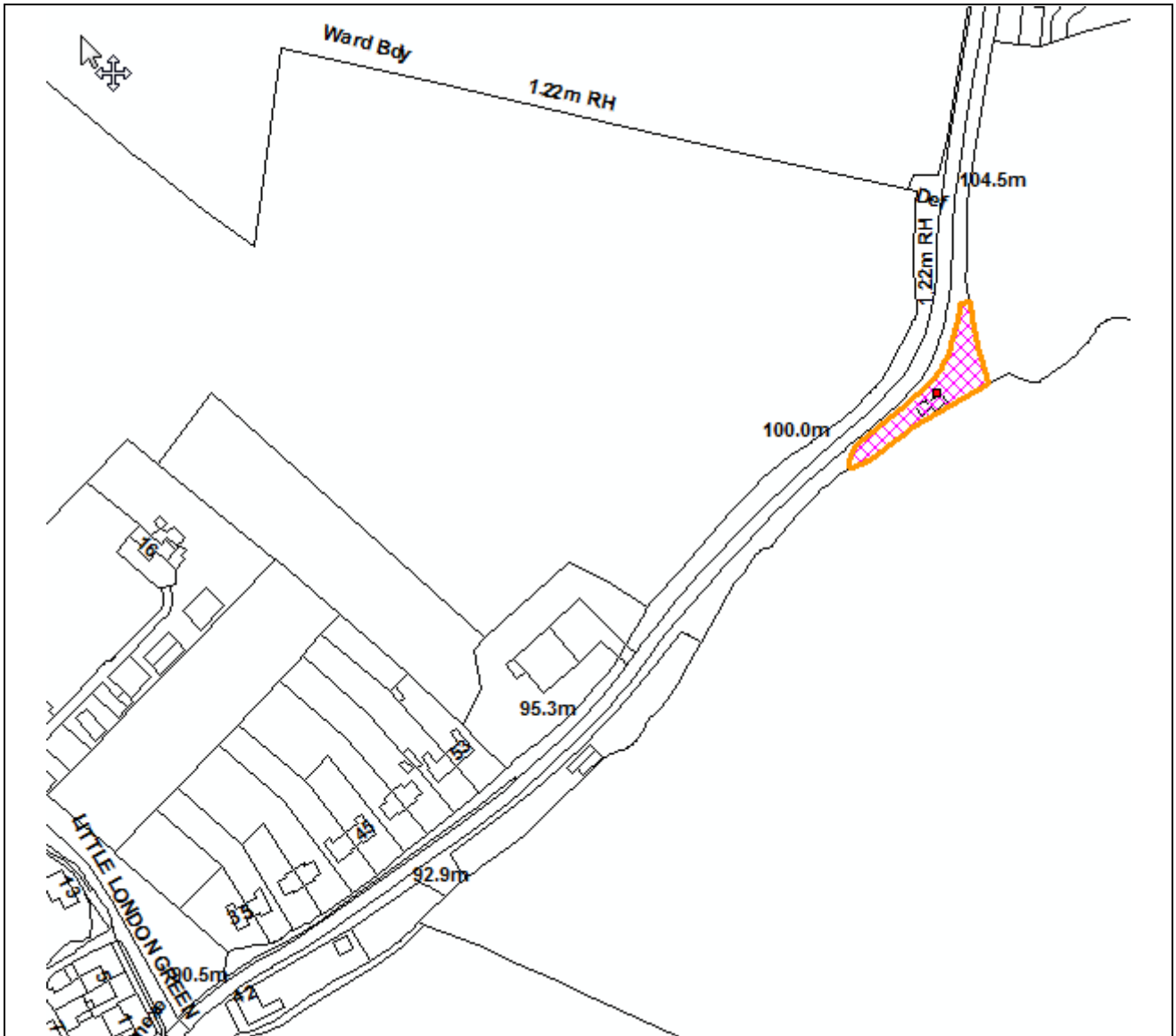


18/01731/APP



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REFERENCE NO	PARISH/WARD	DATE RECEIVED
18/01731/APP	OAKLEY The Local Member for this area is: - Councillor Michael Rand	17/05/18
RETROSPECTIVE APPLICATION FOR CONSENT TO COVER PART OF SITE IN GRANULAR HARD SURFACING USING ASPHALT SCRAPINGS. LAND OFF BRILL ROAD HP18 9QN  MR AMBROSE SMITH  STREET ATLAS PAGE NO. 109		

**1.0 The Key Issues in determining this application are:-**

**a) Impact on the character and appearance of the area and surrounding Area of Attractive Landscape**

The recommendation is that permission be **GRANTED**

**CONCLUSION**

It is considered that the materials used would be acceptable for the purpose of the site. In regards to its relationship with the surrounding area and the Area of Attractive Landscape, the hardstanding would not be generally visible from the vast majority of the areas in the immediate vicinity of the site. Whilst it is accepted that the hard standing would not be visually pleasing it is considered that it would not be overtly visually intrusive to amount to demonstrable harm that would warrant the refusal of planning permission. The material used is considered to be of a porous nature and would not result in a flood risk with drainage channels running adjacent to the front and rear of the site.

As such it is considered that the proposal would comply with policies GP35, GP77 and RA8 of the AVDLP or the advice within the NPPF.

