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<b>APPLICATION NO.</b>	20/00327/FULLS
<b>APPLICATION TYPE</b>	FULL APPLICATION - SOUTH
<b>REGISTERED</b>	24.02.2020
<b>APPLICANT</b>	Mr M Hallion, Blackwater Equestrian
<b>SITE</b>	Land At Oak Tree Farm, Foxes Lane, West Wellow, SO51 6EA, <b>WELLOW</b>
<b>PROPOSAL</b>	Erection of a 28mx56m indoor equestrian arena with associated infrastructure including new landscaping and parking
<b>AMENDMENTS</b>	Revised Plans- 24/06/2020 Flood Risk Assessment- 06/08/2020 Additional Flood Risk Assessment- 08/09/2020 HRA- 20/10/2020 Ecology Survey- 21/10/2020
<b>CASE OFFICER</b>	Mr Mark Staincliffe

Background paper (Local Government Act 1972 Section 100D)

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## 1.0 INTRODUCTION

1.1 The application is presented to Southern Area Planning Committee at the request of the Local Ward Councillor due to the development's impact on localised flooding and harm to the character and appearance of the area.

## 2.0 SITE LOCATION AND DESCRIPTION

2.1 The site is located beyond the defined settlement boundary of Wellow on the south side of Foxes Lane opposite the main Blackwater Equestrian centre. The land is currently used for the grazing and exercising of horses and slopes eastwards towards Foxes Lane, from which there is an existing field gate/access.

2.2 To the South is the urban settlement of West Wellow and to the west is a fruit farm consisting of numerous agricultural buildings and poly tunnels.

## 3.0 PROPOSAL

3.1 Blackwater Equestrian currently provides a range of equestrian services with onsite livery as well as professionally trained staff for the training of riders and horses. The wider site extends to about 12 ha with majority of the land used as fenced grass paddocks. Some of the land within the site is occupied by permanent stables, outdoor riding arena, office solarium, tack room, wash down area, ancillary office space, kitchen facilities, shower room and accessible WC.

3.2 The application seeks planning permission for the erection of a 28mx56m indoor equestrian arena utilising horizontal timber boarding and metal cladding for the external elevations and fibre cement corrugated sheeting for the roof.

The proposal also seeks planning permission for extensive new landscaping, car parking to ensure compliance with the Council's parking standards and circulation space. This facility will complement the existing equine facilities onsite and also provide a place to ride and train during inclement weather and when days are short during the winter months.

- 3.3 Though the riding arena itself measures 28m x 56m, the totality of the building is significantly larger, measuring 34m x 62m with a ridge height of 8.455m. The size of the building is greater than the arena as it provides a viewing area, toilets and circulation space.
- 3.4 The proposal has been amended during life of the application which has seen the following changes in the dimensions of the building:

	<b>Floor Area of Building</b>	<b>Measurement to Eaves</b>	<b>Measurement to Ridge</b>	<b>Floor Area of Riding Arena</b>
<b>As proposed</b>	34m x 62m	5.05m	8.455m	28m x 56m
<b>As originally submitted</b>	38m x 66.5m	5.4m	8.65m	30m x 60m

#### 4.0 RELEVANT HISTORY

- 4.1 **14/00466/FULLS** - The change of use of land from agricultural to equestrian use as a fully managed livery. The erection of a barn with three external lights on the building, comprising 11 loose boxes, a bedding store, a solarium, a feed room, a tack room, wash down area and ancillary office space, kitchen facilities, a shower room and accessible WC. The erection of an outdoor ménage 40 metres by 60 metres, widening of the existing vehicular access, hard standing and associated works - **PLANNING PERMISSION GRANTED 13/05/2014.**
- 4.2 **14/01631/FULLS** - Relocation of ménage and car parking area- **PLANNING PERMISSION GRANTED 28/08/2014.**
- 4.3 **15/00976/FULLS** - Temporary equestrian workers dwelling and septic tank- **PLANNING PERMISSION GRANTED 15/10/2015.**
- 4.4 **15/00356/FULLS** - Provision of fully managed livery including erection of barn with external lighting, comprising 15 horse boxes, solarium, tack room, wash down area, ancillary office space, kitchen facilities, shower room and accessible WC, erection of standalone stable building comprising 2 horse boxes, 1 isolation unit, and free standing timber food store, erection of outdoor ménage 40 metres by 60 metres, widening of the existing vehicular access, erection of entrance gateway and related lighting, hard standing and associated works (RETROSPECTIVE).- **PLANNING PERMISSION GRANTED 07/01/2016.**
- 4.5 17/ 01437/FULLS Change of use to equine, including the provision of a water splash/jump - **PLANNING PERMISSION GRANTED 22/08/2017.**

5.0 **CONSULTATIONS**

5.1 **Highways** – No objection, subject to conditions.

