

PLANNING APPLICATION REPORT

Case Officer: Clare Stewart
Ugborough

Parish: Ugborough **Ward:** Ermington and Ugborough

Application No: 2190/19/VAR

Agent/Applicant:

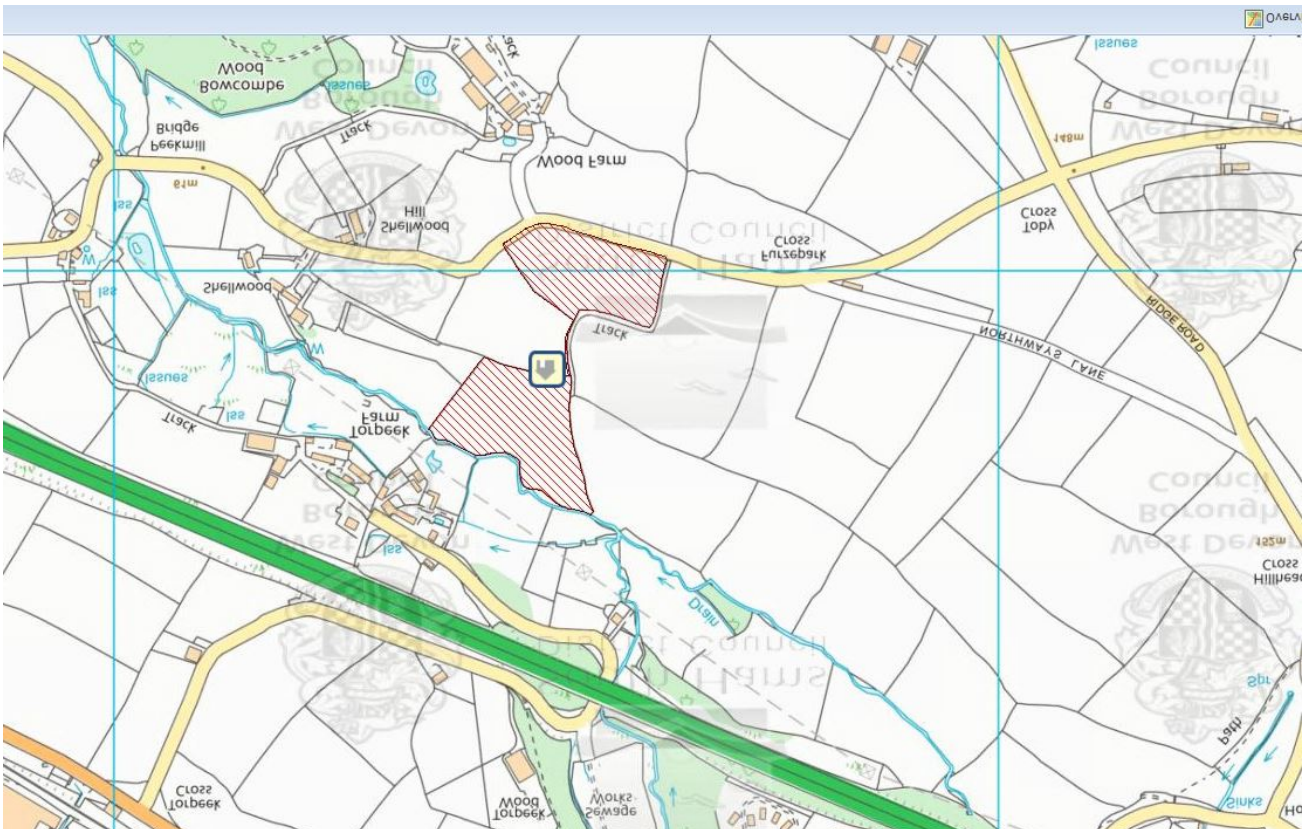
Miss Lizzie Burton - West Country Rural
Ltd
Moor Park
Cheriton Bishop
Exeter
EX6 6JL

Applicant:

Miss A Bonnage
Little Pinmoor
Moretonhampstead
Newton Abbot
TQ13 8QA

Site Address: Land at Sx666 559, Upper Lordswood Stables, Ugborough, Ivybridge, PL21 0LA

Development: Variation of condition 2 on approved application 57/1920/12/F (Retrospective application for change of use of land to equestrian use and erection of security storage unit and horse exercising unit) to use as private business property providing therapy and training to equines



Reason item is being put before Committee

On request of Ward Councillor – disagrees with the advice of the Highway Authority

Recommendation: Refusal

Reasons for refusal

1. The geometry of the access, the increase in use in traffic proposed along with the change in character of traffic is likely to result in unacceptable manoeuvring on the highway, with consequent risk of additional danger to all users of the road contrary to paragraph 108 and 109 of the National Planning Policy Framework; and Policies DEV15 and DEV29 of the Plymouth and South West Devon Joint Local Plan 2014-2034.

