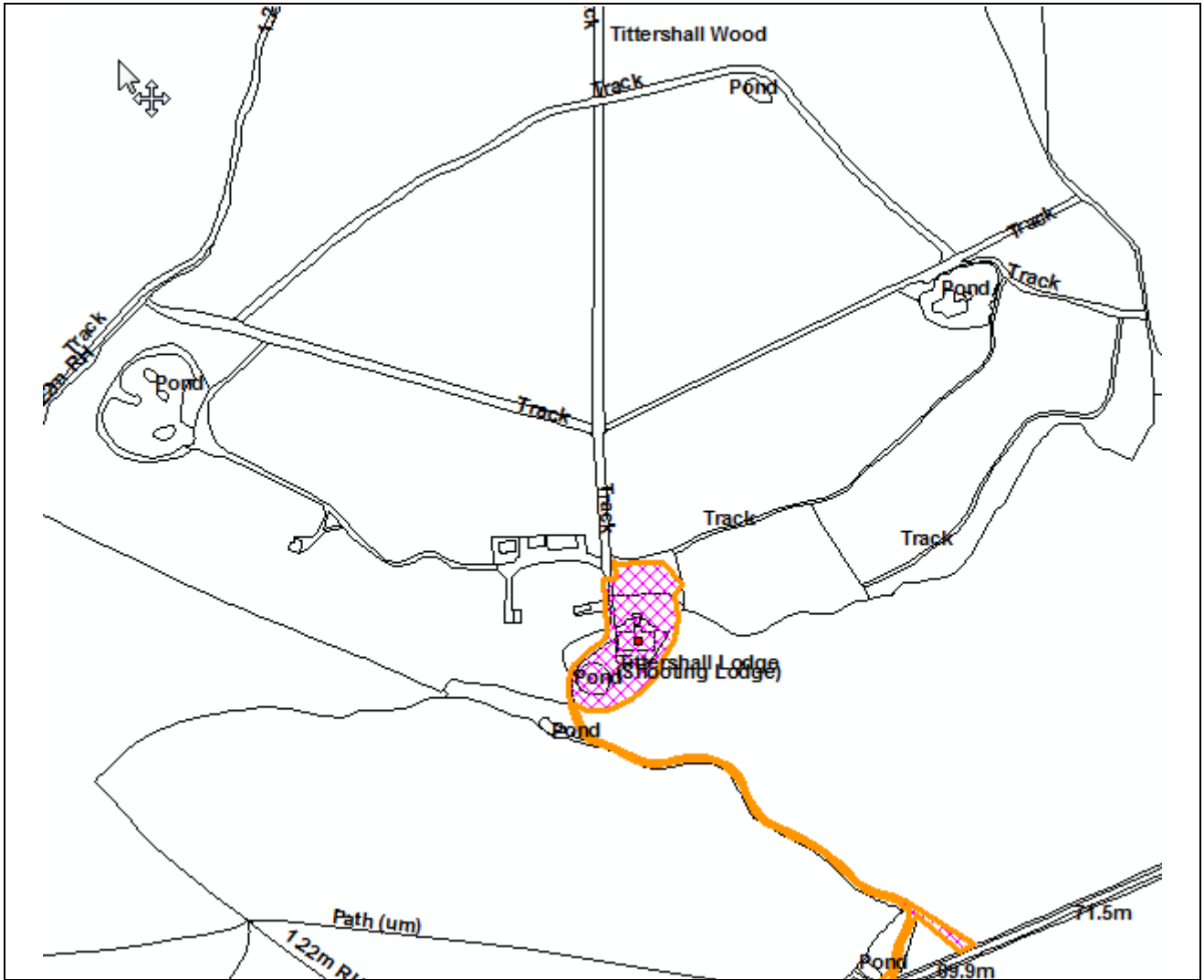


18/04264/APP



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REFERENCE NO	PARISH/WARD	DATE RECEIVED
18/04264/APP	WOTTON UNDERWOOD	29/11/18
<p>VARIATION OF CONDITION 4 OF PLANNING PERMISSION 14/02604/APP TO VARY THE WORDING OF THIS CONDITION TO THE BUILDING HEREBY APPROVED SHALL ONLY BE USED AS A SHOOTING LODGE IN CONNECTION WITH GAME SHOOTS, SIMULATED SHOOTS AND CLAY PIGEON SHOOTS OPERATED ON AND FROM THE LAND, AND THE USE OF TWO ROOMS FOR OVERNIGHT ACCOMMODATION FOR CLIENTS ATTENDING SHOOTING EVENTS AND FOR NO OTHER PURPOSE INCLUDING BUT NOT LIMITED TO RETAIL SALES TO MEMBERS OF THE PUBLIC OTHER THAN THOSE ATTENDING SHOOTING EVENTS OR AS A VENUE FOR HIRE.</p> <p>TITTERSHALL LODGE KINGSWOOD LANE HP18 9FY</p> <p>MS ROSA PIACQUADIO</p> <p>STREET ATLAS PAGE NO 96</p>	<p>The Local Member for this area is:-</p> <p>Councillor Cameron Branston</p>	