5.2 **HCC Ecology** – No objection. The landscaping plans will act as an enhancement for biodiversity, however, it is request that native species of local provenance are used wherever possible. Further ecological enhancements would also be very welcomed such as the provision of bird or bat boxes on newly planted trees.

5.3 **HCC Lead Flood Authority** – No objection subject to conditions.

5.4 **Landscape**- No objection subject to conditions.

5.5 **Ecology**- No objection.

5.6 **Environment Agency**- No comments received.

5.7 **Natural England**- No comments received.

6.0 **REPRESENTATIONS** Expired 16.05.2017

6.1 **Wellow Parish Council** – No comments received.

6.2 **Public Consultation** - The application generated 81 letters of objection and 26 Letters of support. A summary of the points raised are set out below:

Objection

- Harm to character and appearance of the area.
- Building too high.
- Size and scale excessive resulting in loss of local distinctiveness of the rural lane.
- Drainage and flooding issues.
- Problems with Horse slurry.
- Visual impact of lighting both inside and outside the building (Light pollution).
- Traffic issues through more frequent vehicle movements to the site.
- This is a dangerous road.
- Building should be moved over the road to the existing facility.
- This will lead to further development on the site in the future such as more stables.
- Opening hours should be limited.
- Clearly visible from the listed building opposite.
- Even if it is screened it will change the character of the landscape.
- Will result in private land being used as a passing place.
- Is at high risk from surface water flooding.
- The building extends beyond the neighbourhood plan boundary.
- No local need for it as there is already an equestrian centre further along Foxes Lane beyond the river ford which also provides an indoor arena.
- Loss of privacy as well as loss of sunlight.

- Will become a brownfield site and will result in housing being built.
- What will happen if this is used for events (traffic generation).
- Conflict with Neighbourhood Plan.
- Insufficient parking for the public events.
- Conflict with the TVBRLP (outside settlement boundary).
- It will result in harm to local school children walking to and leaving school.
- Harm to local wildlife.
- Negative impact on Sea Trout Spawning area.
- Harm to a Local SINC & Protected species.
- This development proposal shows very little evidence of any net gain in biodiversity.
- Could lead to the spread of Covid-19.
- The arena shown on the revised plans is too small.
- Work has already started, breaking the law as a result.
- FRA Inadequate.
- No HRA undertaken.
- No ecology survey submitted.
- Results in the loss of agricultural farm land which could be used for the production of food.
- The use of the building should be controlled by legal agreement not a planning condition.

### 6.3 Support

- Better than more houses/Solar Farms, Pigs or Poly Tunnels.
- Benefit to horse rider.
- Imperative that high calibre horses follow a consistent, stringent training plan in order to maintain their performance and as such, this indoor facility ensures that these plans can be fully executed.
- Indoor facility will enhance the training requirements for horse during short days and bad weather.
- Good and sympathetic design.
- Provides a safe place to ride and train as the local roads are too dangerous.
- Wet weather makes it difficult to ride outside and damages the land.
- Will help to support the local disabled riding association.
- Job creation need to encourage people to build.
- Noise will not be a problem.
- Upkeep of existing yard is good. No reason this building would be any different.

## 7.0 **POLICY**

- 7.1 National Planning Policy Framework (NPPF)  
 National Planning Practice Guidance (NPPG)  
 Planning (Listed Buildings and Conservation Areas) Act 1990

7.2 Test Valley Borough Revised Local Plan (2016)(RLP)

COM2 (Settlement Hierarchy)

SD1 (Presumption in Favour of Sustainable Development)

E1 (High Quality Development in the Borough)

E2 (Protect, Conserve and Enhance the Landscape Character of the Borough)

E5 (Biodiversity)

E7 (Water Management)

E8 (Pollution)

E9 (Heritage)

LHW4 (Amenity)

T1 (Managing Movement)

T2 (Parking Standard).

7.3 Supplementary Planning Documents (SPD)

Wellow Village Design Statement 2010

8.0 **PLANNING CONSIDERATIONS**

Principle of Development

Section 38 (6) of the Planning and Compulsory Purchase Act 2004 requires that the determination of planning applications must be made in accordance with the development plan unless material considerations indicate otherwise.