**APPROVED** unconditionally.

**WORKING WITH THE APPLICANT/AGENT**

In accordance with paragraphs 38 and 39 of the National Planning Policy Framework, Aylesbury Vale District Council (AVDC) takes a positive and proactive approach to development proposals and is focused on seeking solutions where possible and appropriate. AVDC works with applicants/agents in a positive and proactive manner by offering a pre-application advice service and updating applicants/agents of any issues that may arise in the processing of their application as appropriate and, where possible and appropriate, suggesting solutions. In this case, the application was considered to be acceptable as submitted and no further assistance was required.

## **2.0 INTRODUCTION**

- 2.1 The Local Member, Councillor Rand, has requested that the application be considered by the Committee for the following reasons:  
The covering of the site in hard surfacing will result in permanent harm to the character and appearance of the landscaping within an area which is designated as an Attractive Landscape Area (AAL) and will detract from rural character of the land which will be changed permanently (as it will presumably be very difficult to return the land to agricultural use). This is contrary to Local Plan policies RA8, RA2 and GP77 as well as emerging local land policies C2 and paragraph 109 of the NPPF (2012). Paragraph 170 of the revised NPPF, 2019 correlates.

## **3.0 SITE LOCATION AND DESCRIPTION**

- 3.1 The application site relates to a small parcel of land, about 770m<sup>2</sup>, located off the Oakley Road, between the parishes of Brill and Oakley. The site is accessed via a gate off the highway, and is made up of a mix of hardstanding formed of asphalt scrapings with a small amount of other rubble, and grass. A 1.8 metre fence runs across the north-west boundary of the site, and along the rear boundary. A travelling caravan and a corrugated structure is also sited here. The fence and caravan do not benefit from planning permission and are subject of concurrent planning applications for their retention.
- 3.2 The corrugated structure is referred to as a stable in the application and has evidently been on site in some form for a considerable number of years. The application states that the site is used for intermittent stabling of two horses.
- 3.3 The site is isolated from both of the parish settlements, with no residential properties within 100m of the site. The site is located within the Brill-Winchendon Hills Area of Attractive Landscape (AAL), which is characterised by rolling hillside. The nearest public footpaths are 400m to the northwest, 270m to the south, and bridleways lie around 520m to the northwest and 470m to the east.
- 3.4 The northern-most tip of the site is located within an area of surface water flood risk rated "less".

## **4.0 PROPOSAL**

- 4.1 This application seeks retrospective planning permission for the creation of a granular hard surfacing using asphalt scrapings. The surface covers the north section of the site, around 490m, with the remaining section to the southwest of the stable remain grass turfed. The applicant advises that the site is used for horsicultural purposes, namely for practicing carting skills with horses. However, the application does not seek planning permission for this use, only for the retention of the hardstanding.
- 4.2 The application forms state that the hardstanding was laid in November 2017.
- 4.3 The application follows an enforcement enquiry; other matters reported under that enforcement enquiry are either being dealt with under separate planning applications, listed below, or by other means.

## **5.0 RELEVANT PLANNING HISTORY**

- 5.1 18/01732/APP – Retrospective application for the erection of a 1.8 metre high lapboard timber fence to north-west front boundary. – Pending at time of report, recommendation of refusal of planning permission.

- 5.2 18/01735/APP – Retrospective application for temporary permission for a period of five years to site and use a single touring caravan on the land limited to the period between and inclusive of April and September each year – Refused.

## **6.0 PARISH/TOWN COUNCIL COMMENTS**

- 6.1 Oakley Parish Council object to the three retrospective applications at the site. They provided a letter covering all three of these applications which is appended to this report; the grounds for objection which specifically relate to the hardstanding application are:
- Loss of rural character, unacceptable upon the Area of Attractive Landscape – contrary to Policy RA8 or the AVDLP
  - Not suitable for the purpose of horsiculture – contrary to Policy GP77 of the AVDLP
  - Flood risk
  - Loss of agricultural land
  - The possibility of soil contamination
- 6.2 Brill Parish Council also object to the application. They provided a detailed response covering the three retrospective applications and other activities on the site, which is appended to this report. The grounds for objection in relation to the hardstand are:
- Drainage issues/flood risk posed to the highway and surrounding area
  - Harsh appearance, impacts on the character of the Area of Attractive Landscape – contrary to Policy RA8 of the AVDLP
  - Not suitable for the purpose of horsiculture – contrary to Policy GP77 of the AVDLP, C2 of the draft VALP.
- 6.3 They also wish to point out anomalies with the application, including that the hardstanding was laid in July 2017, not November as stated in the application forms.

## **7.0 CONSULTATION RESPONSES**

- 7.1 Biodiversity – It is considered that there is not a reasonable likelihood of protected species being affected by this development – No Objections.
- 7.2 Highways Engineer – No Objections.
- 7.3 SuDs – No comments, the development does not fall within the criteria for consultation with BCC SuDs team.
- 7.4 BCC Highways – The enforcement team were in discussions with BCC Highways in respect of issues surrounding the flow of storm water onto the highway resulting from in-filling of drainage ditches. BCC Highways confirmed that following the applicant's reinstatement of the drainage ditches, they are satisfied that the issue is overcome.

