in the size of the site and the reduction in width of the semi-detached properties (compared to those already approved on the site DC/07/2826) and the previous Inspectors decision, the proposal would comply with the requirements of policy DC9 of the General Development Control Policies Document 2007.
- 2.7 The applicant has highlighted in recent correspondence that the proposed rear garden depths are identical to the already approved scheme for two houses, as is the case with the distances to the rear of the properties in Northdown Close. It is also pointed out that the siting of the proposed 3 dwellings would result in an average plot width of 8.3m, which is greater than the average plot width of the adjoining properties (No's 42 and 44 Millthorpe Road), properties along Millthorpe Road and more than twice the average plot width of properties in Northdown Close.

Other Matters:

- 2.8 During the consultation period, the adjoining occupier had suggested the depth of his house was incorrectly shown on the drawings as the property had been extended to the rear. The depth of the property had actually been shown correctly but No 42 had been shown to be deeper than it is. For clarity, amended plans have been submitted to more accurately reflect the situation.

3. Conclusions:

Members are requested and reminded that consideration of the planning application is required to take account only of the planning merits of the proposal. As the site currently has permission for the erection of a pair of semi-detached dwellings including works to the twitten to provide vehicular access, consideration must be given to the additional unit proposed on the site and whether the harm



caused by this additional unit would justify a refusal of planning permission. It is your officers view, based on the reasons outlined above, that planning permission should be delegated for approval to the Head of Planning and Environmental Services subject to the receipt of a Section 106 Legal Agreement relating to infrastructure contributions and subject to the conditions and reasons for approval as outlined in the previous Committee Report.

Background Papers:  
Contact Officer:

DC/11/1846  
David Taylor



## **DEVELOPMENT MANAGEMENT REPORT**

**TO:** Development Management Committee North

**BY:** Head of Planning and Environmental Services

**DATE:** 1<sup>st</sup> November 2011

**DEVELOPMENT:** Erection of 3 dwellings (1 x Detached and 2 x Semi-Detached) with vehicular access from Millthorpe Road

**SITE:** Land to the rear of 30 Rusper Road, Horsham

**WARD:** Roffey North

**APPLICATION:** DC/11/1846

**APPLICANT:** Rookwood Homes Ltd

**REASON FOR INCLUSION ON AGENDA:** Officer Referral

**RECOMMENDATION:** That the application be delegated for approval to the Head of Planning and Environmental Services subject to the receipt of a Section 106 Legal Agreement relating to infrastructure contributions

### **1. THE PURPOSE OF THIS REPORT**

To consider the planning application.

#### **DESCRIPTION OF THE APPLICATION**

- 1.1 The application seeks permission for the erection of 3 dwellings (1 x Detached and 2 x Semi-Detached) and access road from Millthorpe Road.

#### **DESCRIPTION OF THE SITE**

- 1.2 The application site is located on land to the rear of 30 Rusper Road, which is within the built up area of Horsham and sits between Rusper Road and Millthorpe Road. The land currently forms part of the substantial and mature garden of 30 Rusper Road. The properties fronting Rusper Road are large detached dwellings with long rear gardens and to the north of the application site is the rear garden of No 32 Rusper Road. To the east, the development character is of a higher density with semi-detached houses fronting a narrow driveway which is also a footpath. To the South of the application site is a row of terraced properties which are accessed

via Northern Close. These two storey properties back onto the walkway (Twitten) and the rear windows of these properties face the application site.

## PLANNING HISTORY

- 1.3 DC/06/1421 – Erection of 2 dwellings with single garages (rear of 30 Rusper Road) and new single garage for 44 Millthorpe Road – Refused on 17/10/2006. Appeal dismissed on 21/05/2007

DC/07/2826 – Erection of a pair of semi-detached dwellings – Refused on 27/06/2008. Appeal allowed on 05/02/2009

## 2. INTRODUCTION

### STATUTORY BACKGROUND

- 2.1 Town and Country Planning Act 1990.

### RELEVANT GOVERNMENT POLICY

- 2.2 PPS1, PPS4, PPS7, PPG13 PPG24

### RELEVANT COUNCIL POLICY

- 2.3 The relevant policies of the Local Development Framework Core Strategy are CP1, CP2, CP3, CP13 and CP19.
- 2.4 The relevant policies of the Local Development Framework General Development Control Policies Document are DC9 and DC40.
- 2.5 The relevant policies of the South East Plan are CC1 and CC4.

## 3. OUTCOME OF CONSULTATIONS

### INTERNAL CONSULTATIONS

- 3.1 Public Health and Licensing – Provided the following comments on 29/09/2011:

#### **General**

1. Adequate provision shall be made for surface water drainage.
2. The Architect has confirmed that the likely project cost will exceed £300,000. Accordingly, a Site Waste Management Plan would be required under the Site Waste Management Regulations 2008. This should cover controls on wastes arising from construction and demolition activities. Whilst an SWMP is not a planning requirement, it is noted that no reference to such a plan was made in the submission by the architects.

3. There is the possibility that, during development or at any other stage, unforeseen contamination may be encountered. This may be due to the presence of underground structures, burial of waste in the past, soils impacted by oil contamination where tanks have leaked etc. Any such occurrences must be investigated by an appropriately trained person and if necessary dealt with to minimise risks to human health, the water environment and other ecosystems. In the event that remediation measures are necessary, a method statement shall be submitted, approved, implemented and validated by the planning authority.

### **Construction Phase**

1. No burning of materials or waste on site. All waste to be removed by a registered waste contractor.
2. Contamination - There should be no importation of soil and other fill materials onto the development site unless the soil/fill has been certified as fit for purpose by a competent person and has been subject to analysis by an accredited laboratory to ensure that it is free from contamination.
3. Hours of construction activities (including deliveries & dispatch) should be limited to:  
08.00 – 18.00 Monday until Friday,  
08.00 – 13.00 Saturdays  
No working on Sundays, Bank or Public Holidays.

### **Operational Phase**

1. No exterior floodlighting unless prior written approval from the local planning authority has been granted.
- 3.2 Tree Officer – Verbally confirmed that there is no objection to the proposal, subject to the imposition of condition 8 on the previous appeal decision which requires for a scheme of protection of the sycamore trees in the Twitten to be submitted to and approved in writing to the Local Planning Authority prior to any other works commencing on site.

### **OUTSIDE AGENCIES**

- 3.3 North Horsham Parish Council – *“The Parish Council strongly object to this application on the grounds of over development of the site. It is considered that both access and parking would be insufficient for the new dwellings, and it is noted that access to the proposed buildings would remove part of the existing Twitten from Rusper Road.”*
- 3.4 West Sussex County Council Highways – No highway objections, subject to conditions. *“The access road is of sufficient width to accommodate two passing vehicles, however WSCC recommends that a condition be attached ensuring that the driveway is surfaced for shared use by vehicles and pedestrians, and that no dwellings should be occupied until the access works have been carried out. WSCC*

*would also recommend that conditions be attached ensuring that bollards are in place to restrict vehicle through movements between Millthorpe Road and Rusper Road, and that also a pedestrian right of way is preserved along the access road in perpetuity.”*

- 3.5 Southern Water – Should the application receive planning approval, an informative should be attached to the consent notifying the applicant that a formal application for connection to the public sewerage system is required in order to service the development.

## **PUBLIC CONSULTATIONS**

- 3.6 5 letters have been received from neighbouring residential properties objecting to the proposal on the following grounds:
- The existing access is not wide enough
  - Parking problems in the area
  - Overdevelopment of the site
  - Inaccuracies in block plan of No 44 Millthorpe Road
  - Impact on TPO trees in twitten
  - Impact on users of the twitten i.e. Public safety
  - Loss of privacy/Loss of light
  - Noise
  - Loss of trees and landscaping within the site
- 3.7 The Horsham Society have objected on the grounds that the application is undesirable backland development and would result in overdevelopment of the site.

## **4. HOW THE PROPOSED COURSE OF ACTION WILL PROMOTE HUMAN RIGHTS**

Article 8 (right to respect of a private and family life) and Article 1 of the First Protocol (protection of property) of the Human Rights Act 1998 are relevant to the application. Consideration of Human Rights forms part of the planning assessment below.

## **5. HOW THE PROPOSAL WILL HELP TO REDUCE CRIME AND DISORDER**

It is not considered that there are any implications for crime and disorder arising from this application.

## **6. PLANNING ASSESSMENT**

- 6.1 The main issues in the determination of this application are considered to be the principle of the residential development in this location, whether the proposal is in character with the pattern of residential development in the locality, its impact on trees, the affect upon neighbouring residential amenity and highway/traffic issues including the impact on the Twitten.

Principle of Development:

- 6.2 The site lies within the defined built up area boundary of Horsham and therefore the principle of residential development in this location is considered acceptable, provided all other development control policy criteria are adhered to. Access to local services and amenities would be readily accessible and the site is considered to represent a sustainable location for residential development.
- 6.3 The site has been subject of an appeal (Planning Reference DC/07/2826) which granted planning permission for a pair of semi-detached dwellings. The planning application was refused planning permission because of concerns regarding noise and disturbance to residents of No's 1 to 8 Northdown Close. The Inspector states within the report that, *"It is common ground between the appellant company and the Council that building a pair of semi-detached houses on the site would be acceptable in principle. It is further agreed that (i) the design and massing of the houses would be acceptable; (ii) that they would not materially harm the character of the area; (iii) that they would not unacceptably impact on the privacy of neighbouring properties; and (iv) that the proposed development would not compromise highway safety."* It was also accepted that the amenity space attached to each dwelling would be adequate and provided suitable precautions were taken, there would be no harm to the TPO trees on the site.
- 6.4 Under the previous application, the applicants submitted details from an acoustic consultant in an attempt to overcome the refusal reason of the Local Planning Authority which related to the impact on adjoining residential occupiers as a result of noise and disturbance. The Inspector states in his report that *"his analysis also showed that the level of noise emitted by vehicles driving along the twitten and manoeuvring into the driveways, by engines starting, by car doors closing and by other associated activities at the front of the proposed houses, would generally be well below existing peak noise levels in the area and well below those likely to cause sleep disturbance... To my mind, there is no reason to suppose that noise from the development would cause unacceptable harm to the living conditions of those living near the site. In this regard, I find no conflict with the development plan."* It is therefore a pertinent and material consideration to examine whether the amendments to the proposal on the site, namely the addition of a further dwelling, would have any additional material impact on issues of acknowledged importance. A copy of the most recent appeal decision is attached at the end of this report.

Impact on the Character of the Area:

- 6.5 Policy DC9 of the General Development Control Policies Document states that planning permission will be granted for developments which, amongst other matters, do not cause unacceptable harm to the amenity of occupiers of nearby property and land and where the scale, massing and appearance of the development is of a high standard of design and layout.
- 6.6 The area is mixed in terms of house types. The development is proposed in the rear garden of No 30 Rusper Road, a large detached house with rear extensions with a substantial mature rear garden. The property is similar to others fronting

Rusper Road. The proposal is to erect a pair of semi-detached houses and a detached house fronting the Twitten. There is an existing precedent for properties fronting the Twitten with the pair of houses to the east, No's 42 and 44.

- 6.7 The plot size of the proposed dwellings is slightly larger than those of the adjacent properties to the east and a street scene elevation shows a similar ridge height to the adjoining properties. The design of the dwellings picks up on design elements incorporated in the adjacent properties of No's 42 and 44 with gable features and materials to match. It is considered the proposed new dwellings would conform to the character and appearance of adjacent dwellings and the character of the surrounding area and the provision of one additional dwelling beyond what was previously approved on the site would have no material additional impact on the character of the area. It is noted the site area has been increased slightly in a westerly direction and the width of the properties have been narrowed in order to accommodate the additional detached dwelling on the site.

Impact on the Amenities of Adjoining Occupiers:

- 6.8 With regard to the impact of the scheme on neighbours residential amenities, the principle impact would be on No 30 Rusper Road, No 44 and 42 Millthorpe Road and the properties in Northdown Close backing onto the Twitten.
- 6.9 The proposal would retain an adequate residential curtilage for No 30 Rusper Road, the host property. There are no windows proposed at first floor on the western elevation of the detached dwelling that would have the potential for overlooking to or from this property. The relationship between the existing and proposed dwellings is therefore considered to be acceptable. It is noted that the block plan in the submitted details does not show the full extent of an extension that has been built to the rear of No 44 Millthorpe Road, however, the property is outside of the application site and the omission has not resulted in a full assessment of the impact of the proposal being carried out.
- 6.10 The previously approved application, which the Inspector found would have no unacceptable impact on the privacy of neighbouring properties was sited approximately 2.6m from the eastern boundary which is shared with No 44 Millthorpe Road. The current proposal has increased the separation distance to a distance in excess of 4.5m. One window is proposed at first floor on the eastern elevation which would face No 44 Millthorpe Road which would serve a bathroom and therefore be obscure glazed. It is therefore considered that the relationship between the proposed dwellings has improved compared to the previously approved application.
- 6.11 The Inspector was of the view that the provision of two dwellings on the site would have no material adverse impact on the amenities of occupiers of the properties in Northdown Close. The provision of one additional dwelling to the scheme is not considered by your officers to have an additional impact which would justify the refusal of planning permission. The increase in traffic noise/pollution from the increased use of the twitten by cars above what has previously been approved is considered likely to be limited.

Highway Safety:

- 6.12 With regard to the highway/parking implications, the proposal is to access the site from Millthorpe Road with two new crossovers being formed. At present the route proposed is essentially a walkway (Twitten) linking Rusper Road and Millthorpe Road. The section between Millthorpe Road and No 44 has a wider hard surface drive and provides vehicular access to the two properties fronting the Twitten. It is proposed to provide a wider access to the proposed three dwellings, similar to that proposed with the previous applications. The walkway would be unaltered to the west of the site with the drive blocked by bollards. There would therefore be no vehicular access to Rusper Road.
- 6.13 The proposal allows for the provision of 2 car parking spaces to serve each of the proposed properties. The level of parking provided is considered acceptable based on the scale of the units proposed.
- 6.14 The Inspector considered that the previous proposal which incorporated a similar extension of the hardsurfaced area of the twitten would not compromise highway safety. West Sussex County Council Highways Department has raised no objection to the proposal subject to the imposition of suitable conditions.
- 6.15 Concerns in relation to the potential conflict between pedestrians, cyclists and cars have been raised. The principle of the use of the twitten for access by cars already exists with No's 42 and 44 Millthorpe Road and it has been accepted under the previous appeal decision that the increase in intensity of the access as a result of the addition of 2 dwellings would not compromise highway safety. The fact that no through route between the two roads would be created would prevent any use of the access by cars other than to access the properties fronting the Twitten. Given the short length of the access road, the width of the drive, the limited numbers of vehicles requiring access and the previous appeal decision, it is not considered that a refusal of planning permission in relation to the development could be substantiated.