8.1 Policy COM2 of the TVBRLP states that development outside the boundaries of settlements will only be permitted if:

- a) *It is appropriate in the countryside as set out in the RLP Policy COM8 – COM14, LE10, LE16 – LE18; or*
- b) *It is essential for the proposal to be located in the countryside.*

8.2 The proposal is not of a development type that falls under any of the policy exceptions listed in criterion (a) of Policy COM2 and therefore, the application falls to be considered against criterion (b).

8.3 It is evident from inspecting the site that the current use of land is for the keeping of horses and such a use is not considered an unusual prospect in the countryside and provides a more appropriate setting than those generally available, if at all available, within the designated settlement boundaries. Furthermore, the land to be used for the riding arena forms part of the wider equestrian operation taking place at the Black Water Equestrian Centre. The new facility proposed is to complement the existing facility and allow riding in all weather conditions and during the evening.

8.4 As a result, given that the application site would serve an existing equestrian facility and specifically dependent on the conditions of a countryside location as an appropriate setting, it is considered that there is an essential need for the development to be located in the countryside. Therefore, the application is in accordance with criterion (b) of Policy COM2 of the TVBRLP.

#### 8.5 Design & Layout

The building's design is fairly simple, being a rectangular shape measuring 34m x 62m and a dual-pitched roof 8.455m to the ridge and 5.05m to the eaves. Rooflights are proposed along both sides of the roof and various openings and windows proposed principally on the front entrance, though emergency exits and doors have been provided on other elevations.

8.6 The proposed scale is, admittedly, substantial and would be larger than any other building at the site or in the immediate area, and as such it would present as a dominant addition to the local area and landscape. However, because of its appearance as a fairly typical agricultural building in function, scale and appearance e.g. the use of proposed materials, and that it would form part of the group of buildings in the immediate area and the context of existing farming enterprises within the locality, it is considered that it would not result in significant harm to the quality of the existing environment and would comply with Policy E1 of TVBLP.

#### 8.7 Character and Appearance of the Area

The site itself has no statutory or non-statutory landscape designations. The immediate landscape is dominated by agricultural operation and associated paraphernalia, particularly large scale poly-tunnels used in soft fruit production as well as the buildings associated with existing equine operation.

8.8 A public right of way runs from north to the southwest approximately 140m away from the site. To the south, the site is surrounded by residential property including Bridge Cottages and Meadow Close which back directly on to the wider field. To the south west there are a number of detached properties on the southern side of the road (Romsey Road), whilst these are set further back on the adjacent side; they sit on higher ground with views across to the site.

8.9 The site is accessed from Foxes Lane which wraps around the east of the site and is bounded by a mature tree lined hedgerow, with the exception of the site entrance there are only limited views through. With the existing mature vegetation and the proposed enhancements (with the exception of the site entrance) any views from the east would be glimpsed and largely of the upper parts of the building.

8.10 To the north of the site is Kings Farm, a Grade II listed building, the majority of the land surrounding the farm house and to the north of the public right of way are poly tunnels. From the public right of way, there are some views southwards which are highlighted within the Landscape and Visual Appraisal (Viewpoints 3,4 and 5). Viewpoint 4 is currently the most open, however further planting has been proposed along the right of way and additional planting on the earthworks surrounding the building which will in time screen the majority of the development. Any views will appear as a large agricultural building which would not appear out of context in this landscape.