## **8.0 REPRESENTATIONS**

- 8.1 Three public representations objecting to the application were received. Whilst other matters were also raised, the material planning reasons for objecting are as follows:
- Flood risk
  - Loss of rural character and impact on the Area of Attractive Landscape
  - Site would not be suitable for the purpose of horsiculture

## 9.0 EVALUATION

*Impact on the character and appearance of the area and surrounding Area of Attractive Landscape.*

- 9.1 Policy GP35 of the AVDLP requires that new development should respect and compliment the physical characteristics of the site and surroundings, existing development in the locality and the natural and historic features of the site.
- 9.2 Policy RA8 of the AVDLP states that development proposals in Areas of Attractive Landscape should respect the character of the landscape.
- 9.3 The retrospective proposal seeks to regularise the covering of a section of the site with granular hard standing made up of asphalt scrapings. It is considered that the materials used would be acceptable for the purpose of the site, as asphalt scrapings are a commonly used surface for agricultural and equestrian tracks and hardstandings in rural areas. The area of hardstanding is relatively small and flat in an undulating wider landscape, such that the variations of surrounding ground levels prevent it being visible from distant vantage points, naturally mitigating any wider landscape impact. In regards to its relationship with the surrounding area and the Area of Attractive Landscape, the hardstanding would not be generally visible from the surrounding area. In the same respect it is considered that the hardstanding does not significantly harm the open rural character of the site.
- 9.4 Presently the hardstanding is further screened by the boundary fence. Although this is expected to be refused planning permission and its removal pursued, it is likely that an alternative means of enclosure to the site would be required, which would also adequately screen and mitigate the impact of the hardstanding in the immediate area. Whilst the scrub previously on the land has been cleared, it was not subject to protection through Tree Preservation Orders, and not within a Conservation Area.
- 9.5 Whilst it is accepted that the hard standing of this scale would not be visually pleasing, it is considered that it would not be overtly visually intrusive or result in any significant harm to the wider AAL, such that it would warrant refusal of planning permission and instigating enforcement action. As such it is considered that the proposal would comply with policies GP35 and RA8 of the AVDLP and the advice within the NPPF.

*Assessment of the development against AVDLP policy GP77 (horse-related development).*

- 9.6 Policy GP77 of the AVDLP states that when considering horse-related developments the LPA will have particular regard to:
- the effect on the character and appearance of the surrounding area;
  - the maintenance of the open nature and rural character of the land;
  - the impact on land of high agricultural or ecological value,
  - the fragmentation of farm units and the effect on the viability of farm units;
  - the suitability of the access and the adequacy of on-site parking and turning facilities;
  - the environmental effects of the development in terms of noise, smell or other disturbances; and
  - the suitability of the location, bearing in mind, in particular, the desirability of location away from busy roads and close to existing bridleways or lightly trafficked lanes.
- 9.7 Equivalent emerging policy under the draft VALP, "C2 Equestrian Development", as raised by Brill Parish Council states that when considering proposals for horse-related development the Council will have particular regard:

- to the site being suitable for the keeping of horses and capable of supporting the number of animals proposed, having taken account of the arrangements for site management;
- adequate provision made for the exercising of horses without causing harm to rights of way, other equestrian routes, or other areas such as open land, that will be used for exercise;
- Vehicular access to the site and the road network in the vicinity are capable of accommodating horse-related transport in a safe manner;
- The impact on land of high agricultural or ecological value, or the fragmentation of farm units and the effect on the viability of farm units;
- The environmental effects of the development in terms of noise, smell, light pollution or other disturbances;
- The cumulative impacts of equestrian developments in the locality on the character of the countryside, appearance of the surrounding area, maintenance of the open nature and rural character of the land or on highway safety; and
- The scale, construction and appearance of the proposed development including the entrance and boundary treatment should be designed to minimise adverse impact on the landscape character and residential amenity.

Due to the stage at which VALP is at, this policy only carries limited weight, and applications should continue to be assessed under policy GP77 of the AVDLP.

- 9.8 Policy GP77 is considered consistent with the NPPF in that it supports building a strong rural economy, promotes sustainable transport including highway safety, makes effective use of land, achieves well designed places, and conserves and enhances the natural environment. Paragraph 170 of the revised NPPF 2019 relates to conserving and enhancing the natural landscape, including valued landscape, such as AALs, sites of biodiversity or geological value and soils (commensurate with statutory status/quality identified in the development plan); recognising the intrinsic character and beauty of the countryside, minimising impacts/providing net gains for biodiversity; preventing unacceptable risk or levels of pollution; and remediating/mitigating derelict/contaminated and unstable land where appropriate.
- 9.9 There are no requirements under the current AVDLP policy GP77 for the Council to assess the suitability of the site for the occupation of horses. However, the land has historically, prior to the current ownership, been used for the keeping of at least one horse, over a number of years. The land is too small in scale for a horse to be solely grazed on the land; and therefore, this would have required the horse to be kept in a manner that was an equestrian/leisure use, with the majority of its food brought onto the site. It is therefore considered that it is not unreasonable that one or two horses could be kept on the site in a similar manner. There are personal responsibilities on the owner of horses to satisfy their welfare requirements, which would not be affected by the outcome of this planning application.
- 9.10 As discussed above, it is considered that the hardstanding does not have a significant detrimental impact on the character and appearance of the area, and the open nature and rural character is preserved. AVDC Ecology Officers were not concerned that this development was likely to affect protected species or habitats. Furthermore, the small area of land is not of good agricultural quality nor comprise of best and most versatile agricultural land and the hardstanding does not fragment a farm or compromise the viability of a farm.
- 9.11 AVDC Highways do not foresee highways issues arising from the provision of the hardstanding for the purposes stated in the application. There are a number of bridleways nearby; these are accessed via Brill Road heading north, and the B4011 running east-west to the south of the site. There are also lightly trafficked lanes in nearby Oakley.