Impact on Trees:

- 6.16 In the previous appeal decision, the Inspector considered that it was unlikely that the proposed development would result in the demise of the trees or a requirement to remove them. The Councils Tree Officer has confirmed that there is no objection to the proposal, subject to the imposition of a suitable condition to ensure the TPO sycamore trees in the twitten are protected. A condition ensuring the site is appropriately landscaped is also considered necessary.

Infrastructure Contributions:

- 6.17 The proposed development would trigger the requirement to provide financial contributions. The District Authority would require £6,727 toward open space, sport and recreation; community centres and hall; and local recycling. West Sussex County Council would require £6,507 towards Libraries, Fire and Rescue and a TAD contribution. At the time of writing the report an appropriate signed agreement



had not been submitted, although the applicant has indicated a willingness to provide such contributions. In the event that planning permission were to be granted, these contributions could be secured by way of an appropriately worded legal agreement.

### Conclusions:

- 6.18 In conclusion, it is your officers view that the proposed development is considered to have an acceptable impact on the character of the area and visual amenities of the area and would have no material adverse impact on the amenities of adjoining residential occupiers, highway safety or the TPO trees adjoining the plot. It is not considered that the addition of one residential unit above the previously approved two dwellings would have a materially adverse impact and subject to conditions, the proposed development is therefore considered to be acceptable.

## **7. RECOMMENDATION**

- 7.1 It is recommended that the application be delegated to the Head of Development with a view to approval subject to the following conditions and the completion of a Section 106 Legal Agreement relating to infrastructure and community facility contributions:

- 01 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: To comply with Section 91 of the Town and Country Planning Act 1990.

- 02 No development shall be commenced unless and until a schedule of materials and samples of such materials and finishes and colours to be used for external walls and roofs of the proposed buildings(s) have been submitted to and approved by the Local Planning Authority in writing and all materials used shall conform to those approved.

Reason: To enable the Local Planning Authority to control the development in detail in the interests of amenity by endeavouring to achieve a building of visual quality in accordance with policy DC9 of the Horsham District Local Development Framework: General Development Control Policies (2007).

- 03 No development shall take place until full details of the parking and turning areas for the proposed houses and the proposed widening works to the twitten (including details of material to be used to surface the areas and details of measures proposed to avoid root damage to the protected sycamore trees in the twitten) have been submitted to and approved in writing by the Local Planning Authority. Thereafter, no dwelling shall be occupied until the parking and turning areas and widening works have been completed and retained as approved.

Reason: To control the development in details and protect the trees on the site in accordance with policy DC9 of the Horsham District Local Development Framework: General Development Control Policies (2007).

- 04 No works or development shall take place until full details of all hard and soft landscaping works have been approved in writing by the Local Planning Authority. All such works shall be carried out in accordance with the approved details. Any plants which within a period of 5 years from the time of planting die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species unless the Local Planning Authority gives written consent to any variation.

Reason: To ensure a satisfactory development and in the interests of amenity in accordance with policy DC9 of the Horsham District Local Development Framework: General Development Control Policies (2007).

- 05 Before development commences, details of the provision of facilities for the parking of cycles shall be submitted to and approved by the Local Planning Authority and the facilities so provided shall be thereafter retained solely for that purpose.

Reason: To ensure that there is adequate provision for the parking of cycles in accordance with policy DC40 of the Horsham District Local Development Framework: General Development Control Policies (2007).

- 06 The dwellings hereby permitted shall not be occupied unless and until provision for the storage of refuse/recycling bins has been made within the site in accordance with details to be submitted to and approved in writing by the local planning authority.

Reason: To ensure the adequate provision of recycling facilities in accordance with policy CP2 of the Horsham District Local Development Framework: Core Strategy (2007).

- 07 The dwelling(s) shall achieve a Code Level 3 in accordance with the requirements of the Code for Sustainable Homes: Technical Guide (or such national measures of sustainability for house design that replaces that scheme). No dwelling(s) shall be occupied until a Final Code Certificate has been issued for it certifying that Code Level 3 has been achieved.

Reason: To ensure the dwelling makes the most efficient use of renewable energy and to comply with policy DC8 of the Horsham District Local Development Framework: General Development Control Policies (2007).

- 08 No development shall take place until a construction management plan has been submitted to and approved in writing by the Local Planning Authority. The plan shall include:  
(i) details of all temporary fencing and other proposed security measures  
(ii) details of areas to be used to unload and store materials on site

(iii) details of the measures to be taken to prevent vehicles leaving the site carrying soil and mud on their wheels which could be deposited on the twitten or the public highway and  
(iv) details of the proposed hours of working on the site.  
Development shall be carried out strictly in accordance with the approved management plan.

Reason: To ensure a satisfactory development and in the interests of amenity in accordance with policy DC9 of the Horsham District Local Development Framework: General Development Control Policies (2007).

- 09 No development shall take place until a scheme for the protection of the sycamore trees in the twitten opposite the site has been submitted to and approved in writing with the Local Planning Authority. The approved measures shall be put in place before any works commence on site and shall thereafter be retained until the development has been completed and all surplus materials have been removed from the site.

Reason: To ensure a satisfactory development and in the interests of amenity in accordance with policy DC9 of the Horsham District Local Development Framework: General Development Control Policies (2007).

- 10 Full details of means of surface water drainage to serve the development shall be submitted to and agreed in writing by the Local Planning Authority prior to works commencing on development. The scheme agreed shall be implemented strictly in accordance with such agreement unless subsequent amendments have been agreed with the Local Planning Authority.

Reason: To ensure that the development is properly drained and in accordance with policy DC7 of the General Development Control Policies Document 2007.

## 8. REASONS

IDP1 The proposal is consistent with the provisions of the development plan.

ICAB2 The proposal does not materially affect the amenities of neighbouring occupiers or the character and visual amenities of the locality.

ITHP1 The proposed works to form the access would not affect the character and amenity of the area or the convenience and safety of other highway users.

Background Papers: DC/11/1846  
Contact Officer: David Taylor



# Appeal Decision

Site visit made on 23 April 2007

by **Julie German BSc(Hons) BTP MRTPI**

an Inspector appointed by the Secretary of State  
for Communities and Local Government

The Planning Inspectorate  
4/11 Eagle Wing  
Temple Quay House  
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Date: 21 May 2007

**Appeal Ref: APP/Z3825/A/06/2032880**

**Rear of 30 Rusper Road, Horsham, Sussex RH12 4BD**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Knightford Associates Ltd against the decision of Horsham District Council.
- The application (Ref DC/06/1421), dated 4 May 2006, was refused by notice dated 17 October 2006.
- The development proposed is the erection of 3 'No.' houses and new single garage for adjacent house (44 Millthorpe Road).

**Summary of Decision: The appeal is dismissed.**

## Procedural Matters

1. The number of houses proposed was reduced to two during the course of the consideration of the planning application.
2. The location plan submitted with the appeal documentation showed the access drive to the site running along The Twitten from Rusper Road. It became apparent at the site visit that this had been superseded by a plan showing the access drive running along The Twitten from Millthorpe Road. The appellants forwarded a copy of the revised location plan to the Inspectorate following the site visit and my decision relates to this revised plan.

## Main issues

3. I consider that there are four main issues:
  - (i) the effect on the character and appearance of the area;
  - (ii) the effect on living conditions at No. 32 Rusper Road, with particular reference to privacy, and at Nos. 1-8 Northdown Close, with particular reference to privacy, noise and disturbance;
  - (iii) the effect on road safety; and
  - (iv) whether, having regard to advice in Circular 05/2005 'Planning Obligations', a planning obligation is required to counterbalance the effect of development on transport and community facilities.

## Planning Policy

4. The development plan includes the West Sussex Structure Plan 2001-2016 (SP), adopted in 2004, and the Horsham District Local Plan (LP), adopted in 1997.

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5. SP Policy DEV1 seeks high quality development and requires that account should be taken of the need to minimise potential conflicts between land-uses and activities. LP Policy G1 seeks the enhancement of the physical and environmental attractiveness of the District. LP Policy EDC1 concerns the design and layout of new development and precludes harmful overlooking of neighbouring property. LP Policies HS7 and HS10 set out criteria for residential development.
6. SP Policy DEV3 and LP Policies G4 and TU5 criterion (v) relate to infrastructure requirements. SP Policy DEV4 concerns travel needs and choices. LP Policy TU5 criterion (ii) requires adequate and safe provision for access and egress by vehicles, pedestrians and cyclists. LP Policy TU9 requires adequate provision for pedestrians and cyclists.

## **Reasons**

### *Character and appearance*

7. The appeal site is located in a predominantly residential area. Rusper Road is a through route where the development is characterised by mature and substantial dwellings. Millthorpe Road has a quieter character and is characterised by semi-detached and terraced houses. The Twitten is a footpath which links these two roads. A pair of semi-detached houses, Nos. 44 and 42 Millthorpe Road, front The Twitten, and are sited to the rear of, and at right-angles to, other houses fronting Millthorpe Road. Nos. 1-8 Northdown Close form a modern terrace which backs onto The Twitten.
8. No. 30 Rusper Road is a detached house which has a number of rear extensions. It is set in a large, level and attractively landscaped garden. It is proposed to site a pair of semi-detached dwellings at the end of the garden adjacent to No. 44 Millthorpe Road and fronting The Twitten. To my mind, the dwellings have been carefully designed to reflect the style, scale and layout of the adjacent pair of houses, Nos. 44 and 42 Millthorpe Road, and would not appear cramped in the context of the surrounding development.
9. The proposal would necessitate the removal of a number of attractive specimen trees and shrubs which are currently within the garden of No. 30 Rusper Road. In my view they are not of sufficient amenity value to justify the withholding of planning permission, particularly as they are partially screened from public view by the boundary fence.
10. The Council is concerned about the effect of the proposal on sycamore trees which line the footpath in The Twitten. In my opinion, these trees contribute to the mature character of the area and ought to be retained. The trees most likely to be affected are on the opposite side of The Twitten to the proposed dwellings, where it is proposed to widen the existing footpath. In my view, an appropriate condition could require measures to be taken to protect these trees from the effects of the development, both during the period of construction and in the longer term.
11. Subject to such a condition I conclude that the proposal would not be materially harmful to the character or appearance of the area. As such, it

would not conflict with Policy DEV1 of the SP or Policies EDC1, HS7, HS10 or G1 of the LP.

*Living conditions*

12. The proposed dwellings would have rear gardens of over 11 metres in length. In my view this would be sufficient not to result in unacceptable overlooking of the large and long rear garden of No. 32 Rusper Road. There would be a distance of more than 21 metres from the front elevations of the proposed dwellings to the rear elevations of the dwellings in Northdown Close. I consider that this is an acceptable separation distance which would not result in an unacceptable loss of privacy either within the dwellings in Northdown Close or in their rear gardens. In this respect the proposal would comply with Policies DEV1 of the SP and EDC1 of the LP. It would also comply with criterion (v) of Policy HS10 of the LP which requires that the design and orientation of the buildings protect the residential amenities of adjoining occupiers in terms of privacy and overlooking.

13. I am concerned, however, about the effect of the proposal on the living conditions of the occupiers of Nos. 1-8 Northdown Close in terms of noise and disturbance. The rear elevation of the nearest of these dwellings to The Twitten is about ten metres. Whilst it may be anticipated that there will be vehicle noise at the front of dwellings in an urban area it is my experience that it is not expected or readily accepted at the rear of dwellings. Many families, for example, choose to locate children's bedrooms at the rear of the house. I consider that noise generated by vehicles arriving at or leaving the proposed dwellings would be disturbing within the Northdown Close properties, particularly in rear bedrooms if it were to occur in the early morning or late at night. This noise might include engine noise, opening and closing of vehicle doors and conversation. I am also concerned that passing and manoeuvring vehicles would seem uncomfortably close in the rear gardens of the Northdown Close properties, particularly the five which are nearest to the site, and would detract from their quiet enjoyment. I acknowledge that the new dwellings would be further from the Northdown Close terrace than Nos. 44 and 42 Millthorpe Road, and that there is an existing vehicular access to these properties, but I do not consider that this is justification to exacerbate the current situation. I conclude that the proposal would conflict in this respect with Policy DEV1 of the SP. It would also conflict with criterion (ix) of Policy HS7 of the LP which requires residential development to minimise noise intrusion and criterion (iv) of Policy HS10 of the LP which requires the provision of access and car parking which does not adversely affect the residential amenities of adjoining occupiers.

*Road safety*

14. I acknowledge that the proposed dwellings would be reached via a narrow access drive which forms a pedestrian link from Rusper Road to Millthorpe Road and that this link is used by school children. In addition, I observed at my visit that the presence of parked cars on Millthorpe Road would impede visibility when leaving The Twitten. To my mind, however, these limitations would be likely to result in cautious driving when arriving at or leaving the proposed

dwellings. I note, furthermore, that the local highway authority has raised no objection to the proposal subject to the imposition of certain conditions.

15. I note that cycle storage is proposed at the rear of the proposed new garages.

16. I conclude on this issue that the proposal would not be materially harmful to road safety and would not conflict with LP Policies TU9 or TU5 in this respect.

#### *Planning obligation*

17. SP Policies DEV3 and DEV4 and LP Policies G4 and TU5 call for contributions to offset the effect of the development on transport and community facilities. Whilst the planning obligation seeks to achieve this it is defective in that in relation to the transport contribution the text of 'four thousand six hundred and eighty pounds' does not accord with the figure that follows in brackets (i.e. £4550). Furthermore, the Council has not confirmed that it finds the obligation acceptable. This reinforces my conclusion that planning permission should not be granted.