- 8.11 Cross sections have been submitted within the Landscape and Visual Analysis and as part of the application which show how the new building would integrate into the site and the wider landscape. Whilst it is a substantial building, the proposed contouring along with the proposed soft landscaping encloses the building and would, over time, screen views from the south and west. The additional landscaping to the north would also help to screen views. Views of the roof would be visible, but in time the soft landscaping should mitigate. It is also important to note that the Landscape and Visual Analysis was based on the original plans, the building has now been reduced in height so the proposed landscape will nevertheless provide screening similar to that previously modelled and assist in screening the proposed building.
- 8.12 With the exception of the frontage, the building has the appearance of a large agricultural barn and this design would help the building integrate within the wider landscape. Whilst external materials have been indicated on the plans, a condition is recommended requiring the submission and agreement of the materials to ensure a satisfactory external appearance is achieved. Where the originally submitted scheme showed an extensive number of windows serving a proposed first floor level, the first floor has now been removed and the building is now simpler in its elevations reinforcing the view above that the resultant building is visually akin to an agricultural building. It was considered that the plans as originally submitted provided a frontage similar to that of an industrial/office accommodation, the removal of the first floor has simplified this and significantly improves the overall impact on the character and appearance of the area compared to that originally submitted.
- 8.13 An appropriate, indicative, landscape plan has been submitted which gives a good understanding of what is proposed, and has informed the LVIA assessment. However a more detailed hard and soft landscaping plan as well as an implementation and maintenance plan is required by condition to ensure that this is provided and is maintained to the satisfaction of the LPA. This will include species, sizes, numbers and locations of all new soft landscaping. Subject to these conditions, the development is considered to accord with Policies E1 & E2 of the TVBRLP in that the proposal would not adversely affect the character and appearance of the local area.
- 8.14 Amenity  
By virtue of the size, bulk and mass, design of the proposal separation distance between in and the closet residential property, the proposal would not give rise to an adverse impact on the living conditions of neighbouring properties by virtue of loss of daylight, sun light, overbearing impact or privacy.
- 8.15 Furthermore, taking into consideration the proposed use of the building and the existing use of the land adjoining the nearest residential property, it is considered that the proposal will not result in detrimental harm to the residential amenities of these neighbouring properties with regards to noise disturbance – this includes concerns related to the use of power tools that are suggested to be used in the cleaning of the facility. The proposal is therefore in accordance with Policy LHW4 of the TVBRLP.

8.16 Ecology

The Council's Ecologist has considered the application and does not have any adverse comment that this development would adversely affect any statutory or locally designated sites of wildlife importance or any legally protected or notable habitats or species.

8.17 The development site is located to the north east of West Wellow and forms part of what is currently a grazed pasture field which offers little ecological value. The surrounding landscape to the north of the development site is rural with predominantly equestrian/grazed fields. There is a pond located adjacent to the site which appears to be located within the highway boundary between the development site and Foxes Lane. The application site does not include the land where the pond is located. There are no existing historical records for great crested newt (GCN) within 500m of this pond which is typically the distance GCN would disperse within a meta-population. As the pond is next to the highway, it is likely to accept runoff from the road which tends to affect the water quality and may make it less suitable to GCN. Furthermore, the grazed pasture and footprint of the proposed development is unlikely to support GCN as they are more likely to utilise the existing vegetation and edge habitat surrounding the development site.

8.18 The existing vegetation on the border of the application site is not due to be impacted and an existing entrance track will be utilised. Therefore, it is considered that the risk of great crested newts utilising the site as low and therefore the risk of breaching the legislation afforded to them is also low. As such it would not be proportionate to request full ecological surveys for great crested newts in this case.

8.19 Representations have been received raising concerns that the proposal will result in harm to a local Site of Importance for Nature Conservation (SINC). This SINC is adjacent to the Poly tunnels at Kings Farm, some 500m from the application site. The harm alleged within the representations would come from the flooding caused by the development and effluent runoff from the building. As set out within the 'Flooding' section below- The FRA covers this issue and subject to a planning condition the development will not result in localised or other forms of flooding. With regards to effluent run off- This matter is discussed within the 'Effluent' section below.

8.20 Concern has also been expressed that a Habitat Regulations Assessment has not been undertaken by the Council. An assessment has been undertaken and this has been sent for Natural England, this consultation exercise has been undertaken in accordance with the requirements of the Habitat Regulations. To date no response has been received, but any comments will be presented to the Committee within the update paper. Though the site is located in close proximity to two SINC and is within the Mottisfont Bat Special Area of Conservation Buffer Zone it is concluded that the scheme would have no likely significant effect on any Internationally Designated site.

8.21 The landscaping plans will act as an enhancement for biodiversity, however, it is necessary that any scheme utilises native species of local provenance.

Further ecological enhancements would also be welcomed such as the provision of bird or bat boxes on newly planted trees. It is considered that the proposal would offer bio-diversity net gain and would therefore accord with the goals and aims of para 170 of the NPPF and Policy E5 of the TVBRLP.

8.22 Effluent

Local residents have raised concerns regarding the use of the building and the run off of effluent from the site and, in particular, the adverse impact this could have to the local aquatic environment, including the breeding/spawning of river and Sea Trout and the local fishing lake.

8.23 The points and observations raised by local residents are noted, but this is an indoor riding facility and is not open to the elements and any waste will be manually or mechanically removed from the building. However, that is not to say that the local resident's comments are not without merit, given it is important to ensure a suitable management regime is present on site with respect to the storage and disposal of manure and other effluent. To ensure that horse waste is not collected and stored in inappropriate locations within the wider site, which could cause harm, it is proposed that a condition requiring the submission of details for the storage of manure/soiled bedding and its disposal are submitted to the Council for approval. Subject to the imposition of this condition the development is considered to accord with Policy E7 & E8 of the TVBRLP.