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

- a) The planning policy situation and the approach to be taken in determination of the application
- b) Whether the proposed variation of condition would constitute a sustainable form of development having regard to:
  - Building a strong competitive economy
  - Conserving and enhancing the natural environment
  - Conserving and enhancing the historic environment
  - Promoting sustainable transport
- c) Impact upon the residential amenity

The recommendation is that permission be **GRANTED**, subject to conditions

## 2.0 INTRODUCTION

- 2.1 The application stands to be determined by committee as Councillor Cameron Branston has requested that the application be brought to Committee for determination for the following reasons:
- He is concerned about the impact upon residents and takes as a starting point Policy GP8
  - He is concerned about the impact of increased traffic in the area
  - He believes that it will increase noise levels for residents

## 3.0 BACKGROUND AND MAIN ISSUE

- 3.1 Retrospective Planning Permission was granted under reference 14/02604/APP on 5<sup>th</sup> January 2016 for the construction of the Shooting Lodge including the car park, patio and other incidental works at Tittershall Lodge, Kingswood Lane, Wotton Underwood.
- 3.2 The decision notice included a condition which restricted the use of the shooting lodge as follows (Condition 4):

The building hereby approved shall only be used as a shooting lodge in connection with game shoots operated on and from the land, and for no other purpose including overnight or residential accommodation, retail sales to visiting members of the public or as a venue for hire.

Reason: The building has been approved in the light of guidance in Para 17 of the NPPF because of the special needs of the game shoots operated on and from the land. This control is necessary to prevent inappropriate uses taking place and in the interests of highway safety given the substandard nature of the access to the site

- 3.3 The applicant has submitted a Section 73 Variation of Condition application which seeks to vary condition 4 as follows:
- to permit the use of the existing shooting lodge in connection with clay pigeon and simulated shooting
  - to allow the existing shooting lodge to be used for the sales of goods to members of the public attending shooting events at the site
  - to allow two existing storage rooms at first floor level within the shooting lodge to be used for overnight accommodation for clients attending shooting events.

#### 4.0 CONCLUSION AND RECOMMENDATION

- 4.1 The application has been evaluated against the extant development plan and the NPPF.
- 4.2 The shooting lodge is an existing building, and the principle of its use by clients participating in game bird shoots has previously been accepted under Planning Permission 14/02604/APP. The variation of condition to enable the lodge to be used for clay pigeon and simulated shoots, which are existing lawful uses on the site under the 28 day rule, and to allow the sales of goods to members of the public attending shooting events, would accord with Para 83 of the NPPF which seeks to promote a strong rural economy and the sustainable growth and expansion of all types of business and enterprise in rural areas. The use of two existing storage rooms for overnight accommodation would accord with policy GP72 of the AVDLP and Para 83 of the NPPF which also gives support given to sustainable rural tourism and leisure developments that have the potential to benefit businesses in rural areas. The support to a local business should be afforded positive weight in the planning balance.
- 4.3 It is considered that the proposed variation of condition 4 relating to the use of the existing shooting lodge would have no further impact upon the character and appearance of the countryside, sustainable transport or the amenity of residential properties. It is considered necessary to put two new conditions in place to limit the use of the overnight condition given that the local Planning Authority would not accept a new dwelling on the site given the open countryside location. With these conditions in place it is considered that the proposal would comply with policies GP8, GP24, GP35, GP72 and RA4 of the AVDLP and the NPPF.
- 4.4 It is recommended that the application be approved subject to the following conditions:
- 1 Landscaping scheme to be implemented (Agent has confirmed that this condition has been implemented so can be **Deleted**).
  - 2 Any tree or shrub which forms part of the landscaping scheme approved under Planning Permission 14/02604/APP which within a period of five years from planting fails to become established, becomes seriously damaged or diseased, dies or for any reason is removed shall be replaced in the next planting season by a tree or shrub of a species, size and maturity to be approved by the Local Planning Authority.  
  