#### **Conclusions**

18. My favourable conclusions with regard to character and appearance and road safety do not outweigh my concerns with regard to living conditions and community facilities and transport infrastructure.

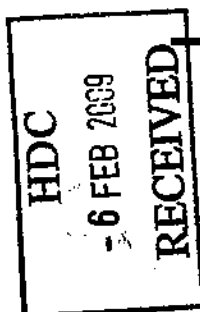
19. For the reasons given above and having regard to all other matters raised, including the efficient re-use of urban land, I conclude that the appeal should be dismissed.

#### **Formal Decision**

20. I dismiss the appeal.

*Julie German*

INSPECTOR



# Appeal Decision

Hearing held on 27 January 2009

**by Andrew M Phillipson** BSc CEng FICE  
MIHT

an Inspector appointed by the Secretary of State  
for Communities and Local Government

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Decision date:  
5 February 2009

**Appeal Ref: APP/Z3825/A/08/2079853**  
**30 Rusper Road, Horsham RH12 4BD**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Vulcan Properties Ltd against the decision of Horsham District Council.
- The application Ref DC/07/2826, dated 14 December 2007, was refused by notice dated 27 June 2008.
- The development proposed is the erection of a pair of semi-detached dwellings.

## Decision

1. I allow the appeal, and grant planning permission for the erection of a pair of semi-detached dwellings at 30 Rusper Road, Horsham in accordance with the terms of the application, Ref DC/07/2826, dated 14 December 2007, and the plans submitted with it, subject to the conditions set out in Annex A.

## Main Issue

2. The main issue is the effect the proposed development would have on the living conditions of residents in Northdown Close by reason of noise and disturbance.

## Reasons

3. The application is similar to one previously refused planning permission by the Council (Horsham Ref DC/06/1421). That application was dismissed on appeal (Appeal Ref APP/Z3825/A/06/2032880), primarily because of concerns regarding noise and disturbance to residents of Nos 1 to 8 Northdown Close.
4. It is common ground between the appellant company and the Council that building a pair of semi-detached houses on the site would be acceptable in principle. It is further agreed that (i) the design and massing of the houses would be acceptable; (ii) that they would not materially harm the character of the area; (iii) that they would not unacceptably impact on the privacy of neighbouring properties; and (iv) that the proposed development would not compromise highway safety. It is accepted that the amenity space attached to each dwelling (and that remaining with the host property) would be adequate. Whilst there is a row of pollarded sycamores opposite the site that are subject to a Tree Preservation Order, it is common ground that these would not be harmed by the development, provided that suitable precautions are taken to avoid construction works damaging them. This could be secured by condition.



5. As to the matter at issue, it is agreed that the key development plan policy is DC9 in the *Horsham District Local Development Framework: General Development Control Policies (2007)*. This requires development not to cause unacceptable harm to the amenity of the occupiers of nearby property through noise.
6. The appeal site fronts a "twitten" running between Rusper Road and Millthorpe Road. At its eastern end, the twitten's pavement has been widened to allow vehicles to access Nos 42 and 44 Millthorpe Road. The scheme proposes to extend the length over which vehicles are permitted to drive, in order to provide access to the frontage of the proposed new houses and their driveways. However, the remainder of the twitten would remain open to pedestrians only, with new bollards installed to prevent cars passing through to Rusper Road.
7. Nos 1 to 8 Northdown Close lie to the south of the twitten with their backs facing the appeal site. The area is generally quiet and, given the modest distance between the twitten and the houses, there is clearly potential for any vehicles accessing the proposed new houses to be heard by the occupiers of the houses in Northdown Close.
8. The potential for this to cause disturbance was investigated by the appellant company's acoustic consultant, Mr Gardner, and a report submitted with the application. His conclusions were, in short, that the daytime and night-time noise levels at the rear of the Northdown Close properties would not materially increase as a consequence of building the proposed houses. Importantly, his analysis also showed that the level of noise emitted by vehicles driving along the twitten and manoeuvring into the driveways, by engines starting, by car doors closing and by other associated activities at the front of the proposed houses, would generally be well below existing peak noise levels in the area and well below those likely to cause sleep disturbance.
9. Notwithstanding the residents' scepticism regarding Mr Gardner's analysis, the correctness of his calculations and measurements was not questioned by the Council; and, having listened carefully to what was said at the hearing, I see no reason to dispute his conclusions. To my mind, there is no reason to suppose that noise from the development would cause unacceptable harm to the living conditions of those living near the site. In this regard, I find no conflict with the development plan.

### **Conclusion**

10. Having visited the site and considered all other matters raised at the hearing and in the letters sent by nearby residents, I find nothing that would indicate that the proposal would otherwise conflict with the development plan or result in harm to matters of acknowledged importance. I accordingly conclude that the appeal should be allowed.

### **Conditions**

11. In reaching this conclusion, I have had regard to the need for conditions. Those that I have imposed follow those discussed at the hearing (without prejudice). Conditions 2, 3 and 4 are necessary to ensure that details of (i) the materials to be used on the houses; (ii) the proposed parking and turning

areas and (iii) hard and soft landscaping on the site, are submitted and approved before construction commences. These are necessary in the interests of visual amenity. Conditions 5 and 6 are similarly necessary to ensure that (i) proper provision is made for the storage of refuse and recycling bins and cycles and (ii) that the houses are appropriately designed to modern sustainability standards. Conditions 7 and 8 are required to ensure that the construction activities on the site are carried out so as to (i) avoid unreasonable disturbance to neighbours and users of the twitten and other nearby roads; and (ii) to ensure that appropriate precautions are taken to prevent harm to the protected sycamore trees.

12. As to the other condition suggested by the Council, I see no reason to restrict the future owners' right to alter their houses, or to build extensions or erect outbuildings without a specific grant of planning permission, given the limits imposed on such development in any event by the General Permitted Development Order.

*Andrew M. Phillipson*

Inspector

#### **ANNEX A - CONDITIONS**

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) No development shall take place until details of the materials to be used in the construction of the external surfaces of the houses hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 3) No development shall take place until full details of the parking and turning areas for the proposed houses and the proposed widening works to the twitten (including details of materials to be used to surface the areas and details of measures proposed to avoid root damage to the protected sycamore trees in the twitten) have been submitted to and approved in writing by the local planning authority. Thereafter, no dwelling shall be occupied until the parking and turning areas and widening works have been completed as approved.
- 4) No development shall take place until full details of all hard and soft landscape works have been submitted to and approved in writing by the local planning authority. All such works shall be carried out in accordance with the approved details and completed before either house is first occupied, unless otherwise agreed in writing by the local planning authority. Any plants or trees which, within a period of five years from the time of planting die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species unless the local planning authority gives written consent to a variation.

- 5) No development shall take place until details of the provision to be made for (i) the storage of refuse and recycling bins; and (ii) for cycle storage for each of the houses have been submitted to and approved in writing by the local planning authority. Thereafter, no dwelling shall be occupied until the provision has been made as approved.
- 6) No development shall take place until an initial design stage assessment by an accredited assessor for the Code for Sustainable Homes and an accompanying interim certificate stating that each dwelling has been designed to achieve "Level 3" of the Code (or an equivalent level of performance if an alternative independently assessed means of sustainability assessment is used) has been submitted to and approved in writing by the local planning authority. Thereafter, no dwelling shall be occupied until it has been issued with the final Code certificate of compliance.
- 7) No development shall take place until a construction management plan has been submitted to and approved in writing by the local planning authority. The plan shall include (i) details of all temporary fencing and other proposed security measures (ii) details of areas to be used to unload and store materials on the site; (iii) details of the measures to be taken to prevent vehicles leaving the site carrying soil and mud on their wheels which could be deposited on the tarmac or the public highway; and (iv) details of the proposed hours of working on the site. Development shall be carried out only in compliance with the approved plan.
- 8) No development shall take place until a scheme for the protection of the sycamore trees in the tarmac opposite the site has been submitted to and approved in writing by the local planning authority. The approved measures shall be put in place before any other works commence on site and shall thereafter be retained until the development has been completed and all surplus materials have been removed from the site.

--end --

## **APPEARANCES**

### **FOR THE APPELLANT:**

Colin Begeman MSc MRTPI      Planning Development Services Ltd  
Steven Gardner MIOA MSEE      The Equus Partnership

### **FOR THE LOCAL PLANNING AUTHORITY:**

Val Cheesman BSc(Hons) BTP      Horsham District Council  
MRTPI

### **INTERESTED PERSONS:**

Pat King	1 Northdown Close, Horsham RH12 4PD
Gillian Hancox	5 Northdown Close, Horsham RH12 4PD
Mr W Barnes	44 Millthorpe Road, Horsham RH12 4EP

## **DOCUMENTS**

- 1 S106 Unilateral Undertaking
- 2 Council's suggested condition – Sustainable Construction



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# DEVELOPMENT MANAGEMENT REPORT

**TO:** Development Management Committee North

**BY:** Head of Planning and Environmental Services

**DATE:** 7<sup>th</sup> February 2012

**DEVELOPMENT:** Variation of Condition 8 of planning permission DC/11/0130 to delete reference to 'named users' as follows: "The uses hereby permitted shall only take place within the building and the building shall only be used for B1(c), B2 and B8 purposes, unless written consent is obtained from the Local Planning Authority for any variation"

**SITE:** R J Case and Co Ltd Bognor Road Broadbridge Heath Horsham

**WARD:** Itchingfield, Slinfold and Warnham

**APPLICATION:** DC/11/2519

**APPLICANT:** Mr Richard Case

**REASON FOR INCLUSION ON THE AGENDA:** Officers Referral – variation of requirement of previous committee resolution requested.

**RECOMMENDATION:** That planning permission be granted.

## 1. THE PURPOSE OF THIS REPORT

To consider the planning application.

### DESCRIPTION OF THE APPLICATION

- 1.1 The application seeks permission for the variation of condition 8 of planning permission DC/11/0130 which states:

*"that the uses hereby permitted shall only take place within the building and the building shall only be used for B1c, B2 and B8 purposes, by unit 1 by RJ Case Ltd, unit 2 by C and M Coach works, unit 3 by Timdale Trading Ltd and unit 4 by Murihine Ltd unless the prior written consent is obtained from the Local Planning Authority for any variation".*

- 1.2 The revised condition sought by the applicant is as follows:

*'The uses hereby permitted shall only take place within the building and the building shall only be used for B1(c), B2 and B8 purposes, unless written consent is obtained from the Local Planning Authority for any variation'*

## DESCRIPTION OF THE SITE

- 1.3 The existing commercial yard comprises an established plant hire yard as well as the base for Rowhook garage and previously also incorporated a storage facility for salvage vehicles. The yard boundary is roughly rectangular in shape and is set back from the road frontage.
- 1.4 Existing commercial uses on site comprise a vehicle paint spray workshop on the west side of the site, two vehicle repair workshops adjacent to the south west boundary of the site and an under-pinning contractors unit located adjacent to the north of a vehicle repair workshop. Land to the north-west corner of the yard is an open storage yard which has previously been used in connection with the storage of salvage vehicles. Planning permission was granted for the building the subject of the current application, subject to various conditions and a legal agreement relating to the cessation of the storage of salvage vehicles, on the 26<sup>th</sup> October 2011.
- 1.5 The site is located on the west side of Bognor Road (A29) out side any defined Built up Area and is therefore in the Countryside. There are trees and a hedgerow forming a mature screen along the western boundary of the site, with a gated access leading to a pond (constructed by the applicant some 10 years previous and shown outside of the application site boundary to the north). A sand school and paddock area is located to the north west of the application site.
- 1.6 The nearest residential properties are located outside of the application site boundaries with Garden Cottage to the south west and Manor Home Farm Cottages to the north west of the application site.

## **2. INTRODUCTION**

### STATUTORY BACKGROUND

- 2.1 The Town and Country Planning Act 1990.

### RELEVANT GOVERNMENT POLICY

- 2.2 PPS1, PPS4, PPS7 and PPG13

### RELEVANT COUNCIL POLICY

- 2.3 Horsham District Local Development Framework Core Strategy 2007 - the following policies are of particular relevance: CP1, CP2, CP3, CP5, CP10, CP11, CP15, and CP19.
- 2.4 Horsham District Local Development Framework General Development Control Policies Documents 2007 - the following policies are of particular relevance: DC1, DC9, DC19, DC25 and DC40.
- 2.5 South East Plan 2009 - CC1 Sustainable Development, CC4 Sustainable Design and Construction, CC6 Sustainable Communities and Character of the Environment and CC7 Infrastructure and Implementation and C4 Countryside and Landscape Management, BE1 Management of the Built Environment, RE3 Employment and Land Provision.

## PLANNING HISTORY

- 2.6 In 1970 an application for an established use certificate for contractor's plant hire yard was permitted under planning ref: WN/47/69.
- 2.7 In November 1999 an appeal was dismissed following the refusal of planning permission under planning ref: WN/8/99 for the erection of 9 houses and garages and a garage for garden cottage.
- 2.8 In 2002 an application was submitted for the extension of the workshop was permitted under planning ref: WN/11/02
- 2.9 In 2004 an application for the retention of replacement workshop for plant hire business was permitted under planning ref: WN/50/03.

On October 2011 planning permission was granted under DC/11/0130 for the erection of building for B1/B2 uses and B8 storage.

## 3. OUTCOME OF CONSULTATIONS

### OUTSIDE AGENCIES

- 3.1 **West Sussex County Council:** No objection
- 3.2 **The Environment Agency:** Advise that it has no comments to make.
- 3.3 **Warnham Parish Council:** No comments received at the time of writing this report.

(It is noted that Warnham Parish Council advised that they had no objections to the original application considered under DC/11/0130).

### PUBLIC CONSULTATIONS

- 3.4 Neighbour Notifications: None received at the time of writing this report.

## 4. HOW THE PROPOSED COURSE OF ACTION WILL PROMOTE HUMAN RIGHTS

- 4.1 Article 8 (right to respect of a private and family life) and Article 1 of the First Protocol (protection of property) of the Human Rights Act 1998 are relevant to the application. Consideration of Human Rights forms part of the planning assessment below.