8.24 Light Spill

Local residents as well as the Council's Environmental Health team have raised concerns regarding possible light spill from the site and the harm that this could have on adjoining local properties as well as the character and appearance of the area. The application doesn't include the provision of any external lighting and to ensure that inappropriate external lighting is not installed a planning condition is suggested to restrict the installation of any without the prior approval of the Council.

8.25 The purpose of the building is to allow riding and training of horses to take place during night time as well as inclement weather, times when the building could be used would be controlled by planning condition. Therefore some form of internal artificial lighting will be required. However, to ensure that as much natural light as possible enters the building during daylight hours the application proposes roof lights. Light spilling from these during night time could have a significant, and detrimental impact on the character and appearance of the area. As such a condition is proposed to ensure that light spill does not occur and requiring a management plan to be submitted. The management plan would need to clearly explain and set out what procedures and mechanisms will be put in place to ensure that during night time use artificial light is not visible from outside of the building. This would include details, specifications and locations of all blinds or other devices used to prohibit light spill. Subject to these conditions the development is considered to accord with Policy LHW4 and E2 of the TVBRLP.

#### 8.26 Highways

Both local residents and the Highway Authority expressed concerns with regards to likely traffic movements to and from the proposed facility. The Highway Officer specifically requested a Transport Statement to address his concerns. Rather than undertaking a transport assessment the applicant's agent provided a rebuttal to the Highway Officer's comments and clarified that "*the new facility was to complement the existing facility and does not intend to increase the capacity of the facility in terms of the number of head count of horses*". He further clarified that the only increase in vehicle movements would be through the employment of one additional full time employee which would equate to 2 additional journeys a day. Sufficient car parking is also provided to serve the proposed development on that basis.

8.27 As such the Highway Authority have withdrawn their objection to the proposal subject to the imposition of a condition restricting the use of the riding arena to the horses stabled on site or owned by the owner and immediate family members. Subject to such a condition it is considered that the proposed development would not result in a highway safety or capacity issue in accordance with Policies T1 and T2 of the TVBRLP.

#### 8.28 Flooding & Drainage

The original planning application was not accompanied by a flood risk assessment or drainage strategy. Following an initial objection from the Local Lead Flood Authority (LLFA) the applicant prepared and submitted a flood risk assessment. However, further concerns were raised and the applicant issued a further Flood Risk Assessment and Drainage Strategy. The document under consideration is Report Ref.5261 RP01 Issue 2.

8.29 Following an initial consultation response from the LLFA additional information, which included infiltration testing in accordance with the BRE365 together with a detailed drainage strategy, were submitted for consideration. This additional information addressed the LLFA's concerns regarding Surface Water Management and Local Flood Risk. As such, no objection has been raised subject to the imposition of a planning condition relating to the provision of the drainage system in accordance with the submitted details. The observations made by local residents are noted, however, the FRA and the proposed recommendations and strategy provided are sufficient and would not adversely affect flooding in accordance with TVBRLP Policy E7.

#### 8.30 Heritage

S16(2) and S66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 require special regard to be had to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest which it possesses. S72(1) of the Act requires special attention to be had to the desirability of preserving or enhancing the character and appearance of that area.