Key issues for consideration:

Whether the proposed variations to condition of planning consent 57/1920/12/F would meet the relevant tests for planning conditions as set out in the NPPG and whether the use of the stables for business purposes would result in an unacceptable increase in traffic to and from the site.

Site Description:

The site comprises an existing complex of equestrian development to the west of Furzepark Cross, to the north west of Ugborough. There is an existing access from the rural lane to the south which opens into a parking area with buildings beyond including six stables within a large barn, Olympic sized manege and a 5 bay horse walker. The landholding extends northwards towards Torpeek Farm. The surrounding area is largely open countryside.

The site is not subject to any specific landscape designations and is located within Flood Zone 1.

The Proposal:

Planning permission was granted in November 2012 for the following "*Retrospective application for change of use of land to equestrian use and erection of security storage unit and horse exercising unit.*" (LPA Ref. 57/1920/12/F). Condition 2 of the consent states:

"The horse exercising unit hereby approved shall not be used for business or commercial purposes.

Reason: To restrict the character and volume of traffic to the site. "

The current application seeks to amend the above condition as follows:

"The horse exercising unit hereby approved shall only be used for personal use of for the housing of equines in training and/or rehabilitation for commercial purposes."

The Applicant is a specialist equine trainer and "*therapist of mentally disturbed and physically limited equines*". They have developed a business in this area which is currently operating from alternative premises which are no longer considered sufficient, and the proposal is to move the business to the site at Upper Lordswood. It is suggested the use would generate very limited traffic movements with equine patients remaining on site for an average of 8-16 weeks at a time.

Consultations:

- County Highways Authority – Objection
- Ugborough Parish Council – Support

Representations:

None received.

Relevant Planning History

- 1359/19/FUL Erection of timber clad hay barn. Upper Lordswood Stables, Ugborough. Conditional approval: 24 Jun 19
- 57/1920/12/F Retrospective application for change of use of land to equestrian use and erection of security storage unit and horse exercising unit. Field At Sx665 559, Nnw Of Toby Cross, Ugborough. Conditional approval: 6 Nov 12
- 57/2138/11/DIS Discharge of conditions (3,7,8,9,10 and in part 6) for change of use planning consent 57/1308/11/F (to provide all weather sand school, erection of barn and creation of hard standing and storage area). Field North West Of Toby Cross, Ugborough. Discharge of condition Approved: 30 Aug 11
- 57/1308/11/F Change of use of land to provide all weather sand school, erection of barn and creation of hard standing and storage area. Field North West Of Toby Cross, Ugborough. Conditional approval: 26 Jul 11
- 57/1439/10/F Permission to replace extant planning consent for 57/0957/07/F for the erection of barn containing three stables, storage & wash down point. Field At Sx665 559, N/Nw Of Toby Cross, Ugborough. Conditional approval: 3 Sep 10
- 57/0957/07/F Erection of barn containing three stables, storage & wash down point. Field At Sx665 559, N/Nw Of Toby Cross, Ugborough. Conditional approval: 18 Jul 07

An application to amend conditions pursuant to 57/1308/11/F, which similarly restrict the use of equestrian facilities to personal use only, has been submitted concurrently (LPA ref. 2188/19/VAR).

ANALYSIS

Principle of Development/Sustainability:

Advice to Local Planning Authorities on the imposition of planning conditions is set out with the National Planning Practice Guidance (NPPG) and within the National Planning Policy Framework (NPPF). In particular the NPPG gives advice on the application of tests in paragraph 55 of the NPPF which states:

“Planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects.”