- 9.12 The site is around 100m from the nearest dwellings, and it is not considered that development of this scale would result in unacceptable environmental effects in terms of noise, smell or other disturbances. Therefore, in addition to complying with this element of policy GP77, it also accords with AVDLP policy GP8 which seeks to protect residential amenity.
- 9.13 Therefore, given the very limited scale of the development and the historic use of the site, it is considered that the proposal would comply with policy GP77 of the AVDLP and the advice within the NPPF.

#### *Drainage and Flood risk*

- 9.14 The material used is considered to be of a porous nature and would not result in a flood risk with drainage channels running adjacent to the front and rear of the site. It is understood that as of October 2018, Bucks County Council Highways are satisfied with works that took place to reinstate roadside drainage.

#### *Other matters*

- 9.15 Brill Parish Council have raised the issue of conflict with policy NE3 River and Stream Corridors of the draft VALP which refers to protection of watercourses. For clarity, the highway ditch is not considered to be a watercourse to which this policy would refer. The nearest watercourse lies 240m to the southeast.
- 9.16 Policy RA2 of AVDLP seeks to protect settlement character by preventing coalescence of settlements and avoids reduction of open land that contributes to the form and character of rural settlements. The site lies around 100m from the outer fringe of Little London, Oakley and on the opposite side of the road; and over 1km from the southern edge of Brill, with only farmsteads between. By virtue of its detached nature and small scale it is not considered that this parcel of land particularly fulfils the intentions of policy RA2, and it is not considered a relevant policy. Nevertheless, it is not considered that the hardstanding significantly reduces the open character of the site.
- 9.17 Concern has been raised over possible soil contamination from the laying of the asphalt scrapings. As mentioned above, this is a widely used surfacing material within rural areas; and is not considered to represent a significant contamination risk.

Case Officer: Mrs Rebecca Jarratt

Telephone No:01296 585567



## APPENDIX 1 OAKLEY PARISH COUNCIL

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Oakley  
Aylesbury  
Bucks  
HP18 9QA

Telephone: 01844237067

Email: [oakleyparishcouncil@yahoo.co.uk](mailto:oakleyparishcouncil@yahoo.co.uk)

Chairman: Mr. John Mole  
3 Little London Green  
OAKLEY  
Aylesbury,  
Bucks  
HP18 9QL

### **The Paddocks, Land off Brill Road, Oakley, Bucks Oakley Parish Council Response to Planning Applications 18/01731/APP, 18/01732/APP and 18/01735/APP**

Oakley Parish Council objects to the applications and wishes to comment as below. As a general, overarching comment, the Parish Council wishes to draw to officer's/member's attention that in its view the application site has not generally been used in the manner stated by the applicant (i.e. for the intermittent stabling of two horses and their training). Until the last few days (when seven horses have appeared) there has been no evidence of horses being stabled on site and the touring caravan stationed on the site has been there permanently since it was acquired by the applicant but, so far as we are aware, only used on a single occasion. The Parish Council has also received reports of the site being used for other activities such as the burning of materials brought onto site from elsewhere. As such, the Parish Council has seen no evidence of any need for this development in this location and has strong suspicions that these applications (one of which essentially seeks to establish a residential use on the site for 6 months of the year) are made with a view to establishing the principle/presence of built development in this location as a pre-cursor to future applications for permanent structures and uses.

It is accepted that the personal motives of any applicant are not generally a material consideration to be taken into account in determining planning applications. However, the precedent that may be set through the granting of a permission for certain types of development in a type of location (e.g. in the countryside outside of any settlement) can be a material consideration and it is the view of the Parish Council that to grant these permissions would create an unwelcome precedent that may be exploited by other applicants in the future and make it difficult for the Council to prevent the spread of unsuitable uses to rural locations.

The Parish Council believes that the site should be returned to its previous agricultural use or use as a grass paddock in its entirety.

#### **18/01732/APP – Retrospective application for the erection of a 1.8m high lapboard timber fence to the north west front boundary**

The Parish Council does not actually object in principle to the erection of a fence along the north west front boundary of the site and Brill Road and the fence that has been erected considered acceptable in visual terms. However, the Parish Council believes that the fence erected is (at the southern end in particular – see attached title plan which shows the red line boundary of the Paddocks) at least partially situated on the highway and questions whether it accurately reflects the boundary of the applicant's site. If the siting of the fence has incorporated part of the highway verges into the site, then the fence is both obstructing the highway and resulting in an effective "change of use" of highway land by incorporating it into the paddock. As such, the Parish Council requests that prior to any determination of this application, the boundary of the highway along Brill Road and the site boundary are checked carefully to ensure that no highway land has been lost.

#### **18/01731 – Retrospective application for consent to cover part of site in granular hard surfacing using asphalt scrapings**

The Parish Council objects to this retrospective application for the following reasons:



- The covering of the site in hard surfacing will result in permanent harm to the character and appearance of the landscape within an area which is designated as an Attractive Landscape Area (“AAL”) and will detract from the rural character of the land which will be changed permanently (as it will presumably be very difficult to return the land to agricultural use). This is contrary to Local Plan policies RA8, RA2 and GP77 as well as emerging local plan policies C2 and paragraph 109 of the NPPF;
- The development undertaken on site has already resulted in issues of local flooding and is causing flooding in the neighbouring field. It is understood that the applicant has tried to pipe the ditch between the site and Brill Road with an inadequate pipe, which has now been damaged and does not appear fit for purpose. As a result, during a downpour or sustained rainy period, water from the ditch flows into the Brill Road (on a bend at the foot of the hill). The Parish Council believes that the National Rivers Authority (or whoever has taken over from Thames Conservancy) need to review the flow along this ditch and the impacts of the development and associated piping. Also, to the east of the site the ditch appears to have been filled in, thus further exacerbating issues with drainage on adjacent land. Development which increases risk of flooding is not sustainable development and is contrary to paragraph 100 of the NPPF as well as again policy GP77 of the Local Plan and various policies of the emerging local plan as it results in negative environmental impacts;
- The size of the “training area” for the horses is very small and appears wholly inadequate for the purposes proposed contrary to the criterion of both existing (GP77) and emerging (C2) policies;
- The proposals will result in the loss of agricultural land;
- The Parish Council also has concerns about potential soil/ground contamination resulting from the use of “asphalt and chipping scrapings from road repairs” to provide the hard surfacing. This could be interpreted as an attempt to utilise materials from other commercial activities by depositing them on this rural site which again we regard as inappropriate and harmful in this rural location.

Consequently, the Parish Council believes the application to be clearly contrary to the development plan and material considerations also indicate strongly that it should be refused.

**18/10735/APP – Retrospective application for a temporary permission for a period of 5 years to site and use a single touring caravan on the land limited to the period between and inclusive of April and September each year.**

The Parish Council believes that the policy objections outlined above in relation to application 18/01731 apply equally to this application (and therefore asks that they again be taken into account) and objects to the application on the basis that the proposals are contrary to the development plan and all relevant material considerations further indicate that the application should be refused. As stated above, this application effectively seeks to introduce a “residential” use onto a site in the open countryside for 6 months of the year and to establish the presence of built development in a rural AAL thus harming the landscape and environment, creating negative amenity impacts for adjacent residents and landowners and creating a harmful precedent.

Regardless of whether it is accepted by the Council that the site could somehow be rendered (through means other than hard surfacing) appropriate for the keeping and training of a very small number of horses, there is no justification (and no proper evidence of need has been put forward) for the introduction of a residential (or even quasi residential) use or further built development in this inappropriate location.

The proposed use does not fall neatly into either category, but whether it is regarded as a “private or leisure” equestrian use or a “commercial” equestrian use the proposals clearly do not meet the relevant criteria of adopted policy GP77 or emerging policy C2 relating to equestrian development, nor, were the proposed use considered to be a commercial equestrian use do the proposals meet the criteria of emerging policy H3 for dwellings in rural areas which the supporting text to emerging policy C2 states will apply to proposals for dwellings related to commercial equestrian enterprises. The caravan is visible from both the highway and from surrounding properties and viewpoints and again will represent an incongruous and harmful feature in the landscape in an AAL.

**John Mole**  
**Chairman of Oakley Parish Council**

## APPENDIX 2

### Brill PC Comments 1

Land off Brill Road Oakley

Please find attached a response to application numbers 18/01735/APP, 18/01732/APP and 18/01731/APP.

The response is combined as all applications relate to one site.

This is a strong objection to all applications.

A detailed rationale is attached and summarized below in conjunction with the following guidelines.

1. The Town and Country Planning Act ( General Permitted Development Order 1995) Schedule 2 PART 2 Class A : The erection , construction, maintenance, improvement or alteration of a gate , fence, wall or other means of enclosure.
2. Caravan Sites and Control of Development Act Part 1 Licensing of Caravan Sites 1960
3. NPPF: Achieving Sustainable Development
4. NPPF : Core Planning Principles
5. NPPF : Requiring Good Design
6. NPPF : Conserving and Enhancing the Natural Environment
7. VALP : H3 Rural Workers Dwellings
8. VALP : C2 Equestrian Development
9. VALP : BE3 Protection of the Amenity of Residents
10. VALP : NE5 Landscape Character and locally important landscape
11. VALP : NE9 Trees, hedgerows and woodlands
12. VALP : NE3 River and stream corridors
13. NVZ ( Nitrate Vulnerable Zone ) Legislation.
14. Defra Code of Practise for the Welfare of Horses, Ponies, Donkeys and their Hybrids (December 2017)

Please find below a detailed response to the following planning applications submitted by Mr Ambrose Smith to AVDC on the 14<sup>th</sup> May 2018 all of which pertain to land off the Brill Road in Oakley, Bucks named The Paddocks by Mr Smith.

1. 18/01753/APP : Temporary permission to site and use a single touring caravan on the land limited to the period between and inclusive of April and September each year . It should also be noted that a request to install a permanent Klargester on the site is included as part of this application.
2. 18/01732/APP: Erection of a 1.8 metre high lapboard timber fence to north west front boundary. It should be noted that the location of this fence contravenes The Town and Country Planning Act (General Permitted Development Order 1995 ) Schedule 2 PART 2 Class A.
3. 18/01731/APP : Consent to cover part of site in granular hard surfacing using asphalt scrapings. It should be noted that the area covered by hard surfacing comprises two

thirds of the total site. The remainder of the site comprises tree stumps, concrete slab and scrub vegetation/weeds.

### Anomalies and Inaccuracies on Application Forms

It should be noted that all three applications are retrospective for works or use already carried out or enjoyed by Mr Smith without the benefit of planning permission. The application forms assert that the works were in place from November 2017 but in fact the caravan has been in place since September 2016, the fence was erected in May 2017 and the hard core deposited on the site in July 2017.