- 8.31 The NPPF advises that heritage assets are an irreplaceable resource and should be conserved in a manner appropriate to their significance. Paragraph 193 of the NPPF states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. The more important the asset, the greater the weight should be. Significance can be harmed by development within its setting. This is consistent with the wording of Policy E9 of the TVBRLP.
- 8.32 The proposed development is located adjacent to a pair of Grade II listed buildings (Stable End & Dairy End), and the separation distance from the proposed riding arena and the nearest listed building is 50m. The properties are separated from the application site by a garden and road.
- 8.33 Whilst on site and having reviewed the history of these properties it was noted that the buildings would originally have formed a farm complex, to the north would have been agricultural fields and the listed building being separated from the wider field network to the north by a range of outbuildings, Two such buildings still exist- one which is likely to be curtilage listed and one larger building which is of modern construction. The listed buildings are no longer in agricultural use, with the original farm enterprise ceasing in 1986.
- 8.34 The original farm house is now two dwellings and the historic outbuilding has been converted into habitable accommodation. The remaining large modern building and the small field to the east of it now appear to be partly in business use, the land being used for the storage of caravans. The principal Blackwater Equestrian Centre buildings and operation are also located to the immediate North of the listed buildings, this land would have formed the immediate setting for the listed building.
- 8.35 The origins of the two dwellings are apparent in the domestic character of the house and the arrangement and detailing of the associated structures, but the extent of the original holding is no longer clearly apparent. Due to the position of the group within this now semi-rural area, and the extent to which the original space around them has been eroded, the group is no longer predominantly agricultural in character and the space around it does not contribute markedly to their significance as heritage assets.
- 8.36 As set out above, what would have been the original farmstead is made up of the main dwellings and loosely grouped collection of farm buildings of varying ages. The modern barn, which is to the north of the properties, and the concreted hardstanding adjoining it, indicate the extent of what would have been the agricultural unit and are clearly visible to the north of the listed group. In this regard the proximity of the modern farm building, caravan storage yard and the equestrian centre, slightly further to the North, and the functional appearance of some of its buildings already forms part of the existing setting to the listed group.

8.37 This application seeks permission for a new building to the South East of the listed group of buildings and would occupy part of a green field currently used for the grazing and riding of horses. The proposed building would bring another modern building within 50m of the range of listed outbuildings. However, subject to the use of appropriate materials, particularly for the roof, the appearance of the building would, when viewed from the curtilage of the listed building not be dissimilar in appearance to other structures and modern agricultural buildings in the locality and what one would expect to see in a rural location such as this. The proposal would sit comfortably within the proposed site, would not appear obtrusive. In views into the site and across what would have been the farm yard towards the listed buildings would remain clearly distinguishable and so its character would not be impacted by the resulting reduction in open fields between the listed buildings and the equestrian fields.

8.38 It is therefore concluded that there is no conflict with the National Planning Policy Framework (the Framework), nor is there conflict with Policy E9 of the TVBRLP which seek to preserve heritage assets in a manner appropriate to their significance.

8.39 Neighbourhood Plan

Some representations from Wellow residents have been received raising concerns that the proposed development would not accord with the Wellow Neighbourhood Plan (NP). As a matter of fact there is no made NP for Wellow, having reviewed the Wellow NP website it would appear that local residents have completed a draft vision statement, but they are some way from taking a post consultation plan to examination. In addition a referendum would need to be undertaken to complete the process of adopting a new NP for the community.

8.40 Paragraph 48 of the NPPF is clear that Local planning authorities may give weight to relevant policies in emerging plans according to:

- a) the stage of preparation of the emerging plan
- b) the extent to which there are unresolved objections to relevant policies
- c) the degree of consistency of the relevant policies in the emerging plan to the NPPF

8.41 Furthermore Paragraph 49 of the NPPF states- arguments that an application is premature are unlikely to justify a refusal of planning permission other than in the limited circumstances where both:

- a) the development proposed is so substantial, or its cumulative effect would be so significant, that to grant permission would undermine the plan-making process by predetermining decisions about the scale, location or phasing of new development that are central to an emerging plan; and
- b) the emerging plan is at an advanced stage but is not yet formally part of the development plan for the area.

8.42 In this circumstance the neighbourhood plan is in its infancy and the two scenarios listed in Para 49 are not applicable. As such no weight can be afforded to the emerging neighbourhood plan in the determination of the application.

8.43 Unlawful Development

Objections and concerns have been submitted to the Council regarding alleged unauthorised works on site and development commencing prior to the planning application being determined.

8.44 It is important to note that Section 73A of the Town and Country Planning Act specifically accommodates the submission of retrospective applications. The Act is clear that any such application should be considered on its merits. Undertaking works without first obtaining planning permission is not an offence, but any works undertaken are done so at the owners own risk and were planning permission not to be obtained the land owner may be required to return the land back to its previous condition.

8.45 This matter has been referred to the Council's planning enforcement team and the land owner has assured the Council that no further development will be undertaken on site unless planning permission is granted.

4.46 Other Matters

As can be seen in Paragraphs 6.2 & 6.3 there have been a significant number of neighbour representations for and against the proposal. Majority of these matters have been address above. However, matters such as the need for the development due to competition from other facilities and the impact on the spread of COVID-19 are not material or should be afforded little weight in the planning balance. Matters such as the possibility of the site being redeveloped for housing in the future and the possible future development on the site (such as additional stables) are not matters being sought permission for and are therefore also not material to the determination of this application. Were an application to be submitted for such development it would be considered on its own merits.