## 5. HOW THE PROPOSAL WILL HELP TO REDUCE CRIME AND DISORDER

- 5.1 It is not considered that there are any implications for crime and disorder arising from this application.

## 6. PLANNING ASSESSMENTS

- 6.1 The main issues in the determination of this application are considered to be:
  - a) the impact arising from unrestricted occupation of the units for B1c (Light Industry), B2 (General Industry) and B8 (Storage and Distribution) purposes including;
  - b) sustainability issues;

c) potential changes in levels of activity which could be undertaken without reference to the Local Planning Authority and their impact on amenity, both on any nearby residential occupiers and the character of the area.

Background

6.2 At its meeting on the 5<sup>th</sup> July 2011, members of the Development Management (North) Committee resolved to overturn an officer recommendation and delegate the application for approval, a copy of the previous committee report and relevant minutes is attached to the report. A requirement of the Committee resolution was that named users for individual units were required.

6.3 Condition 8 as currently imposed and the associated reason for the imposition of the condition is as set out below:

*'The uses hereby permitted shall only take place within the building and the building shall only be used for B1c, B2 and B8 purposes, by unit 1 by RJ Case Ltd, unit 2 by C and M Coach works, unit 3 by Timdale Trading Ltd and unit 4 by Murihine Ltd unless the prior written consent is obtained from the Local Planning Authority for any variation.*

*Reason: To enable the Local Planning Authority to control the development in detail in the interests of the rural character of the area and highway safety in accordance with policy DC1 of the Horsham District Council Local Development Framework: General Development Control Policies (2007).'*

6.4 The Condition was imposed to control the use class and the nature of the occupier as new commercial buildings within the countryside (an area of restraint) are not normally considered acceptable. When such development is 'exceptionally' permitted in such areas of restraint, it is often considered appropriate to control the uses to those that justified the development to protect amongst other matters, in particular, the character of the area as changes of use that could be undertaken without requiring planning permission, could have a more significant impact on the character of the countryside.

6.5 The applicant seeks to remove the requirement for 'named users' but accepts the retention of the requirement to control the use of the building to B1(c) B2 and B8 uses.

6.6 The principle of this new commercial building in the existing commercial yard has previously been accepted.

6.7 In the circumstances of this case, your officers consider given the size of the building approved, that the nature of commercial activities and the associated levels of activity which could be generated by its use would mainly be self limiting, because of the size constraints of the building. The impact of any increased activity levels etc, also needs to be considered in the context of the site as a whole, of which this building is only a part. On the basis that a new commercial building in this location has been considered acceptable, your officers are of the view it would be difficult to justify the retention of the requirements for named users, in the specific circumstances of this case.

6.8 It is considered that the provision of un-restricted B1(c), B2 and B8 use class occupancy in this particular case would not result in any significant harm to the amenities of nearby residential occupiers, to the character of the countryside or highway safety.

6.9 The agent has submitted a letter dated the 30<sup>th</sup> November 2011, which sets out their case in support of the amendment of the wording to a revised condition 8 (attached).



Highway Safety and Sustainability

- 6.10 West Sussex County Highways department have not raised any concerns in relation to the current proposal. Sustainability issues were previously considered under the original application. It is considered that the variation of this condition as proposed would not result in any significant changes to the level of traffic potentially generated by the development permitted.

Impact of Private and Visual Amenities

- 6.11 Given that there are no residential properties in the immediate vicinity of the site except that associated with the site itself (Garden Cottage), it is considered that there would be no demonstrable harm to private amenities resulting from the proposed variation of the condition.

Conclusion

- 6.12 In the specific circumstance of this case, it is considered by your officers that the variation of condition 8 as proposed is acceptable.

**7. RECOMMENDATIONS**

- 7.1 It is recommended that planning permission be granted subject to the following conditions

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: To comply with Section 91 of the Town and Country Planning Act 1990.

- 2 The materials to be used in the development hereby permitted shall strictly accord with those indicated on the approved details associated with the application.

Reason: To enable the Local Planning Authority to control the development in detail in the interests of amenity and in accordance with policy DC9 of the Horsham District Local Development Framework: General Development Control Policies (2007).

- 3 The building hereby approved shall not be occupied until the parking turning and access facilities have been provided in accordance with the plans hereby approved (or in accordance with plans submitted to and approved in writing by the Local Planning Authority) and the parking turning and access facilities shall thereafter be retained solely for that purpose [and solely in connection with the development].

Reason: To ensure adequate parking, turning and access facilities are available to serve the development in accordance with policy DC40 of the Horsham District Local Development Framework: General Development Control Policies (2007).

- 4 No waste or vehicles awaiting repairs of other works shall be parked stacked or stored on the site at any time except within the buildings or storage areas hereby approved by the Local Planning Authority.

Reason: To safeguard the amenities of neighbouring properties and in accordance with policy DC9 of the Horsham District Local Development Framework: General Development Control Policies (2007).

- 5 No external lighting or floodlighting shall be installed without the prior written approval of the Local Planning Authority on an application in that behalf. Any that is installed with the permission of the Local Planning Authority shall be maintained in accordance with the approved details.

Reason: In the interests of the amenities of the locality and in accordance with policy DC9 of the Horsham District Local Development Framework: General Development Control Policies (2007).

- 6 The units, hereby approved, shall not be occupied until such time as the Applicant has installed a single fire hydrant in a location and in accordance with a specification submitted to and approved by the Local Planning Authority in consultation with the Fire and Access Manager at West Sussex County Council. Should the Fire and Access Manager confirm in writing that no additional fire hydrant is required; no works would be required in these respects.

Reason: To ensure connection to adequate supplies of water for fire fighting.

- 7 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 or Orders amending or revoking and re-enacting the same, the building(s) shall not be extended or altered in any way unless planning permission has been granted by the Local Planning Authority on application in that respect.

Reason: To enable the Local Planning Authority to retain control and secure a satisfactory development of the site in accordance with policy DC1 of the Horsham District Local Development Framework: General Development Control Policies (2007).

- 8 The uses hereby permitted shall only take place within the building and the building shall only be used for B1c, B2 and B8 purposes unless the prior written consent is obtained from the Local Planning Authority for any variation.

Reason: To enable the Local Planning Authority to control the development in detail in the interests of the rural character of the area and highway safety in accordance with policy DC1 and DC40 of the Horsham District Council Local Development Framework: General Development Control Policies (2007).

## **8. REASONS FOR RECOMMENDATIONS**

ICAB2 The proposal does not materially affect the amenities of neighbouring occupiers or the character and visual amenities of the locality.

Background Papers: DC/11/2519 and DC/11/0130

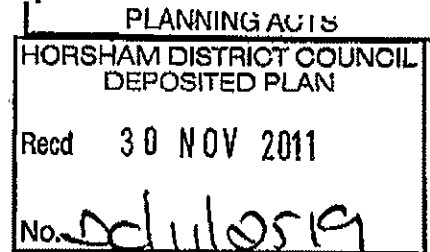
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Horsham District Council  
Park North  
North Street  
Horsham  
West Sussex  
RH12 1RL

30<sup>th</sup> November 2011



Dear Sirs

Re: Cases Yard DC/11/0130

We submit an application to vary condition 8 of the above consent deleting named users.

Personal conditions are not national planning policy as set out in circular 11/95 where the advice is that personal conditions should only be used in very special circumstances.

There were no objections from the Parish Council or local residents. The yard is an existing industrial estate with 4 businesses operating from the site.

The proposal was acceptable to Highways without qualification and therefore the reason given to support the personal condition is perverse.

The reason also states that the condition was imposed to protect the rural character of the area. The condition limiting the use to certain occupiers is not consistent with other rural estates which have no such limitation. The Council has no control over the users of other units at Cases Yard. There is no history of complaint and the site is well landscaped and can not be seen from any public viewpoint. No landscape condition was imposed. Therefore where is the harm to the rural character of the area to justify this onerous condition?

In the event that the application is recommended to be refused, then our client would wish to speak at a Planning Committee to set out his views.

In the event that the application is refused then my client will take this matter to appeal and submit a costs application as the condition is unreasonable and not consistent with national planning policy or local policy or other rural industrial estates in the SE or the Horsham District.

Yours faithfully

J A Farquhar FRICS FRAV



**Horsham  
District  
Council**

## **DEVELOPMENT MANAGEMENT REPORT**

**TO:** Development Management Committee North

**BY:** Head of Planning and Environmental Services

**DATE:** 5<sup>th</sup> July 2011

**DEVELOPMENT:** Erection of building for B1/B2 uses and B8 storage only

**SITE:** R J Case and Co Ltd, Bognor Road, Broadbridge Heath, Horsham

**WARD:** Itchingfield, Slinfold & Warnham

**APPLICATION:** DC/11/0130

**APPLICANT:** Mr Richard Case

**REASON FOR INCLUSION ON AGENDA:** Officer referral

**RECOMMENDATION:** That planning permission be refused

### **1. THE PURPOSE OF THIS REPORT**

To consider the planning application.

#### **DESCRIPTION OF THE APPLICATION**

- 1.1 The application seeks permission for the erection of a 'second hand' commercial building (441sqm) comprising 4 units in total for B1 (light Industrial) B2 (General Industrial) and B8 (Storage and Distribution) uses, located in the north west corner of the established commercial yard associated with R J Case and Co Ltd.
- 1.2 The dimensions of the proposed building are 24.5m long x 18m wide and 8.2 metres high with an eaves height of 6.4m.
- 1.3 Relevant Development Plan policies require such proposals in the countryside to meet certain criteria, including demonstrating economic benefits to the rural area, being related to the needs of the rural economy, comprising the re location of currently badly sited use(s), and/or being limited to the expansion or adaption plans which are essential to the operation of the established business. The applicant was requested to address these issues and has submitted additional information in this respect.

1.4 The additional information submitted by the applicant states that unit 1 would be occupied by R J Case contractors Ltd who employ 3 people; the additional space would be used for lock up storage and workshop facilities for the plant used by the company. The details of the other three companies that wish to occupy the proposed units are set out below:

- 1) Unit 2 - C and M Coachworks – the applicant advises that this company paint sprays commercial vehicles, is currently located in the Rudgwick area and currently employs 2 local people. No details have been submitted regarding the precise location of this company or whether it is considered to be a currently badly sited use.
- 2) Unit 3 – Tindale Trading Ltd – the applicant advises that the registered office is in Horsham and that the principal Director lives in Horsham. The company specialises in Johnson Sweepers. His yard is in Herefordshire and he proposes to move his facility to Cases Yard. It is advised that C and M Coachworks would undertake any paint spraying work and Rowhook Garage would MOT and test the vehicles. There would be no employees. The unit would be used for storage of vehicles and equipment.
- 3) Unit 4 – Munihire Ltd. The applicant advises that this company supplies equipment to builders. One person is employed and the unit would be used for storage purposes.

1.5 The applicant advises that this the proposal is suitable to the needs of the new business operations as identified above, as they are similar in nature to those that already exist on site and relate to plant hire or motor trade activities. The applicant also advises that that the proposed development would result in a 50% reduction in the current level of salvage vehicles being stored on site, with the building erected in the north-west corner of the site.

#### DESCRIPTION OF THE SITE

- 1.6 The current commercial yard is located within the countryside and comprises an established plant hire yard as well as the base for Rowhook garage and a storage facility for salvage vehicles on an area of land that is approximately 0.72 hectares in area. The yard boundary is roughly rectangular in shape and is set back from the road frontage. The site is located on the west side of Bognor Road (A29).
- 1.7 The existing commercial yard comprises a dwelling known as 'Garden Cottage' located in the southern corner of the site adjacent to the main access, a vehicle paint spray workshop located to the west of the dwelling, and two vehicle repair workshops adjacent to the south west boundary of the site. There is also an underpinning contractors unit located adjacent to the northern boundary of the vehicle repair workshop. Land to the north-west corner of the yard is an open storage yard currently used in connection with the storage of vehicles for salvage vehicles.
- 1.8 The remaining land area currently comprises an open yard area. There are trees and a hedgerow forming a mature screen along the western boundary of the site,

with a gated access leading to a pond (constructed by the applicant some 10 years previous), a sand school and paddock area to the rear of Cases Yard.

- 1.9 The residential properties known as Manor Home Farm Cottages are located to the south west of the application site.

## **2. INTRODUCTION**

### **STATUTORY BACKGROUND**

- 2.1 Town and Country Planning Act 1990.

### **RELEVANT GOVERNMENT POLICY**

- 2.2 PPS1, PPS4, PPS7 and PPG13

### **RELEVANT COUNCIL POLICY**

- 2.3 Horsham District Local Development Framework Core Strategy 2007 - the following policies are of particular relevance: CP1, CP2, CP3, CP5, CP10, CP11, CP15, and CP19.
- 2.4 Horsham District Local Development Framework General Development Control Policies Documents 2007 - the following policies are of particular relevance: DC1, DC9, DC19, DC25 and DC40.
- 2.5 South East Plan 2009 - CC1 Sustainable Development, CC4 Sustainable Design and Construction, CC6 Sustainable Communities and Character of the Environment and CC7 Infrastructure and Implementation and C4 Countryside and Landscape Management, BE1 Management of the Built Environment, RE3 Employment and Land Provision

### **RELEVANT PLANNING HISTORY**

- 2.6 The application site is subject to a long history, the following are considered relevant to the current planning application:

In 1970 an application for an established use certificate for contractor's plant hire yard was permitted under planning ref: WN/47/69.

In 1992 an application for the retention of transport, contractors haulage and storage yard was permitted under planning ref: WN/46/92.

In November 1999 an appeal was dismissed following the refusal of planning permission under planning ref: WN/8/99 for the erection of 9 houses and garages and a garage for garden cottage.

In 2002 an application was submitted for the extension of the workshop was permitted under planning ref: WN/11/02

In 2004 an application for the retention of replacement workshop for plant hire business was permitted under planning ref: WN/50/03.