Condition 2 of the original consent this application seeks to vary sought to control the character and volume of traffic attracted to the site. Visibility at the site access is restricted and the surrounding rural lanes are not ideally suited to large vehicles. The conditions were considered to meet the relevant tests at the time they were imposed. The merits of the proposed variation and whether the proposed new condition would meet the 6 tests (NPPF paragraph 55) are set out below.

The principle of supporting the rural economy is supported by local and national planning policies and guidance. Policy DEV15 includes the following: *“Support will be given to proposals in suitable locations which seek to improve the balance of jobs within the rural areas and diversify the rural economy.”* Provisions include: *“Business start-ups, home working, small scale employment and the development and expansion of small business in residential and rural areas will generally be supported, subject to an assessment that demonstrates no residual adverse impacts on neighbouring uses and the environment.”*

Paragraph 83 of the NPPF states, inter alia that:

“Planning policies and decisions should enable:

- a) the sustainable growth and expansion of all types of business in rural areas, both through conversion of existing buildings and well-designed new buildings;*
- b) the development and diversification of agricultural and other land-based rural businesses;”*

The principle of facilitating the proposed rural business is therefore in accordance with local and national planning policy subject to all other material planning considerations including assessment of residual adverse impacts. The key issue in the consideration of the current application, having regard to the original reasoning behind the imposition of the conditions in question, is the impact on character and volume and traffic attracted to the site and whether this can be acceptably managed.

Highways/Access:

Policy DEV15 states proposals in the countryside should: *“Demonstrate safe access to the existing highway network.”* Policy DEV29 states development proposals should *“Provide safe and satisfactory traffic movement and vehicular access to and within the site.”*

The NPPF requires at paragraph 108 in relation to specific applications that *“safe and suitable access to the site can be achieved for all users”*. It goes on to state at paragraph 109:

“Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.”

There has been lengthy dialogue involving the Applicant/Agent and the Highway Authority (DCC Highways) prior to determination of this application. The Applicant/Agent advised the following in terms of likely vehicle trips associated with the proposal:

“It is proposed that all vehicles will arrive from east to west and leave from west to east which will remove any consolidation of traffic along the lane to the west of the property. The cross roads to the east is 0.3 miles away with two substantial passing places along route. There would be no instance where anybody would arrive without prior arrangement and therefore it would be entirely possible to instruct all arrivals on the correct route of access prior to them commencing their journey.”

Traffic movements are predicted to be 5 to 10 visits per week (including all clients, vets, other equine professionals etc) by car and 2 – 5 horses being delivered per month and 2 – 5 horses leaving the facility each month, i.e. 1 – 2 movements per week on average.”

There was discussion around how much control the LPA could exercise by condition around the route that customers took to the site and the numbers of vehicle trips the business generated.

The Highway Authority made the following more detailed comments:

“The route required for clients coming from Plymouth or a westerly direction is quite convoluted. I.e if coming from the west generally clients would need to slip off the A38 at Ivybridge, drive through Ivybridge then through Bittaford, then Wrangaton, then cross over the A38 drive down to Ugborough and then drive through Ugborough Village to get to the site from the east. If clients could arrive from the west (if the site access allowed) they would be able to turn towards the site just after Ivybridge via Davey’s Cross. This seems much more realistic and I think the Planning Authority should be requesting the access is re-designed by a highway engineer following a topographical survey.”

The Applicant/Agent with their Highway Consultant queried the likely vehicle usage of the lane and whether the likely increase in vehicle trips would create a significant highways safety issue. A re-design of the vehicle access prepared by the highway engineer as not been submitted. The Highway Authority made the following final comments:

“I note already the lane is very quiet and do not disagree with this statement, however I do think that the type of driver this particular use will attract inevitably is likely to be drivers that are potentially unfamiliar with the site, where as the previous use would have attracted drivers not of that nature. Inevitably the road safety implications will be made worse. In practical terms when drivers discover they can’t turn left into the site they will be likely to proceed east to the junction of Seldons Close where they will try and turn around in the junction. This arguably is a second reason for refusal as this would give rise to additional reversing and manoeuvring at an existing junction. I am afraid regardless of the levels of traffic using the lane any increase in the above type of movements will be likely to have a detrimental effect on road safety hence my previous suggested reason for refusal.”