4.47 It has been suggested that the use of a planning condition is not sufficient to control the use of the building and it has been suggested that this should be controlled by a legal agreement between the owner and Council. The NPPF clearly states planning obligations should only be used where it is not possible to address unacceptable impacts through a planning condition. In this circumstance the comments of local residents are noted with regards to the use of the building. However the condition restricting the use of the building meets the six tests and it would therefore not be acceptable or in accordance with the NPPF to secure this matter through a legal agreement.

4.48 Concern has also been raised that the proposal will see the loss of agricultural land from agricultural production. Chapter 15 of the NPPF requires decision makers to consider the economic and other benefits of the best and most versatile (BMV) agricultural land, and try to use areas of poorer quality land instead of higher quality land. Within the glossary of the NPPF it states that BMV is Grade 1, 2, & 3a. Having referred to the Natural England Agricultural Land Classification map it is clear that the land in question is classified as grade 4. The proposal does not therefore result in the loss of any BMV and as such there is no conflict with the aims and goals of the NPPF on this particular matter.

## 9.0 **CONCLUSION**

9.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990 states that “determination must be made in accordance with the plan unless material considerations indicate otherwise”.

9.2 It is agreed that the settlement boundaries are not out of date and nor are the associated policies. As relevant policies in the plan are not absent, silent or out of date an ordinary, straight planning balance can be undertaken.

9.3 In undertaking the balance it is necessary to first identify the development plan position. In particular the conclusion that there would not be a conflict with COM2 as the proposal is considered to be essential.

9.4 The scheme would, due to its size scale, location and landscaping, have a neutral impact on the landscape character of the area and thus conforms with Policy E2 of the local plan it would also conform with the Council’s parking standards and there is no objection raised with regards to highway safety.

9.5 In social terms, it would complement the existing equine facility and allow exercise and training to take place during longer hours and during inclement weather. This is a matter that should be afforded moderate weight in the planning balance.

9.6 In environmental terms, it is suggested that the scheme offers opportunities for enhancement through landscaping. However, additional landscaping is required to mitigate the proposed development within the site. This should be afforded no weight.

9.7 The proposal would however offer some ecological benefits through the provision of extensive landscaping and land management towards the edge of the site. This is a benefit of the scheme.

9.8 In economic terms, the scheme would provide construction jobs and some local investment during its build out. Albeit that these jobs and investment would be transitory and limited due to the level of development proposed. Furthermore, it would secure employment within the site for an extra staff member to operate the facility. This a matter to which moderate weight in the planning balance.

9.9 With regards to Policy E3- The proposal would result in development on land that is currently an open field and therefore diminish openness within the immediate area but this would be limited to the immediate site rather than the wider area. The purpose and integrity of the local plan policy would be maintained in this instance and there would be no conflict with policy. The benefits outlined above are considered to be sufficient to outweigh the very limited harm that has been identified above. The public interest is best met by resolving to approve the application and in accordance with Paragraph 11 of the NPPF permission should be granted without delay.

## 10.0 RECOMMENDATION

### **PERMISSION subject to:**

1. **The development hereby permitted shall be begun within three years from the date of this permission.**

**Reason: To comply with the provision of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.**

2. **The development hereby permitted shall be carried out in accordance with the following approved plans:**

**P19-036-02-05-001A**

**P19-036-02-03-001A**

**P19-036-02-02-002C**

**P19-036-02-02-001D**

**P19-036-02-04-001C**

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

3. **No development shall take place above DPC level of the development hereby permitted until full details of hard and soft landscape works have been submitted and approved. Details shall include:**

**proposed finished levels or contours;**

**i) means of enclosure;**

**ii) hard surfacing materials;**

**iii) planting plans;**

**iv) written specifications (including cultivation and other operations associated with plant and grass establishment);**

**v) schedules of plants, noting species, plant sizes and proposed numbers/densities;**

**vi) programme of implementation**

**vii) Existing and proposed ground levels. To include cross sections of the proposed bunds clearly identifying existing ground levels.**

**The landscape works shall be carried out in accordance with the approved details and the implementation programme, which shall be undertaken no later than the first planting season (November – March) following first use of the facility.**

**Reason: To enable the development to respect, complement and positively integrate into the character of the area in accordance with Test Valley Borough Revised Local Plan (2016) Policies E1 and E2.**