### 3. OUTCOME OF CONSULTATIONS

#### INTERNAL CONSULTATIONS

##### 3.1 Strategic Planning: Comment as follows

*Strategic Planning raise concern over the erection of a building for B1 / B2 uses and B8 storage, as this is not regarded appropriate to the countryside location and would potentially increase the impact on the countryside due to the increase in the level of activity the site would expect to see with more businesses operating from the site. Therefore, the proposal appears to be contrary to Policy CP15 of the Core Strategy 2007.*

*Concern is also raised with this proposal as there appears to be little justification regarding the proposed uses of the new units. It is understood that 1 of the new units will be used by the existing company on site, but there is little information to suggest that the other 3 new units will be used by local businesses relocating from unsuitable sites within the District and therefore meeting the needs of the rural local economy. If there was further information and understanding that the businesses were relocating from unsuitable sites within the District and it could be demonstrated that this was the case, then we may be able to look more positively on the proposal from a policy perspective. Unless this can be demonstrated however, the proposal is contrary to Policy DC25 of the General Development Control Policies 2007.*

#### EXTERNAL CONSULTATIONS

##### 3.2 Warnham Parish Council raise No Objection

##### 3.3 West Sussex County Council – comment that:

*The site evidently accommodates an established use, with the proposed building split to be split into four additional units. It would seem that the erection of the new building will result in some existing on-site activities ceasing, resulting in a reduction in movements from existing uses but with the new building generating a number of additional movements. On balance, it is not considered that the proposed units would result in any significant increase in vehicle movements or intensification of use of the site access.*

*There would be no highway objection to this proposal.*

*Contributions are required pursuant to s106 of the Town and Country planning Act 1990 to mitigate the impacts of the subject proposal in terms of demand on Highways and Sustainable Transport that would arise in relation to the proposed development.*

*Planning obligations requiring the above money is understood to accord with the Secretary of State's policy tests outlined by the in the ODPM Circular 05/2005 Annex B.*

*All TAD (Total Access Demand) contributions have been calculated in accordance with the stipulated local threshold and the methodology adopted as Supplementary Planning Guidance (SPG) in November 2003.*

*The calculations have been done on the basis of an increase in 441 sqm of Class B1(c)/B2 floor area.*

*Further to the monetary contributions The County Fire Officer advises that the proposed development may need to include the provision of 1 fire hydrant connected to adequate supplies of water for fire fighting (Contact: David Boarer – Fire Services 01243 813667). It should also include suitable access for fire brigade vehicles and equipment.*

**Further Response received 19/04/11**

*Taking firstly the proposed TAD contribution, given the apparent lack of any WSCC promoted schemes within the immediate vicinity of the site that would enhance the accessibility of the site by sustainable means or that would influence travel habits, there would seem no justification to seek this contribution. On that basis and in this instance, this contribution would not be sought.*

*With regards to the fire hydrant, I have sought comments from the Access and Water Manager, although I'm still waiting a response. To ensure no further delay, can I suggest that a suitably worded condition is added to any planning consent requiring that the position of the fire hydrant is agreed with WSCC and thereafter installed by the Applicant prior to first occupation of the units and in accordance with an agreed specification. If it is decided that a hydrant is not required, then evidently no additional works would be necessary. I'd suggest something along the lines of,*

*The units, hereby approved, shall not be occupied until such time as the Applicant has installed a single fire hydrant in a location and in accordance with a specification submitted to and approved by the Planning Authority in consultation with the Fire and Access Manager at WSCC. Should the Fire and Access Manager confirm in writing that no additional fire hydrant is required, no works would be required in these respects.  
REASON - To ensure connection to adequate supplies of water for fire fighting.*

**PUBLIC CONSULTATIONS**

3.4 Neighbour Notifications – None received

**4. HOW THE PROPOSED COURSE OF ACTION WILL PROMOTE HUMAN RIGHTS**

Article 8 (right to respect of a private and family life) and Article 1 of the First Protocol (protection of property) of the Human Rights Act 1998 are relevant to the application. Consideration of Human Rights forms part of the planning assessment below.

**5. HOW THE PROPOSAL WILL HELP TO REDUCE CRIME AND DISORDER**

It is not considered that there are any implications for crime and disorder arising from this application.



## 6. PLANNING ASSESSMENT

- 6.1 The main considerations in the determination of this application are considered to be the impact of the proposal on the rural character of the area in terms of its design and character; its impact on amenity, both on the locality and adjacent occupiers; impact on highway safety; infrastructure requirements and sustainability issues. However the main consideration is considered to be the principle and justification of the proposal in the countryside, when considered against relevant policy criteria. These issues are considered in further detail below.

### Design, Character and Visual Amenity

- 6.2 The proposed building has a floor area of 441 sqm and measures 24.5 m long x 18m wide with an eaves level 6.4m and a ridge height of 8.2m. The building is constructed of steel box brown profile sheets. The building will be divided into four units, each unit being used for independent purposes.
- 6.3 The building itself would be located in the north east corner of the site, with limited views from public vantage points.
- 6.4 The building would be located approximately 120 metres from the residential properties known as Manor Home Farm Cottages, these residential properties and the proposed new building would be separated by an existing commercial building on the south west boundary on the site. As such there would be no material loss of visual amenity to these occupiers.

### Highway Safety

- 6.5 West Sussex County Council advises that they have no objection to the proposal on highway grounds although note that the erection of the new building will result in some existing on-site activities ceasing, resulting in a reduction in movements from existing uses but with the new building generating a number of additional movements. On balance, it is not considered that the proposed units would result in any significant increase in vehicle movements or intensification of use of the site access.

### Contributions

- 6.6 Further to their initial comments and request for a TAD, West Sussex County Council (Highways) have confirmed in their subsequent email dated the 19<sup>th</sup> April 2011 that there will be no requirement for a TAD contribution given the apparent lack of any WSCC promoted schemes within the immediate vicinity of the site that would enhance the accessibility of the site by sustainable means or that would influence travel habits, and as such there would seem no justification to seek this contribution. On that basis and in this instance, this contribution would not be sought.

### Vehicle Movements

- 6.7 With regards to vehicle movements associated with the site, details contained within the Design and Access statement state that there are currently

approximately 10 lorry movements in and out per day together with delivery vans and customer cars. It is further stated that with the reduction in the storage of salvage vehicles, that the number of car transporters entering and leaving the site would be reduced by 3 a day. The Design and Access Statement also states that the building will generate 2 lorry movements per day. This would result in 7 lorry movements in and out of the site in association with the existing use and 2 new movements in and out of the site in respect of the proposed use. The applicant maintains that effectively therefore there would be a reduction in 1 lorry visiting the site overall.

- 6.8 Whilst the above indicative traffic movements are noted, the agent's letter dated the 28<sup>th</sup> April 2011 indicates that there would be 6 staff in the four units, 3 of which are currently employed by R J Case. However, in the application details it is stated that there are 12 existing full time staff and that there would be 8 proposed full time staff. It would therefore appear that there is an anomaly in the information provided. The County Council Highways Consultation suggest traffic movements are unlikely to significantly increase on the basis of the information submitted, this is noted, although it is considered that the information provided indicates a low level of traffic generation that does have the potential to increase.

#### Principle and Justification of the Development in the Countryside

- 6.9 The proposal comprises the erection of a building to be used for B1, B2 and B8 purposes. It is advised that the structure will provide four separate units within the building envelope and will be occupied by four separate businesses.
- 6.10 The application site lies outside of any Built Up Area Boundary as defined by policy CP5 of the LDF Core Strategy within a countryside area where the Council's restrictive Countryside policies apply. It is however noted that the site has a long and extensive history of commercial activity.
- 6.11 With regards to the Local Development Framework, policy CP1 states that the landscape and townscape character of the District will be maintained and enhanced
- 6.12 LDF Core Strategy policy CP15 - Rural Strategy sets out criteria under a) b) and c) in addition to criteria in the introduction stating as follows:

**development in the countryside which maintains the quality and character of the area whilst sustaining its varied and productive social and economic activity will be supported in principle. Any development should be appropriate to the countryside location and should:**

- a) contribute to the diverse and sustainable farming enterprises within the District or, in the case of other Countryside-based enterprises and activities, contribute to the wider rural economy and /or promote recreation in, and the enjoyment of, the countryside;**

With regard to the above the proposal does not represent a diversification of an existing farming enterprise; furthermore it has not been demonstrated how the proposal contributes to the wider rural economy and it does not promote

recreation in or enjoyment of the countryside. It is therefore considered that the proposal fails to comply with this important policy criteria.

- b) be contained wherever possible within suitably located buildings which are appropriate for conversion or in the case of an established rural industrial estate, within the boundaries of the estate,**

The proposed development is not located within a suitably converted building, as new build is involved. It is not considered the site represents a 'rural industrial estate'.

- c) result in substantial environmental improvements and reduce the impact on the countryside particularly where, exceptionally, new or replacement buildings are involved.**

It is not considered the proposal results in substantial environmental improvements, and neither is it considered to reduce the impact on the countryside. Such substantial improvements reducing the impact on the countryside are required where, exceptionally new or replacement buildings are proposed as in this case.

- 6.13 The policy also states that any development in accordance with this strategy should not harm the rural character of the area by virtue of the nature and level of activity involved and the type and amount of traffic generated (or other effects such as noise and pollution).
- 6.14 The supporting information within the policy states that the principle purpose regarding the rural economy of the district is to ensure sustainable economic growth and to meet the social needs of people who live and work in rural areas. It further states that it is necessary to balance the development necessary to sustain and ensure future economic diversity and prosperity whilst maintaining the continued protection of the countryside's environment and character.
- 6.15 It is therefore concluded the proposal fails to comply with relevant criteria and therefore conflicts with policy CP15 including criteria a), b), and c) for the reasons set out above.
- 6.16 LDF policy DC1 Countryside Protection and Enhancement states that in the countryside, development will not be permitted unless it is considered essential to its countryside location and supports the needs of agriculture or forestry; enables the extraction of minerals or the disposal of waste; provides for quiet informal recreation use; or ensures the sustainable development of rural areas.
- 6.17 LDF policy DC25 - Rural Economic Development and The Expansion of Existing Rural Commercial Sites/Intensification of Uses provides an exception to countryside policies subject to compliance with specific criteria . In this respect the Council's policy relating to rural economic development are written with a positive approach, the aim of which is to support 'appropriate' rural development but subject to compliance with specific criteria in order to secure appropriate economic

development whilst protecting the countryside for its own sake. Hence the application has been assessed from this starting point.

- 6.18 LDF policy DC25 - Rural Economic Development and the Expansion of Existing Rural Commercial Sites / Intensification of Uses states the following:

**(a) Proposals for development which delivers economic benefits to the rural area and extension of existing commercial sites outside the defined built up areas will be permitted where it relates to the needs of the rural economy and in the case of company relocation the Council is also satisfied that the proposal constitutes the relocation of a currently badly sited use(s).**

- 6.19 Despite the additional information submitted by the applicant in support of the application, it is your officer's opinion that the proposed building within the countryside location does not comply with established LDF policies in particular policy DC25 a). It has not been demonstrated that the proposal relates to the needs of the 'rural' economy and neither has it been demonstrated to the satisfaction of the Council that the any of the new uses have been identified as badly sited uses or has been subject to complaints.
- 6.20 Having assessed the submitted information, your officers consider that there is insufficient evidence to support the application or to demonstrate how the proposal supports the rural economy. Furthermore, in the absence of any evidence to suggest that any of the new uses represent 'badly sited uses', it is considered that the proposal fails to comply with part (a) of policy DC25.
- 6.21 With consideration to DC 25 Part (b) your officers consider the following:

**(b) Proposals for the expansion of existing commercial buildings / intensification of uses outside the defined built up areas will be permitted where:**

- i the proposal meets criteria (a) above for new commercial development and extension of existing commercial sites outside defined built up areas;**
- ii is limited to the expansion and or/adaptation plans which are essential to the operation of the established business;**
- iii is of suitable scale for the level of activity proposed;**
- iv can be accommodated satisfactorily within the existing employment site boundary; and**
- v the car parking requirements can be accommodated satisfactorily within the immediate surrounds of the buildings.**

**i )** As set out above, your officers consider that the proposal does not conform with criteria (a) of policy DC25

**ii)** Only 1 of the 4 new units proposed to be created represent an expansion or adaption plans of an existing user on the site. In any event the information

submitted does not demonstrate that the proposal is essential to the operation of the established business, resulting in failure to comply with this policy requirement.

- 6.22 The policy amplification advises that ‘appropriate development’ which sustains the rural area as a place of varied and productive economic activity is capable of being supported in principle in accordance with the defined objectives for the countryside. It also advises that opportunities for new commercial development are likely to be limited. It continues that the Council recognises that there are a number of well established industrial estates and single employment uses in the Districts rural areas and that some companies are looking to expand and or/ adapt their operations within these estates or sites. This can be more appropriate than the company seeking alternative premises outside of the District, in order to retain the economic and social benefits which can arise from companies located in rural areas. In these circumstances the policy amplification advises that it will be necessary to demonstrate the relationship to the needs of the local economy. In the absence of such a demonstration, this proposal is not considered to comply with this requirement.
- 6.23 Planning Policy Statement 4, Planning For Sustainable Economic Growth, sets out national planning guidance on economic development. One of the overarching principles within PPS4 includes creating prosperous communities by:
- raising the quality of life and the environment in rural area by promoting thriving, inclusive and locally distinctive rural communities whilst continuing to protect the open countryside for the benefit of all.
- 6.24 Policy EC6.1 in PPS4 states that Local Planning Authorities should ensure that the countryside is protected for the sake of its intrinsic character and beauty, the diversity of its landscapes, heritage and wildlife the wealth of its natural resources and to ensure that to may be enjoyed by all.
- 6.25 Policy EC6.2 in PPS4 further states that in rural area, local planning authorities should amongst other things:
- Strictly control economic development in the open countryside away from existing settlements, or outside areas allocated for development in development plans.
  - Support the conversion and re-use of appropriately located and suitably constructed existing buildings in the countryside (particularly those adjacent or closely related to towns or villages) for economic purposes.
- 6.26 This site is in the open countryside, away from existing settlements and outside areas allocated for development. The proposal does not propose the conversion and re use of an appropriately located or suitable constructed building in the countryside and the proposal is therefore considered to conflict with this national planning guidance.
- 6.27 Having regard to the details of the proposal and supporting information, it is considered that the proposal for the erection of a building for B1, B2 and B8 uses

fails to comply with the relevant Development Plan policies including policies CP1, CP15, DC1, and DC25 together with national planning guidance relating to such development within the countryside.