It is acknowledged that the site has a lawful use for equestrian purposes, but that this is for private use only. In considering an on another equestrian site in the South Hams were a proposal to remove a similar condition to that being considered under this application to allow for an equestrian business use were refused and dismissed on appeal (Farleigh Meadows, Moreleigh. APP/K1128/W/15/3004816), the Inspector made the following observations:

“At present the stables and sand school cannot be used for business or commercial purposes. As a result, these facilities can only be used privately.... Whilst use of the site access and the C43 junction may have been acceptable for existing levels of use, a point is reached where the risk to highway safety is no longer acceptable. In my

judgement, a business use of the stables would allow the level of use to increase beyond this safe point.”

The Highway Authority have maintained their position that the proposal raises a highway safety issue. This is an overriding consideration in the planning balance. The possibility of a temporary consent was suggested by the Applicant/Agent, but this is not considered an appropriate way to overcome a highways safety objection.

Officers have some concerns regarding the revised condition wording suggested within the application, and consider additional conditions would likely be needed to ensure control over the use of the site was suitably robust. However this does not overcome the fundamental objection raised by the Highway Authority regarding the impact of additional traffic associated with the proposed business use.

Design/Landscape:

The proposed variation of the condition to allow commercial use for training and/or rehabilitation will have no visual impact on the site.

Neighbour Amenity:

The proposed business use would have no material impact on neighbour amenity, there being no residential properties within close proximity to the site.

Other Matters:

The application was advertised as affecting a Public Right of Way – the nearest route runs across land the north of the application site and would not be compromised by the proposed development.

The Planning Balance:

The principle of the establishment of rural businesses in existing buildings is supported by local and national planning policy.

The key concern with regard to the proposed business use of Upper Lordswood is ensuring that there will be safe and suitable access for all users of the highway. Despite lengthy discussions the Highway Authority has maintained a highways safety objection which is considered to be an overriding consideration, and the application is recommended for refusal on this basis.

This application has been considered in accordance with Section 38 of the Planning & Compulsory Purchase Act 2004.

Planning Policy

Section 70 of the 1990 Town and Country Planning Act requires that regard be had to the development plan, any local finance and any other material considerations. Section 38(6) of the 2004 Planning and Compensation Act requires that applications are to be determined in accordance with the development plan unless material considerations indicate otherwise. For

the purposes of decision making, as of March 26th 2019, the development plan for Plymouth City Council, South Hams District Council and West Devon Borough Council (other than parts South Hams and West Devon within Dartmoor National Park) comprises the Plymouth & South West Devon Joint Local Plan 2014 - 2034.

Following adoption of the Plymouth & South West Devon Joint Local Plan by all three of the component authorities, monitoring will be undertaken at a whole plan level. At the whole plan level, the combined authorities have a Housing Delivery Test percentage of 166%. This requires a 5% buffer to be applied for the purposes of calculating a 5 year land supply at a whole plan level. When applying the 5% buffer, the combined authorities can demonstrate a 5-year land supply of 6.5 years at the point of adoption.

The relevant development plan policies are set out below:

The Plymouth & South West Devon Joint Local Plan was adopted by South Hams District Council on March 21st 2019 and West Devon Borough Council on March 26th 2019.

SPT1 Delivering sustainable development
SPT2 Sustainable linked neighbourhoods and sustainable rural communities
TTV1 Prioritising growth through a hierarchy of sustainable settlements
TTV2 Delivering sustainable development in the Thriving Towns and Villages Policy Area
TTV26 Development in the Countryside
TTV27 Meeting local housing needs in rural areas
TTV28 Horse related developments in the countryside
DEV1 Protecting health and amenity
DEV2 Air, water, soil, noise, land and light
DEV15 Supporting the rural economy
DEV20 Place shaping and the quality of the built environment
DEV23 Landscape character
DEV29 Specific provisions relating to transport
DEV35 Managing flood risk and Water Quality Impacts

Other material considerations include the policies of the National Planning Policy Framework (NPPF) including but not limited to paragraphs 8, 11, 55, 108, and 109 and guidance in Planning Practice Guidance (PPG). Additionally, the following planning documents are also material considerations in the determination of the application:

Ugborough Neighbourhood Development Plan 2017-2032

UG3: Traffic flow

UG15: Rural businesses

Considerations under Human Rights Act 1998 and Equalities Act 2010

The provisions of the Human Rights Act 1998 and Equalities Act 2010 have been taken into account in reaching the recommendation contained in this report.