- 4. The development shall not be used or occupied until a schedule of landscape management and maintenance for a minimum period of 10; years has been submitted to and approved in writing by the Local Planning Authority. The landscape management plan shall include long term design objectives, management responsibilities and maintenance schedules for all landscape areas. The landscaping shall be maintained in accordance with the approved schedule. Any trees or planting that are removed, die or become, in the opinion of the Local Planning Authority, seriously damaged or defective within this period, shall be replaced before the end of the current or first available planting season following the failure, removal or damage of the planting.**

**Reason: To enable the development to respect, complement and positively integrate into the character of the area in accordance with Test Valley Borough Revised Local Plan (2016) Policies E1 and E2.**
- 5. No development shall take place above DPC level of the development hereby permitted until samples and details of the materials to be used in the construction of all external surfaces 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.**

**Reason: To ensure the development would integrate, respect and complement the character of the area in accordance with Test Valley Borough Revised Local Plan (2016) Policy E1.**
- 6. Prior to the first use of the approved building a roof light, door and window management plan shall be submitted to and approved in writing by the Local Planning Authority. The management plan shall clearly explain and set out what procedures and mechanisms will be put in place to ensure that during night time use artificial light is not visible from outside of the building. This must include details, specifications and locations of all blinds or other devices used to prohibit light spill. Once approved the plan shall be implemented and thereafter retained in perpetuity and the artificial lighting shall not be used during darkness unless the procedures are implemented in full.**

**Reason: To safeguard the amenities of the area in accordance with Test Valley Borough Revised Local Plan (2016) Policy E8.**
- 7. No external lighting shall be installed unless in accordance with details that have been submitted to and approved in writing by the local planning authority. The details shall include plans and details sufficient to show the location, type, specification, luminance and angle of illumination of all lights/luminaires and a light spread diagram.**

**Reason: To safeguard the amenities of the area in accordance with Test Valley Borough Revised Local Plan (2016) Policy E8.**

- 8. The drainage system shall be constructed in accordance with the Flood Risk Assessment & Drainage Strategy Ref: 5261-RP01 ISSUE 2. Any intended changes undertaken to the approved drainage scheme shall be first submitted to and approved in writing by Local Planning Authority. The revised details submitted shall include a technical summary highlighting any changes, updated detailed drainage drawings and detailed drainage calculations. Development shall then be undertaken in accordance with the approved details. Reason: To ensure a satisfactory on-site management of surface water is installed to minimise the risk of flooding both on- and off-site, in accordance with Policy E7 of the Test Valley Borough Revised Local Plan (2016).**
- 9. The development hereby permitted shall not be occupied or brought into use until, the car parking spaces, have been provided in accordance with the approved plans. The areas of land so provided shall be retained at all times for this purpose. Reason: To ensure sufficient off-street parking has been provided in accordance with the Test Valley Borough Revised Local Plan (2016) Policy T2 and in the interest of highway safety in accordance with Test Valley Borough Revised Local Plan (2016) Policy T1.**
- 10. The development hereby permitted shall be for the exclusive use of horses stabled at the wider site, known as 'Blackwater Equestrian' and for no other commercial purpose whatsoever, including but not limited to use for competitions and training of horses not stabled on site. Reason: In the interests of highway safety and to protect the living conditions of nearby residents in accordance with Test Valley Borough Revised Local Plan (2016) Policies T1 and E8.**
- 11. The development hereby permitted shall not be brought into use until details of the storage of manure and soiled bedding (including the location of such storage) and its disposal from site (including frequency) have been submitted to and approved in writing by the Local Planning Authority, and; the works for such storage and disposal have been completed in accordance with the approved details. The approved storage area shall subsequently be maintained in accordance with the approved details. No storage of manure and soiled bedding shall take place outside of the storage area approved under this condition. Reason: In the interests of public health and safety, in order to protect the natural environment and prevent pollution in accordance with Test Valley Borough Revised Local Plan (2016) Policy E7 and E8.**
- 12. The use building and riding facility hereby permitted shall only open for use between the hours of 07:00 and 21:30 Monday to Sunday. Reason: In the interest of the amenities of the local area and residents in accordance with Test Valley Borough Revised Local Plan (2016) Policy E8.**

**Note to applicant:**

- 1. In reaching this decision Test Valley Borough Council (TVBC) has had regard to the National Planning Policy Framework and takes a positive and proactive approach to development proposals focused on solutions. TVBC work with applicants and their agents in a positive and proactive manner offering a pre-application advice service and updating applicants/agents of issues that may arise in dealing with the application and where possible suggesting solutions.**
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