## **7. RECOMMENDATION**

It is recommended that planning permission be refused for the following reasons:

1. The proposed development for B1, B2 and B8 purposes in this rural and unsustainable location fails to demonstrate how it relates to the needs of the rural economy and fails to adequately demonstrate how it relates to the essential operation of the existing business, or constitutes the relocation of currently badly sited uses. As such the proposal is considered to represent inappropriate development in the countryside, contrary in particular to policies CP1 and CP15 of the Horsham District Council Local Development Framework Core Strategy 2007 and policies DC1 and DC25 of the Horsham District Council Local Development Framework General Development Control Policies (2007).

Background Papers: DC/11/0130  
Contact Officer: Amanda Wilkes

DCN/24 **PLANNING APPLICATION: DC/11/0130 – ERECTION OF  
BUILDING FOR B1/B2 USES AND B8 STORAGE ONLY**  
**SITE: R J CASE AND CO LTD, BOGNOR ROAD, BROADBRIDGE  
HEATH, HORSHAM**  
**APPLICANT: MR RICHARD CASE**

The Head of Planning & Environmental Services reported that this application sought permission for the erection of a 'second hand' commercial building comprising four units in total for B1 (light Industrial); B2 (General Industrial); and B8 (Storage and Distribution) uses, located in the north west corner of the established commercial yard associated with R J Case and Co Ltd. The proposed building would be 24.5 metres long x 18 metres wide and 8.2 metres high with an eaves height of 6.4 metres.

Government policies PPS1, PPS4, PPS7 and PPG13; Local Development Framework Core Strategy Policies CP1, CP2, CP3, CP5, CP10, CP11, CP15 and CP19; Local Development Framework General Development Control Policies DC1, DC9, DC19, DC25 and DC40; and Policies CC1, CC4, CC6, CC7, C4, BE1 and RE3 of the South East Plan were relevant to the determination of this application.

Additional information submitted by the applicant indicated that Unit 1 would be occupied by R J Case Contractors Ltd for lock up storage and workshop facilities. The additional three units would be occupied by existing local companies for spray painting commercial vehicles; storage of vehicles and equipment; and storage.

The current commercial yard was located within the countryside and comprised an established plant hire yard as well as the base for Rowhook garage and a storage facility for salvage vehicles on an area of land that was approximately 0.72 hectares in area. The site was located on the west side of Bognor Road (A29).

The existing commercial yard comprised a dwelling known as 'Garden Cottage' located in the southern corner of the site adjacent to the main access, a vehicle paint spray workshop located to the west of the dwelling, and two vehicle repair workshops adjacent to the south west boundary of the site. There was also an under-pinning contractors unit located adjacent to the northern boundary of the vehicle repair workshop. Land to the north-west corner of the yard was an open storage yard currently used in connection with the storage of vehicles for salvage vehicles.

Relevant planning history included:

WN/47/69	An established use certificate for contractor's plant hire yard	Granted
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DCN/24 Planning Application: DC/11/0130 (cont.)

WN/46/92	The retention of transport, contractors haulage and storage yard	Granted
WN/8/99	The erection of 9 houses and garages and a garage for garden cottage.	Refused & subsequent appeal dismissed
WN/11/02	The extension of the workshop	Granted
WN/50/03	The retention of replacement workshop for plant hire business	Granted

The concerns of Strategic Planning and the comments of the County Council were noted. The Parish Council raised no objection to the proposal. The applicant's agent spoke in support of the application.

The main considerations in the determination of this application were considered to be the impact of the proposal on the rural character of the area; impact on amenity; impact on highway safety; infrastructure requirements; sustainability issues and the principle and justification of the proposal in the countryside.

It was considered that, in view of the distance of the proposal from the nearest residential properties and the limited views of the site from public vantage points, there would be no material impact in respect of visual amenity.

It was also considered that the proposed units would not result in any significant increase in vehicle movements or intensification of the use of the site access.

Whilst the site was located in the countryside, it had an extensive history of commercial activity and Members considered that the proposal would contribute to the wider rural economy by supporting local businesses.

It was also considered the proposal would result in some environmental improvements through the reduction of salvage vehicle storage on the site.

Members therefore considered that the proposal was acceptable in principle subject to the receipt of further information and it was proposed that the determination of the application be delegated to the Head of Planning & Environmental Services pending the receipt of further information.



DCN/24 Planning Application: DC/11/0130 (cont.)

RESOLVED

That application DC/11/0130 be determined by the Head of Planning and Environmental Services, in consultation with the Chairman and the local Members, following the receipt of further information including named users for the individual units; how the proposal would address the relevant policy criteria for the erection of new industrial buildings in the countryside; an appropriate mechanism to secure the reduction of salvage vehicle storage in accordance with the details submitted with the application; and the formulation of appropriate conditions.

The preliminary view of the Committee was that the application should be granted.



**Horsham  
District  
Council**

serving our towns and villages

Park North, North Street, Horsham,  
West Sussex, RH12 1RL  
Tel: (01403) 215100 Fax: (01403) 215198  
(Calls may be recorded)  
website: [www.horsham.gov.uk](http://www.horsham.gov.uk)  
e-mail: [planning@horsham.gov.uk](mailto:planning@horsham.gov.uk)

Angus Farquhar  
Chalk Ridge,  
Byfeets Lane,  
Warnham,  
Horsham  
RH12 3PD

Application Number: DC/11/0130

TOWN AND COUNTRY PLANNING ACT, 1990  
TOWN AND COUNTRY PLANNING (GENERAL DEVELOPMENT PROCEDURE) ORDER 1995

On behalf of: Mr Richard Case

In pursuance of their powers under the above-mentioned Act and Order, the Council hereby notify you that they PERMIT the following development, that is to say:

**Erection of building for B1/B2 uses and B8 storage only**

**R J Case and Co Ltd Bognor Road Broadbridge Heath Horsham**

to be carried out in accordance with Application No. DC/11/0130 (as modified by the under-mentioned conditions, if any) submitted to the Council on 02/02/2011 and subject to compliance with the plans/documents and conditions specified hereunder.

ROD BROWN  
HEAD OF PLANNING  
AND ENVIRONMENTAL SERVICES

Date: 26/10/2011

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: To comply with Section 91 of the Town and Country Planning Act 1990.

- 2 The materials to be used in the development hereby permitted shall strictly accord with those indicated on the approved details associated with the application.

Reason: To enable the Local Planning Authority to control the development in detail in the interests of amenity and in accordance with policy DC9 of the Horsham District Local Development Framework: General Development Control Policies (2007).

- 3 The building hereby approved shall not be occupied until the parking turning and access facilities have been provided in accordance with the plans hereby approved (or in

accordance with plans submitted to and approved in writing by the Local Planning Authority) and the parking turning and access facilities shall thereafter be retained solely for that purpose [and solely in connection with the development].

Reason: To ensure adequate parking, turning and access facilities are available to serve the development in accordance with policy DC40 of the Horsham District Local Development Framework: General Development Control Policies (2007).

- 4 No waste or vehicles awaiting repairs of other works shall be parked stacked or stored on the site at any time except within the buildings or storage areas hereby approved by the Local Planning Authority.

Reason: To safeguard the amenities of neighbouring properties and in accordance with policy DC9 of the Horsham District Local Development Framework: General Development Control Policies (2007).

- 5 No external lighting or floodlighting shall be installed without the prior written approval of the Local Planning Authority on an application in that behalf. Any that is installed with the permission of the Local Planning Authority shall be maintained in accordance with the approved details.

Reason: In the interests of the amenities of the locality and in accordance with policy DC9 of the Horsham District Local Development Framework: General Development Control Policies (2007).

- 6 The units, hereby approved, shall not be occupied until such time as the Applicant has installed a single fire hydrant in a location and in accordance with a specification submitted to and approved by the Local Planning Authority in consultation with the Fire and Access Manager at West Sussex County Council. Should the Fire and Access Manager confirm in writing that no additional fire hydrant is required, no works would be required in these respects.

Reason: To ensure connection to adequate supplies of water for fire fighting.

- 7 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 or Orders amending or revoking and re-enacting the same, the building(s) shall not be extended or altered in any way unless planning permission has been granted by the Local Planning Authority on application in that respect.

Reason: To enable the Local Planning Authority to retain control and secure a satisfactory development of the site in accordance with policy DC1 of the Horsham District Local Development Framework: General Development Control Policies (2007).

- 8 The uses hereby permitted shall only take place within the building and the building shall only be used for B1c, B2 and B8 purposes, by unit 1 by RJ Case Ltd, unit 2 by C and M Coach works, unit 3 by Timdale Trading Ltd and unit 4 by Murihine Ltd unless the prior written consent is obtained from the Local Planning Authority for any variation.

Reason: To enable the Local Planning Authority to control the development in detail in the interests of the rural character of the area and highway safety in accordance with policy DC1 of the Horsham District Council Local Development Framework: General Development Control Policies (2007).

- A. The development hereby permitted shall be carried out in accordance with the approved plans listed in the schedule below.

Reason: For the avoidance of doubt and in the interest of proper planning.

Schedule of plans/documents:

Location plan Drwg no. Plan 1 Received 2nd February 11  
Unnumbered Block plan Received 5th May 11  
Elevations and Floor plan Drwg no. 1024 Received 5th May 11  
Design and Access Statement Received 2nd February 11  
Aerial Photograph Received 2nd February 11

Note to Applicant:

In making this decision the Council has had regard to the following policy(ies) from the Local Development Framework Core Strategy/Local Development Framework General Development Control Policies:

DC1 DC9 DC40 DC25 CP1 CP15

Note to Applicant:

You are advised that this permission does not constitute an approval under the Building Regulations. Before you proceed with your proposal you should ensure that a Building Control application is not required, or has been submitted. The Building Control Department can be contacted on 01403 215151.

REASONS FOR GRANTING PLANNING PERMISSION:

- 1 The proposal does not materially affect the amenities of neighbouring occupiers or the character and visual amenities of the locality.
- 2 The proposal is consistent with the provisions of the development plan.
- 3 The vehicular traffic associated with the development would not adversely affect the safety and convenience of other highway users.

N.B. PLANNING APPEAL PROCESS

If you are aggrieved by the decision to refuse permission for the proposed development or to grant it subject to conditions, then you can appeal to the Secretary of State under Section 78 of the Town and Country Planning Act 1990.

You must appeal within 12 weeks of the date of the decision notice for a householder application and within 26 weeks for other types of planning applications. Please note, only the applicant possesses the right of appeal.

The details of how to appeal together with the form which must be used can be obtained from the Planning Inspectorate at Temple Quay House, 2 The Square, Temple Quay, Bristol, BS1 6PN or on-line at [www.planningportal.gov.uk/pcs](http://www.planningportal.gov.uk/pcs)





## DEVELOPMENT MANAGEMENT REPORT

**TO:** Development Management Committee North

**BY:** Head of Planning and Environmental Services

**DATE:** 7<sup>th</sup> February 2012

**DEVELOPMENT:** Change of use of an agricultural building to storage of furniture in conjunction with those permitted under reference CG/3/00

**SITE:** Forest Heights, Springfield Lane, Colgate

**WARD:** Rusper and Colgate

**APPLICATION:** DC/11/0710

**APPLICANT:** Mr J Verbeeten

**REASON FOR INCLUSION ON AGENDA:-** Applicants request to vary terms of previous committee resolution, relating to precise requirements of proposed legal agreement in respect of lorry movements associated with the use..

**RECOMMENDATION:** To grant planning permission.

### 1. BACKGROUND

- 1.1 This application for a change of use of Building No. 3 from agricultural use to long term storage of furniture for a local firm was presented to Committee on 5<sup>th</sup> July 2011( previous report attached) where it was resolved:
- i) That a planning agreement be entered into to secure control of the number of lorry movements associated with the proposal.
  - ii) That, upon completion of the agreement in i) above, application DC/11/0710 be determined by the Head of Planning and Environmental Services. The preliminary view of the Committee was that the application should be granted.

### 2. CURRENT POSITION

- 2.1 In formulating the legal agreement, the applicant expressed concern at the precise nature of lorry movements which was previously stated in the supporting information submitted with the application, and therefore included within the previous Committee report. It was originally stated that 1 lorry would visit the site

each week in connection with the use of Building 3. The applicant now considers that this is too restrictive in operating the furniture storage business from this additional building (No. 3). Consequently he has requested a degree of flexibility be built into the agreement.

- 2.2 The applicant has proposed that in order to give a more flexible approach, the agreement specifies a maximum of two lorries visiting the site in connection with the use of building 3 in two weeks.
- 2.3 As the previous committee resolution was made on the basis of the information previously provided, it is necessary for the committee to consider the application in the context of the revised information.

### 3. **PLANNING ASSESSMENT**

- 3.1 The current undetermined application is for a change of use of Building No. 3 from agricultural store to use as a long term furniture storage facility, which already takes place within Buildings 1 and 2 on this site (CG/3/00 refers).
- 3.2 The application was presented to the July 2011 Committee (Item A9 refers) on the basis that one additional lorry per week would be required, in connection with the subject building on the site being used for furniture storage. Members resolved the proposal was acceptable on this basis subject to a legal agreement controlling lorry movements to those specified. The Committee is requested to reconsider the application in light of the revised lorry movements of two lorries visiting the site in two weeks in connection with the use of the building. Essentially this variation does not increase the overall number of lorry movements, but enables the user to have a degree of flexibility enabling 2 lorries to serve the building in one week, but without any the following week.
- 3.3 The site lies in an AONB and is accessed via a narrow trackway and therefore concern would be expressed at an overall intensification of a low key use on this site. However, the change to lorry movements to the site now proposed is modest and would give the storage company more flexibility in the operation of the site.
- 3.4 It is considered that the modest change in the pattern of lorry movements from 'one in one week' to 'two in two weeks' is acceptable and would not cause material harm to the amenities of residents along the lane, the character of the area or cause highway safety concerns in this case.