The pre application advice referenced 16/00340/CON3 was in fact an Enforcement Inspection carried out in September 2016. The outcome of the inspection was that Mr Smith should apply for retrospective planning permission – it has taken him 19 months to do so.

Mr Smith is neither resident in, nor local to the villages of Brill or Oakley and his connection to the area is unknown. The address supplied on the planning applications does not include a house name or number and only a partial postcode is given. The address as stated locates to a yard in Slough where both skip hire and the disposal and recycling of waste is carried out. A prominent company name is MJS Recycling. Mr Smiths connection to this yard or company is unclear but online reviews for MJS Recycling are less than complimentary.

The postcode supplied for the land in question pertains to an address in Thetford and is included on all three applications. It is unclear as to why this postcode has been associated with the site and an explanation would be helpful.

The existing use of the site is described as “ Site with stables and intermittent use by two horses “ This is misleading. The site is currently occupied by a ramshackle but prominent structure that is visible from both road and surrounding footpaths and is crudely constructed from tin sheeting. A touring caravan and portable toilet are positioned on the roadside boundary. A single, juvenile pony has once been seen on the site for a period of less than a week during of Mr Smith’s ownership.

The site is visited frequently in order to dump and burn green waste. Several different pick up trucks and vans, some bearing the signage “Home Improvements,” are used as transport. It is unknown whether the vehicles are driven solely by Mr Smith or by others associated with him. Dates when fires have been witnessed and can be sourced.

Mr. Smith neither mentions this activity in the applications nor provides any information as to whether he proposes to continue to dispose of green waste on the site. Industrial or commercial processes require planning consent. Mr Smith has previously denied that such activity is taking place and has reassured Planning Enforcement that any burning will cease. This has not been the case – in fact the fires have become increasingly frequent. It would, therefore be reasonable to secure a thorough understanding of Mr Smiths future intentions and to impose conditions preventing any waste disposal activity.

Mr Smith has been seen to stay overnight on two occasions since acquiring the site. This occurred in July 2017 and again in May 2018.

The application forms state that the site is not located within 20 metres of a watercourse (river, stream or beck) It should, however, be noted that the site is, in fact the culmination point of two ditches running down the field and road side boundaries of the site. These form major outlets for water run off from Brill Hill and the surrounding farmland. The water load is heavy. Before Mr Smiths arrival these ditches were open and even then barely coped with the volume of water, with run off onto the road being a significant problem during the winter months.

In October 2016 the ditches were culverted by Mr Smith presumably to expand the area of what is a very small sliver of land. The pipe used, however is just 4 or 5 inches in diameter and is significantly undersized to cope with the water flow. This has severely exacerbated an existing problem with surface water and is in complete conflict with policies concerning the culverting of watercourses. The land of both neighbouring properties as well as the main road are severely affected– this is now an issue throughout the summer as well as winter.

The applications also state that there are no trees or hedges on the proposed development site or on the land adjacent. In fact, there is a native hedge on the roadside frontage of the site – only half this hedge remains as the other, admittedly of less substance, was removed by Mr Smith and replaced by a timber close board fence, which is domestic in character. Mr Smith has also removed the substantial native hedge on the northeast boundary. This has been replanted by the landowner with a mix of native species that is currently in its second year of growth. The establishment of this hedge has been compromised by the surface water, which now gathers on the site following the poor quality drainage work carried out by Mr Smith

Mr Smith has not signed the Ownership Certificate and Agricultural Land Declaration on the application form. The signature for the agent has been redacted, but it is understood that the transfer of ownership from the previous incumbent was less than amicable and it would perhaps be prudent to secure reassurance as to title.

It is understood that ownership of this site was transferred to Mr Smith in or around September 2016.

Since taking possession, the following works have been carried out and have been reported to Planning Enforcement by Oakley and Brill Parish Council on several occasions.

1. Clearance of the site using digger and dumper : grass scraped back and removal of hedges and trees from the site itself as well as the boundaries between the road and neighbouring properties. In effect, this removed vegetation that provided both wildlife habitat and effective screening to the tin shack and caravan both of which are now visible. The photographs appended to the application are misleading as they do not show the tin shack and the poor reproduction has disguised the fact that the white roof of the caravan is visible from the road and through the hedge.

2. Installation of a 1.8 m high close board fence replacing the hedgerow. The fence has been erected on the outside of the previous hedge line pushing the perimeter of the site much closer to the road and widening it beyond the original boundary.  
Given its height, this contravenes planning regulations. Mr Smith has been asked by Planning Enforcement to address this issues but he has refrained from doing so.  
Mr Smith has painted the fence green and planted small laurel and variegated whips at wide intervals along the fence line as an attempt to mitigate its impact. However, the laurel whips are now overgrown with weeds and are poorly maintained. Some have already perished and it is highly unlikely that many will survive without consistent maintenance. Even if the survival rate exceeds expectations the hedge will take years to grow to an effective height.  
The proximity of the fence to the road also means that the little that is left of the verge will be impossible to mow or maintain and will no longer provide the refuge that roadside margins are designed to offer. This will be much worse should the hedge survive to maturity.  
It should also be noted that close board fences are domestic in character and the laurel is neither indigenous nor native and ,is again, residential in character – both are incongruous to the appearance of an AAL.
3. Removal of Highways hazard bollards and replacement with sawn off steel RSJ's which paid scant regard to safety regulations – the RSJs were installed after the fence had been constructed presumably as a precaution against accident as the site is located on a curve in the road and the proximity of the new fence to the road is now a considerable risk. The  
RSJs remained in situ for some weeks until Highways England insisted that they were removed and the original, approved safety bollards reinstated.
4. Widening and relocation of entrance gates much closer to the road –whilst the new entrance way is described as improved it is difficult to ascertain in what way. The original entrance had been well set back from the road enabling a vehicle, and trailer, to pull off the highway in safety whilst unlocking the gates to enter – this is no longer possible. The relocation of the gates has further extended the curtilage of the plot beyond original boundaries. The entrance is decorated with signage, an entrance bell and a post box all of which result in a residential appearance. The timber is two tone between concrete posts. The effect is unsightly, domestic in nature and again inappropriate to the character of the open countryside and AAL
5. Culverting of ditches. This site lies at the bottom of a hill and is bordered by two drainage ditches. There is already a significant problem with water run off and the road is badly affected on an annual basis. Mr Smith has used pipe of an extremely small diameter. This does not cope with the volume of water running down the hill and has exacerbated an already significant problem on the road. In addition water is now also leaching back and collecting in pools on the land of both neighbouring properties causing significant nuisance.
6. Installation of caravan and portable toilet without a license having been granted. Both have been in situ for almost two years and no license has been applied for or