### 4. **RECOMMENDATIONS**

- 4.1 It is recommended that the decision be delegated with a view to approval to the Head of Planning and Environmental Services subject to the completion of a Section 106 Agreement to control lorry movements as set out above and subject to Conditions 01 – 05 and reasons for approval, as stated on the previous report (attached).

Background Papers: DC/11/0710  
 Contact Officer: Peter Harwood

*pgh12pink/wk3/jlt*



**Horsham  
District  
Council**

## **DEVELOPMENT MANAGEMENT REPORT**

**TO:** Development Management Committee North

**BY:** Head of Planning and Environmental Services

**DATE:** 5<sup>th</sup> July 2011

**DEVELOPMENT:** Change of use of an agricultural building to storage of furniture in conjunction with those permitted under reference CG/3/00

**SITE:** Forest Heights, Springfield Lane, Colgate

**WARD:** Colgate

**APPLICATION:** DC/11/0710

**APPLICANT:** Mr J Verbeeten

**REASON FOR INCLUSION ON AGENDA:** Request to speak (Applicant and objector)

**RECOMMENDATION:** That the decision be delegated, with a view to approval, subject to the signing of a 106 Agreement relating to the control of lorry movements.

### **1. THE PURPOSE OF THIS REPORT**

To consider the planning application.

#### **DESCRIPTION OF THE APPLICATION**

- 1.1 The current application relates to the change of use of an agricultural building to long term storage of furniture. The building is 149 sqms in area and is constructed in olive green box profile steel sheeting under a mono-pitched roof. The external cladding on this building was approved under permission CG/03/00.
- 1.2 The proposed use of this building will be in addition to the existing use of the adjacent two buildings (identified as buildings 1 and 2 on the submitted plan) for long term furniture storage for a local firm. The building is currently used for agricultural storage.

#### **DESCRIPTION OF THE SITE**

- 1.3 Forest Heights Farm is a property of 1.7 hectares (4.2 acres) situated outside any built-up area and within part of the High Weald Area of Outstanding Natural Beauty.



The site is surrounded on the south, west and north boundaries by ancient woodland.

- 1.4 The application site comprises a group of buildings positioned around a courtyard and accessed off Springfield Lane. There is also a detached bungalow permitted in the 1970s which is the subject of an agricultural occupancy condition. This dwelling has a domestic garden with vehicular access also off Springfield Lane.

#### PLANNING HISTORY

- 1.5 Forest Heights was originally a pig breeding and rearing farm unit consisting of some 16.2 hectares (40 acres). The agricultural unit was reduced to 1.7 hectares and permission for a change of use for units 1 and 2 for use as agricultural processing and retail sale of animal feed supplies and associated animal care products was permitted in 1990 (CG/18/90 ).
- 1.6 An application to remove the agricultural occupancy condition on the dwelling was refused on two occasions (CG/22/92 and CG/1/98). In 1992 permission was granted for the removal of the personal condition on CG/18/90.
- 1.7 Buildings 1 and 2 were permitted to be used for long term furniture storage, subject to conditions relating to vehicular movements and limiting the use - CG/3/00
- 1.8 In 2003 a retrospective planning application for the retention of cladding on the building, the subject of the current application (bldg. 3) which was previously a pole barn, was permitted - (CG/3/03)
- 1.9 In 2007 a planning application for the change of use of building 3 was refused for long term furniture storage (DC/07/0218) on the grounds that the use would be harmful to the character and amenity of the AONB.

## 2. INTRODUCTION

#### STATUTORY BACKGROUND

- 2.1 Town and Country Planning Act 1990.

#### RELEVANT GOVERNMENT POLICY

- 2.2 PPS1, PPS4, PPS7, PPG13.

#### RELEVANT COUNCIL POLICY

- 2.3 Horsham District Local Development Framework Core Strategy 2007 - the following policies are of particular relevance: CP1, CP3, CP10, CP11, CP15 and CP19.
- 2.4 Horsham District Local Development Framework General Development Control Policies 2007 - the following policies are of particular relevance: DC1, DC4, DC9, DC23, DC24, DC25 and DC40.

### 3. OUTCOME OF CONSULTATIONS

#### OUTSIDE AGENCIES

- 3.1 **Colgate Parish Council** - No objection but reiterated the concerns of residents within Springfield Lane who are "not happy with the proposed development which will mean more very large lorries along this very narrow country lane where there are no passing places".

#### PUBLIC CONSULTATIONS

- 3.2 Six letters of objection have been received from neighbouring occupiers along Springfield Lane raising the following concerns:
- Inappropriate form of development being detrimental to the beauty and tranquillity of the Area of Outstanding Natural Beauty
  - Further commercialisation of the site would lead to further intensification of use with additional lorry movements resulting in a detriment to the amenities of residents along Springfield Lane and to the Area of Outstanding Natural Beauty
  - Increase in traffic movements would result in highway safety issues, particularly as Springfield Lane is narrow with no passing places and is also a public footpath
  - Damage caused to overhanging trees by tall sided vehicles
  - Proposals contrary to policies relating to development within an Area of Outstanding Natural Beauty
  - Contrary to appeal Inspector's view under DC/06/1238 for stables on adjacent site.
  - Previous refusal DC/07/0218 similar proposal to current application.

#### EXTERNAL CONSULTATIONS

3.3 **WSCC Highways:**

*"Springfield Lane is a private, no through road which serves a number of residential and farm properties. The application is for the change of use of an existing hay barn (600 cubic metres) to be used for long term furniture storage. No changes to the access or the parking provision are proposed. There are two buildings on site currently being used by the company (removals and storage) which have a combined storage capacity of 1800 cubic metres. The storage company are currently limited to six lorry movements per week and are proposing this will increase to seven movements per week. Given the existing use of the barn for the storage of hay and the number of movements this would generate, along with the long term nature of the storage proposed, I do not feel that this proposal will have a significant impact on the public highway. Therefore I do not wish to raise an objection."*

**4. HOW THE PROPOSED COURSE OF ACTION WILL PROMOTE HUMAN RIGHTS**

Article 8 (right to respect of a private and family life) and Article 1 of the First Protocol (protection of property) of the Human Rights Act 1998 are relevant to the application. Consideration of Human Rights forms part of the planning assessment below.

**5. HOW THE PROPOSAL WILL HELP TO REDUCE CRIME AND DISORDER**

It is not considered that there are any significant implications for crime and disorder arising from this application.

**6. PLANNING ASSESSMENT**

- 6.1 The main issues in the determination of this application include the principle of the proposal in this location, the proposal's impact on the character of the Area of Outstanding Natural Beauty, highway safety implications, sustainability and the impact of the increased activity at the site on residential amenities of occupiers along Springfield Lane.
- 6.2 The application proposes a change of use from a redundant agricultural barn (Building 3) to long term furniture storage to be used in association with the same lawful use of two other buildings (Buildings 1 and 2) sited adjacent to the current application building.
- 6.3 The applicant has confirmed that Durrants Home Furniture Removers and their sister company Turners (based at Home Farm, Holmbush , Faygate and at Ashington) have used the storage facilities at Forest Heights for over 20 years. The requirement for additional space in Building 3 is stated as being due to people who are now renting out their houses and re-renting themselves while looking to move and therefore need storage while they relocate.
- 6.4 The proposal is not to change the external appearance of the building which was reclad in 2002 or partition the building internally. The proposal solely relates to the change of use of 149sqm of floor space. The total floorspace at the site for furniture storage would thus be increased by a further 149 sqm to a total of 402 sqm for the three buildings.
- 6.5 The previous change of use relating to Buildings 2 and 3 (CG/3/00 refers) was restricted by condition to six lorry movements per week. The applicant has advised that the additional storage proposed would only necessitate one additional lorry movement per week.
- 6.6 Policy DC25 of the Local Development Framework states, amongst other things, that: *"Proposals for the expansion of existing commercial buildings/intensification of uses outside the defined built-up areas will be permitted..."* subject to a number of criteria including the development being limited to the expansion of, and essential to, the operation of the established business; is of suitable scale for the

level of activity proposed, can be accommodated satisfactorily within the existing employment site boundary and that car parking requirements can be accommodated satisfactorily within the immediate surrounds of the buildings.

- 6.7 The site is within the Area of Outstanding Natural Beauty. Policy DC4 states that:

*"Planning permission will not be granted for proposals in or near to the Sussex Downs or High Weald Areas of Outstanding Natural Beauty that would adversely affect the character, quality, views, distinctiveness or threaten public enjoyment of these landscapes."*

- 6.8 The activity at the site is relatively low key, as the proposed storage is within an existing building and it is advised the use will only result in one additional lorry movement per week, it is difficult to demonstrate that such a level of activity at this site would be detrimental to the character and distinctiveness of the Area of Outstanding Natural Beauty to such a degree to justify a refusal of planning permission in this case, in the view of your officers.
- 6.9 Whilst the site is in a relatively isolated, unsustainable location, PPS7 encourages economic use over residential. Also it is noted that the use of this building, for long term storage, does not require a continuous staff presence on site and therefore the proposal represents only a modest increase in activity to an existing low key storage facility, based in the local area which would generate a relatively modest level of traffic generation with regard to sustainability issues.
- 6.10 The vehicular access to the site is along Springfield Lane from Forest Road to the north. The lane is narrow with limited passing places which are at the entrance of driveways of other properties. Therefore any vehicles including tractors/agricultural machinery etc. would need to exercise caution whilst travelling along this lane which is also a footpath (ROW1699). Whilst it is not ideal for removal lorries to use this lane, the site can lawfully be used by agricultural traffic and two other barns on the site can also be used in association with removal vehicles. Also West Sussex County Surveyor has confirmed that there is no objection to the proposed increase in vehicular movement along this lane as it is considered that this proposal will not have a significant impact on the public highway.
- 6.11 Although there are private residential dwellings situated close to the lane, it is considered that the low level of additional lorry movement would not cause material harm to amenities and quiet enjoyment of other properties.
- 6.12 Concerns have been expressed by residents that previous conditions restricting vehicular movements to this site have been breached. This matter was investigated and monitored by the Compliance Team and it was concluded that no breach was identified.
- 6.13 Residents have also referred to the refusal of planning permission for furniture storage in this building under application DC/07/0218. This proposed additional vehicular movements of up to 5 a week and was considered significant at that time. The current application suggests movements be limited to an additional 1 lorry movement per week.

- 6.14 The appeal decision referred to by an objector (DC/06/1238) was for the erection of two stables, tack room and hay/feed store on land to the south / east of Forest Heights. Your officers are mindful of the Inspectors decision to dismiss the appeal on the grounds that the structures would have an adverse impact on the character of the AONB. The comparison between this appeal and the current application is limited as the current proposal does not include any additional buildings but rather is for the change of use of an existing building. Therefore the impact on the character of the AONB is significantly less in this case. It is not considered these two cases are directly comparable.
- 6.15 In order to control lorry movements associated with this site at a level as indicated in the application details it is considered appropriate that this matter is controlled through a Section 106 Legal Agreement.
- 6.16 In conclusion, it is considered, on balance, that the change of use of this building to long term furniture storage would not represent an increase in the level of activity to such a degree which would adversely affect the character of the Area of Outstanding Natural Beauty or the amenities of nearby residents such to justify a refusal of planning permission in this case.

## 7. **RECOMMENDATION**

- 7.1 It is recommended that the decision be delegated with a view to approval to the Head of Planning and Environmental Services upon completion of a Section 106 Agreement to control lorry movements and subject to the following conditions:

01     A2     Full Permission

- 02     No raw materials, finished or unfinished products or parts, crates, packing materials or waste shall be stacked or stored on the site except within the buildings at any time approved by the Local Planning Authority.

Reason:     To safeguard the visual amenities of the area in accordance with Policy DC4 of the Horsham District Local Development Framework General Development Control Policies Document 2007.

- 03     Notwithstanding the provisions of the Town and Country Planning (General Permitted Order 1995 or Orders amending or revoking and re-enacting the same, the building shall not be extended or altered in any way unless permission is granted by the Local Planning Authority on an application in that behalf.

Reason:     A more intensive use of the site would be likely to cause harm to the character of the area and in accordance with Policies DC4 and DC9 of the Horsham District Local Development Framework General Development Control Policies Document 2007.

- 04 The use hereby permitted shall be restricted to long term furniture storage only as set out in the applicant's planning statement attached to this application and received on the 12<sup>th</sup> April 2011.

Reason: For the avoidance of doubt and in the interests of amenity and the character of the area in accordance with the aims of Policies DC4 and DC9 of the Horsham District Local Development Framework General Development Control Policies Document 2007.

- 05 No work shall be undertaken on the site except between the hours of:

0700 and 1800 hrs on Mondays to Fridays inclusive  
0700 and 1300 hrs on Saturdays  
and no work shall be undertaken on Sundays or Public Holidays

Reason: In the interests of amenity and to accord with the aims of Policy DC9 of the Horsham District Local Development Framework General Development Control Policies Document 2007.

## 8. **REASONS**

ICAB2 The proposal does not materially affect the amenities of neighbouring occupiers or the character and visual amenities of the locality.

Background Papers: DC/11/0710  
Contact Officer: Peter Harwood

WK2/DC110710/46



**Horsham  
District  
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# **DEVELOPMENT MANAGEMENT REPORT**

**TO:** Development Management Committee North

**BY:** Head of Planning and Environmental Services

**DATE:** 7<sup>th</sup> February 2012

**DEVELOPMENT:** Variation to legal agreement S106/1825 to amend definition of 'Application' and 'Planning Permission' to allow for minor amendment applications during course of construction; allow for relocation of fence; replace Plan 6 indicating position of bus shelters.

**SITE:** Land East of A24 Worthing Road Horsham West Sussex

**WARD:** Denne

**APPLICATION REFERENCES:** DC/09/2138  
Legal Agreement Section 106/1825

**APPLICANT:** Berkeley Homes (Southern) Ltd

**REASON FOR INCLUSION ON THE AGENDA:** To consider the proposed variation of the S106 agreement

**RECOMMENDATION:** Agree to Variation of S106 Agreement for the amendment to the definition of 'Application' and 'Planning Permission' to ensure benefits already secured within the legal agreement do not fall away in the event planning permission for applications DC/11/1608, DC/11/1807, DC/11/2004 and DC/11/2304 are granted; allow for the relocation of a fence around the perimeter of land to be transferred to Tanbridge House School; replace Plan 6 showing the location of two bus stops/ shelters close to the northern access of the site on Hills Farm Lane.