granted. They are hardly used by Mr Smith but are highly prominent from both the road and the footpaths nearby, this is an inappropriate use of the open countryside and detrimental to the character of this AAL.

7. Permanent location of a green waste bin, post box and door bell outside entrance gates. It is unclear as to why Mr Smith has need for a bin, post box or bell as this is not a residential site and he does not appear to be contributing to Council Tax. He stays overnight on rare occasion. The permanent location of the bin outside the property is an eyesore, has an impact on the amenity of local residents and is inappropriate in an AAL. No other bins are present outside houses in either Brill or Oakley other than during periods of waste collection.
8. Several truckloads of hardcore have now been deposited on the site covering approximately two thirds of the total area. The once green space is now predominantly black and the raising of the ground level is contributing further to the issue of surface water, which pools on both Mr Smiths land and that of his neighbours. This is now also a problem during the dryer months as well as the wet. More hardcore was recently brought in – if this activity continues this plot will essentially become a raised island increasing its prominence and worsening drainage issues.
9. Burning of waste. Truckloads of green waste has been repeatedly brought in and burned on site. The amount of waste and number of fires far exceeds that which could be justified by the maintenance of the site itself and appears to be commercial in nature. The nuisance caused by the fires varies according to wind direction but usually results in visibility being reduced on the road and some nuisance being caused to neighbours. The frequency of the fires is increasing as the summer months progress

### Response to Design and Access Statements

Mr Smith proposes to graze and train two ponies, site a caravan and install a Klargestep Septic tank on the site. He asserts that this usage will take place for 6 months on an intermittent and annual basis.

This is a very small site, even with the extra ground gained by Mr Smith it is not fit for the purpose proposed.

The Design and Access Statements describe the site as a small meadow. The definition of meadow is a “*tract of grassland.*” The definition of tract is “*an area of land, typically a large one.*” This site is not large and is no longer grassland.

The total area quoted on the application form is 0.077 hectares – this is less than a quarter of an acre and includes the additional footage gained by Mr Smith due to the relocation of the roadside boundary and the repositioning of the entrance gates Two thirds of the site are

now covered in hard core and what is left comprises two concrete slabs and a small area of scrubland and weeds.

The Statement fails to highlight that this site is also located in an area of attractive landscape (AAL) and is in a nitrate vulnerable zone

This site is, in fact, not a small meadow but an annexed roadside verge that has been divested of much its greenery and domesticated with a very poor attempt at mitigation. Policy NE5 in the VALP is clear that development that adversely affects the character of the AAL will not be tolerated.

There are many such verges in this locality and they are features somewhat characteristic to the area. However these spaces remain green, are bordered with native hedgerow not fences and are non-domestic in character. If development such as that proposed by Mr Smith is allowed to proliferate the character of both the AAL and locality will suffer substantial harm and an unwelcome and dangerous precedent set.

The Design and Access statements assert that there is a stable unit located on the site. This structure should be more accurately described as a three sided, tin shack on an earth floor. It is unsightly and extremely prominent in the landscape The removal of the hedges and trees has increased its prominence. It cannot be described as a stable block and is at best a ramshackle shelter.

Mr Smiths stated intention is that he wishes to keep and train two ponies during the months of April to September in order to facilitate his activities with pony and trap.

Mr Smith provides no information verifying his demonstration activities and it is unclear what he means by “ demonstrates and competes at pony and trap events around the countryside“ as the profile of any such events in the area are apparently low profile as they are not known locally. He states that he will be attending various summer carnivals, agricultural shows and competitions but does not explain where or when these events take place. The ponies have been presumably located elsewhere for the past 18 months and Mr Smith has not indicated as to why this location is now pivotal to his activities.

This site is not suitable for the keeping of horses according to the criteria specified in policy C2 of the VALP. The policy requires that any land associated with equestrian development be inherently suitable for the keeping of horses. It should not be wet or boggy, provide for adequate storage and disposal of manure and be managed so as to avoid the infestation of poisonous weeds. Exercise areas should be separate from where the horses are kept or grazed and, where exercise is proposed off site, bridleways should be safely accessible from the proposed development. Where there is likely to be a need for the use of public roads the Council will have regard to any highway safety issues.