## **1. BACKGROUND**

- 1.1 In August 2010 Outline planning permission was granted under reference DC/09/2138 for the development of up to 1044 dwellings including provision of employment floor space, fire station, community centre and expanded school facilities together with the construction of a principal vehicular access from A24 (southbound), secondary bus/cycle/pedestrian accesses from Hills Farm Lane, internal highway network, diversion of existing public footpaths and a replacement

footbridge over A24. The application also included the formation of associated landscape works including playing fields, allotments, recreation facilities and construction of acoustic bund/fence alongside A24.

- 1.2 The Outline planning permission was subject to a legal agreement (Section 106/1825 referred to within this report as the Principal Agreement), which secured a number of benefits. The scope of the S106 package (amounting to in the region of £31million) included amongst other things:
- The undertaking of highway works by the developer or payment by the developer to the County Council for off site highway works (to include a contribution towards the maintenance of highway works)
  - The delivery of affordable housing and Discount Market Sales (DMS) units (subject to a review mechanism and the potential to elect to take the equity in the DMS units)
  - The provision of fire hydrants within the development
  - An obligation to require the developer to enter a contract with Southern Water to secure the delivery of odour mitigation works at the Horsham Wastewater Treatment Works. The works to be undertaken by the completion of the 600<sup>th</sup> dwelling
  - A contribution towards public art
  - The provision of recycling facilities on the site
  - The provision of land and a contribution towards the provision of a community building
  - The provision of a MUGA of 450m<sup>2</sup>
  - The provision of two NEAPS – one on the northern site and one on the southern site
  - The allocation of an area for a BMX park
  - The provision of open space encompassing amenity green space (approximately 0.975ha) sports pitches (approximately 2ha); natural green space; structural landscaping and buffer strips (approximately 0.9ha) and allotments (approximately 0.35ha) plus a contribution toward future maintenance
  - The provision of balancing ponds within the site plus a contribution for future maintenance
  - The construction of all residential units to Level 3 of the Code for Sustainable Homes and the delivery of all commercial units to Very Good level of BREEAM or such other standard required through the lifetime of the development.
- 1.3 In January 2011 a Reserved Matters application for the first phase was granted under reference number DC/11/0006 for 196 dwellings, creation of a new vehicular/pedestrian/ cycle access from Hills Farm Lane, together with the internal highway network, footpaths, and drainage works; formation of the related landscaping, open space and recreation facilities, including additional facilities for Tanbridge House School.
- 1.4 This Reserved Matters application required a Deed of Variation to the Principal Agreement (Section 106/1858 referred to within this report as the First Supplementary Agreement) and amended the definitions of the following specifications required to be brought forward as part of the overall development:



- Amenity Green Space Specification
- Natural Green Space Specification
- NEAP Specification
- Open Space Strategy and Phasing Plan
- Structural Landscaping and Buffer Strips Specification

## **2. INTRODUCTION**

### **STATUTORY BACKGROUND**

- 2.1 The Town and Country Planning Act 1990.

### **RELEVANT GOVERNMENT POLICY**

- 2.2 The following planning guidance is relevant in the assessment: PPS1 - Delivering Sustainable Development; PPS3 - Housing; PPS9 - Biodiversity and Geological Conservation; PPG13 - Transport; PPG17 - Planning for Open Space, Sport and Recreation; PPS25 - Development and Flood Risk.

### **RELEVANT COUNCIL POLICY**

- 2.3 The following policies of the Local Development Framework Core Strategy (2007) are relevant in the assessment of this application: CP1 – Landscape and townscape character; CP2 – Environmental Quality; CP3 – Improving the Quality of New Development; CP7 – Strategic Allocation West of Horsham; CP14 – Protection and Enhancement of Community Facilities and Services.

The following policies of the Local Development Framework, General Development Control Policies (2007) are relevant in the assessment of this application: DC1 – Countryside Protection and Enhancement ; DC2 – Landscape Character; DC3 – Settlement coalescence; DC5 – Biodiversity and Geology; DC6 – Woodland and Trees; DC9 – Development Principles and DC22 – New Open Space, Sport and Recreation; DC40 -Transport and Access.

The principle of the development has been established by the outline application and the related report carefully considered the proposal in the context of Core Policy *CP7 – Strategic Development West of Horsham*. Whist Policy CP7 sets the key principles, specific guidance on the ‘visions’ for the development is provided in the Land West of Horsham Masterplan Supplementary Planning Document (SPD) (adopted October 2008) and the Land West of Horsham Design Principles and Character Areas SPD (adopted in April 2009) which provides guidance on design matters for developers, others preparing planning applications and for those considering applications.

### **PLANNING HISTORY**

- 2.4 **DC/09/2138 Permitted.** Development primarily of up to 1044 dwellings including provision of employment floor space, fire station, community centre and expanded school facilities. Construction of a principal vehicular access from A24 (southbound) together with secondary bus/cycle/pedestrian accesses from Hills

Farm Lane, internal highway network, diversion of existing public footpaths and a replacement footbridge over A24. Formation of associated landscape works including playing fields, allotments, recreation facilities and construction of acoustic bund/fence alongside A24 (Outline).

**DC/10/0006** *Permitted.* Erection of 196 dwellings, comprising phase 1 of the comprehensive development of Land East of A24, West Horsham, for primarily residential purposes. Creation of a new vehicular/pedestrian/cycle access from Hills Farm Lane, together with the internal highway network, footpaths and drainage works. Formation of the related landscaping, open space and recreation facilities, including additional facilities for Tanbridge House School.

**DC/11/0672** *Permitted.* Non-material amendment to permission DC/10/0006 (Erection of 196 dwellings) consisting of revisions to plots 2, 3-7, 43, 165, 166 and 179, 173, 174, 176, 178.

**DC/11/1100** *Permitted.* The use of a dwelling, its plot and associated land (which formed part of the approved application DC/10/0006) to be used as a sales and marketing suite with associated car park for a temporary period of 3 years.

**DC/11/1400** *Permitted.* Non-material amendment following grant of permission DC/10/0006 (Erection of 196 dwellings) incorporating amendments to plots 8-11 to include change of house type for plot 8, change of house type for plot 11 and minor elevation/floor plan amendments to plots 9 and 10.

**DC/11/1436** *Pending determination.* Provision of footbridge over River Arun including temporary access route for construction - Boldings Brook Bridge (Approval of Reserved Matters).

**DC/11/1608** *Pending determination.* Amendments during course of construction to Plots 12-14 and 180-186 originally approved under DC/10/0006.

**DC/11/1807** *Pending determination.* Amendments during course of construction to Plot 177- amendment to elevations approved under DC/10/0006.

**DC/11/2004** *Pending determination.* Variation of Condition 32 of DC/09/2138 (Outline permission for development of up to 1044 dwellings) to be revised as follows: "The provision of a northbound bus stop adjacent to the Hills Farm Lane (north) access, raised kerbing and shelter; provision of a south bound bus stop and raised kerbing together with a scheme for the provision of an additional bus stop and/or shelter to be submitted and approved in writing by the Local Planning Authority".

**DC/11/2243** *Pending determination.* Erection of 35 dwellings (27 x 3-bed and 8 x 4-bed) Phase 1A of outline permission DC/09/2138 (1044 dwellings) on land West of Windrum Close, Horsham (Approval of Reserved Matters).

**DC/11/2304** *Pending determination.* Permission to create 2 No. tennis courts with permeable tarmacadam surface treatment and 1 No. grassed junior football pitch (Approval of Reserved Matters from approved application DC/10/0006 (including additional facilities for Tanbridge House School)).

**DC/11/2454** *Permitted*. Fence hoarding and V- board for new development (Advertisement Consent).

**DC/11/2472** *Permitted*. Advertisement consent for directional signage for sales and marketing suite.

**DC/11/2696** *Permitted* Non-material amendment following grant of permission DC/10/0006 (Erection of 196 dwellings, Land East of A24, West Horsham) comprising minor alterations to the design of Plots numbered 30-32, 113-118 and 125-128

**DC/11/2697** *Pending determination*. Amendments during course of construction to Plots 16-29, 33-45, 47-48, 89-107, 114-124, 129-142 (73 dwellings) originally approved under DC/10/0006.

### **3. HOW THE PROPOSED COURSE OF ACTION WILL PROMOTE HUMAN RIGHTS**

Article 8 (right to respect of a private and family life) and Article 1 of the First Protocol (protection of property) of the Human Rights Act 1998 are relevant to the application. Consideration of Human Rights forms part of the planning assessment below.

### **4. HOW THE PROPOSAL WILL HELP TO REDUCE CRIME AND DISORDER**

It is not considered that the proposed development would have any impact on crime and disorder.

### **5. PLANNING ASSESSMENT**

5.1 The need for a variation to the Principal Agreement (S106/1825) secured as part of the Outline planning permission DC/09/2138 has arisen as a number of planning applications have been submitted to the Local Planning Authority seeking planning permission for amendments during the course of construction of the first phase of the approved development. The proposed variation to the Principal Agreement comprises 4 elements and are set out in more detail below.

5.2 The applications which have been submitted during the course of construction have not been submitted as 'Reserved Matters' applications and therefore they are not captured within the definition of 'Application' and 'Planning Permission' as set out within the Principal Agreement. As such the grant of planning permission without securing an appropriate variation to the Principal Agreement would result in the benefits secured in the Principal Agreement falling away in the event these applications were implemented.

5.3 For the purpose of clarity the applications mentioned above comprise:

DC/11/1608 Amendments during course of construction to Plots 12-14 and 180-186 originally approved under DC/10/0006,

DC/11/1807 Amendments during course of construction to Plot 177- amendment to elevations approved under DC/10/0006,

DC/11/2004 Variation of Condition 32 of DC/09/2138 (Outline permission for development of up to 1044 dwellings) to be revised as follows: "The provision of a northbound bus stop adjacent to the Hills Farm Lane (north) access, raised kerbing and shelter; provision of a south bound bus stop and raised kerbing together with a scheme for the provision of an additional bus stop and/or shelter to be submitted and approved in writing by the Local Planning Authority" and,

DC/11/2304 Permission to create 2 No. tennis courts with permeable tarmac surface treatment and 1 No. grassed junior football pitch (Approval of Reserved Matters from approved application DC/10/0006 (including additional facilities for Tanbridge House School)).

- 5.4 The planning merit of these aforementioned applications is being considered separately under the Council's approved Scheme of Delegation and does not form part of the request for this variation to the Principal Agreement.
- 5.5 The first element of the variation is to delete and replace the definition of **'Application'** at clause 1.1 of the Principle Agreement. **'Application'** is defined within this clause as: *"means the outline planning application submitted to the District Council for the development of the Site for the construction of up to 1044 Dwellings, together with associated facilities and given reference number DC/09/2138"*
- 5.6 The proposed definition would capture all of the above applications referenced within paragraph 5.3 and allow for all contributions etc secured in the Principle and First Supplementary Agreements to be safeguarded and would not fall away in the event that the minor applications are implemented.
- 5.7 The second element of the variation is to delete and replace the definition of **'Planning Permission'** at clause 1.1 of the Principal Agreement. **'Planning Permission'** is defined within this clause as: *"means the planning permission issued by the District Council pursuant to the Application"*. The proposed definition would be *"means any planning permission issued by the District Council pursuant to an Application"* (refer to definition of 'Application' within paragraph 5.4 above).
- 5.8 The third element of the variation seeks to amend Paragraph 3 of Schedule 4 of the Principal Agreement. This paragraph relates to the land to be transferred to Tanbridge House School for the purpose of sports pitches and other ancillary educational requirements. This particular clause requires the erection of a 3m fence around the perimeter of the land to be transferred
- 5.9 *"As at the date of the transfer of the Secondary School Site the Owner shall have erected (subject to all usual planning and technical approvals) a 3m high fence along the boundaries marked A-B-C-D on Plan 3 with the objective of preventing footballs and other equipment associated with the use of the Secondary School Site causing a nuisance to the owners and occupiers of the Development such fence to be constructed to a detailed design to be agreed between the County Council the District Council and the Owner"*

- 5.10 Application DC/11/2304 shows the line of the required 3m fence on a slightly varied position to that shown on Plan 3, and therefore would fail to comply with the provision of Schedule 4 Paragraph 3. As such the proposed amendments would retain the need for the erection of a 3m fence however it would build in a degree of flexibility and would read:
- 5.11 *“As at the date of the transfer of the Secondary School Site the Owner shall have erected (subject to all usual planning and technical approvals) a 3m high fence along the boundaries marked A-B-C-D on Plan 3 (or on such alternative route as shall have received the prior written approval of the District Council and the County Council) with the objective of preventing footballs and other equipment associated with the use of the Secondary School Site causing a nuisance to the owners and occupiers of the Development such fence to be constructed to a detailed design to be agreed between the County Council and the District Council and the Owner”*
- 5.12 The final element of the proposed variation seeks to replace Plan 6 contained within the Principal Agreement which is referred to within the definition of the *“Hills Farm Lane Works”* contained within Clause 1.1 of the Principal Agreement. Plan 6 is for information only and shows the location of 2 bus shelters. Application DC/11/2004 seeks to provide one shelter and therefore for the avoidance of doubt a replacement Plan 6 showing one bus shelter will be annexed to this variation.
- 5.13 It is considered that the variation of the legal agreement, as proposed, is reasonable as it maintains the overall level of contributions and provision of facilities etc but recognises the need for flexibility in the context of changes during the course of construction.

## **6. RECOMMENDATIONS**

- 6.1 That the variation of the legal agreement as proposed be agreed.

Background Papers: DC/09/2138, DC/10/0006, DC/11/1608, DC/11/1807,  
DC/11/2004, DC/11/2304, S106/1825, S106/1858

Case Officer: Karen Tipper