Vehicular access to any site where horses are kept is required to be capable of safely accommodating towed horseboxes or horse carrying lorries or other large vehicles with limited maneuverability. The newly located access will no longer allow such vehicles to pull

off the road safely whilst gates are being unlocked and the turning and maneuverability of such vehicles on the site is severely limited due to its small size.

It should also be noted that Policy C2 of the VALP also requires that any building such as field shelter or other structure associated with the keeping of horses is likely to require planning permission and should conform to the AVDC Design Guide for New Buildings in the Countryside – whilst the shack has apparently been in existence for some time it has only recently become visible due to the hedge clearance by Mr Smith and it is now clear that it is in clear contravention of this requirement.

Policy C2 clearly states that any applications for dwellings associated with equestrian use be it commercial or leisure will be determined in accordance with policy H3 of the VALP concerning Rural Workers Dwellings. Mr Smith's retrospective application for temporary permission to site and use a single touring caravan on the land does not meet the special circumstances deemed as essential to permit such a dwelling in either the NPPF or the VALP. In addition the height of the van is not less than the hedge as stated in the application and it is clearly visible from both the road and surrounding footpaths, negatively impacting the AAL.

In order to permit such a dwelling an applicant would need to provide functional and financial justification with clear evidence that the functional need could not be fulfilled in any other way - this has not been submitted by Mr Smith and should be required before any proper consideration of the application.

Policy also states that permission will not normally give temporary permission in a location where a permanent dwelling will not be permitted – if permission for a permanent dwelling is subsequently sought, the merits of the proposal will be assessed against the criteria in the policy relating to permanent occupational dwellings in the countryside.

It is clear that should Mr Smith apply for a permanent dwelling the location of the site in open countryside and AAL would be prohibitive. Given this, plus the significant harm the caravan and portable toilet are currently inflicting, any permission for a temporary dwelling should be resisted.

The installation of a Klargestar sewage plant has been included as part of his application. It is unclear as to why this is necessary. This application is for intermittent, temporary use. The installation of a Klargestar would be very permanent. Many highly viable solutions exist to deal with temporary sanitation. The installation of a sewage treatment plant seems excessive and inappropriate unless the intention is to make a future application for a permanent dwelling for which approval is highly unlikely.

Details of the fence erected by Mr Smith have been provided above. To recap, the principle issues concern the fact that it does not conform to planning regulations concerning height and proximity to the roadside resulting in both maintenance and safety issues, the domestic appearance of the fence and consequent discord with the local area and the impact on the AAL.



In his Design and Access Statement Mr Smith asserts that the fence has been erected to ensure the safety of the horses. He states that it has been painted green to harmonise with the location and that the mitigating, hedgerow planting will in a short time soften its appearance to match the organic nature of the open countryside.

In fact, the new planting is of laurel and variegated whips rather than hedgerow species and is being extremely poorly maintained and not at all in harmony with the surroundings.

A simple post and rail fence set behind the line of the original hedge to allow a native species hedgerow to be replanted would have been significantly more appropriate with the AAL. As the site is not suitable for the keeping of horses and the field side boundary is already stock proof, it is somewhat questionable as to why a fence is necessary at all, an indigenous hedge would be far more appropriate to the AAL as well as providing significant benefit to both wildlife and the environment.

The fence should be relocated to an approved distance from the road ie behind the line of the original hedge and to reduce its impact by planting and maintaining a native species hedge in front of it which is keeping with the local vernacular.

Mr Smith justifies the relocation of the entrance and associated fencing as a deterrent to tipping. It should be understood that there has never been a problem with tipping at this site in the past and it is unclear as to why the new entrance is any less vulnerable than the previous.

Mr Smith has, without planning permission, lain what was once a green space down to hard surface. Two thirds of the site is now covered with asphalt scrapings. The appearance is harsh and habitat has been lost. The space is not big enough to warrant cart practicing skills and it is unclear as to why hard standing is required for temporary, intermittent siting of a touring caravan. Many such caravans are seen during the summer using grass verges or other green spaces without functional issue.

The raising of the ground level and culverting of the ditches has done little to mitigate the serious problems on the site with surface water. In fact a further load of hardcore has recently been brought in spite of the pending, retrospective application.

Policy NE3 of the VALP makes it clear that development proposals must not have an adverse effect on the functions and setting of any watercourse and its associated corridor, and that permission will only be granted for proposals that do not involve the culverting of watercourses. This policy is designed to protect the natural landscape.

Mr Smith has shown no regard for the special significance of the AAL in which this site is located. He has replaced grass with asphalt scrapings, removed hedges and trees, culverted ditches and repeatedly used the site for the burning of waste. Granting retrospective planning permission would be to risk further damage to an area of great local importance and character.

## Supporting Photography

### 1. Tin shack described as stabling



### 2. Hedge replaced with fence eroding roadside verge May 2017. Note hedge at outer edge of remaining hedge leaving no space for mitigating planting.



### 1. RSJ's replacing safety bollards



2. Culverting with inadequate pipe



3. Consequent water logging – taken 26<sup>th</sup> May 2018



4. Ditches May 2017 post culverting



5. Concrete plinths in area now designated for the keeping of ponies reducing further inhibiting potential grazing.



6. Showing all wood and hedgerow cleared and burned April/May 2017– all subsequent fires from imported waste.



7. View of caravan from Oakley end of Brill Road – fence mitigated by dense, seasonal verge side grass growth.



11. View from footpath to Little London – taken on hazy day



12. View from B4011 Thame to Oakley Road