Reason: In the interests of the visual amenities of the area and to comply with Policy GP38 of the AVDLP and the NPPF.
  - 3 The area shown for parking and manoeuvring on the approved plan reference 218/2014/01, approved under Planning Permission 14/02604/APP, shall not be used for any other purpose  
  
Reason: To enable vehicles to draw off, park and turn clear of the highway to minimise danger, obstruction and inconvenience to users of the adjoining highway and to comply with Policy GP24 in the Aylesbury Vale District Local Plan and to accord with the NPPF.
  - 4 The building hereby approved shall only be used as a shooting lodge in connection with game shoots, simulated shoots and clay pigeon shoots operated on and from the land and

no other purpose including, but not limited to, retail sales to members of the public other than those attending shooting events, or as a venue for hire.

- 5 **(New Condition)** The guest accommodation shown on drawing no. shall only be used as short term overnight accommodation for guests attending shooting events and for no other purpose (including any other purpose within Class C of the Schedule to the Town and Country Planning (Use Classes) Order 1987 as amended or in any provision equivalent to that Class in any statutory instrument revoking or re-enacting that Order with or without modification).

Reason: For the avoidance of doubt as to what is being permitted and because the Local Planning Authority would not accept an independent dwelling on this site due to the open countryside location and to accord with the NPPF.

- 6 **(New Condition)** The guest accommodation hereby permitted shall not be occupied by the same person or persons for more than 28 days in any six month period.

Reason: For the avoidance of doubt and in the interests of tourism and economic vitality of the countryside and to comply with Policy GP72 of the AVDLP and the NPPF.

### **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, following the receipt of an additional plan showing the rooms to be used for overnight accommodation, the application was considered to be acceptable as submitted, and no further assistance was required.

### **5.0 SITE LOCATION AND DESCRIPTION**

- 5.1 The site lies within Tittershall Wood which is situated in the open countryside to the south-west of the village of Kingswood and to the east of Ludgershall.
- 5.2 The access to the site and Tittershall Wood is taken from the Kingswood to Wotton Underwood/Ludgershall Road, and is via a 350m long track which crosses open agricultural land.
- 5.3 Tittershall Wood is operated as a commercial game bird rearing and shooting enterprise. Close to the access to the land is the shooting lodge to which this application relates. There are a number of other buildings on the site including a gamekeeper's dwelling for which planning permission was granted in 2012.
- 5.4 The nearest residential properties not associated with the business are located in Ludgershall, over 1.2 km from the site's boundary to the west, and at Tetchwick, 365 metres to the north (Tetchwick Moat House). Middle Farm and Yeat Farm are located 850 and 1 km from the site's boundary to the south-east.

### **6.0 PROPOSAL**

- 6.1 Retrospective Planning Permission was granted under reference 14/02604/APP for the construction of the Shooting Lodge including car park, patio and other incidental works.
- 6.2 Condition 4 of that permission reads:

'The building hereby approved shall only be used as a shooting lodge in connection with game shoots operated on and from the land, and for no the purpose including overnight or

residential accommodation, retail sales to visiting members of the public or as a venue for hire.'

6.3 The applicant has submitted a Section 73 Variation of Condition application which seeks to vary condition 4 as follows:

- to permit the use of the existing shooting lodge for clay pigeon and simulated shooting
- to allow the existing shooting lodge to be used for the sales of goods to members of the public attending shooting events at the site
- to allow two existing storage rooms at first floor level within the shooting lodge to be used for overnight accommodation for clients attending shooting events

## 7.0 RELEVANT PLANNING HISTORY

99/01977/APP - Erection of shooting lodge associated storage buildings and vehicular access (retrospective) - Approved

04/01902/APP - Extension and conversion of shooting lodge to detached dwelling - Withdrawn

05/01557/APP - Mobile home for gamekeeper - Refused

06/02415/APP - Agricultural building (retrospective) - Approved

06/02416/APP - Siting of mobile home (Retrospective) - Withdrawn

07/01887/APP - Siting of mobile home (retrospective) - Approved

10/01141/APP - Erection of replacement two storey shooting lodge with associated access to highway and parking - Approved

10/02206/APP - Erection of agricultural workers dwelling - Approved

12/00678/APP - Revised siting of Gamekeepers dwelling (amendment to planning permission 10/02206/APP) – Approved

13/03562/APP - Erection of single storey rear conservatory extension and single storey side extension. - Withdrawn

14/00974/APP - Siting of mobile home (retrospective) - Refused

14/02036/APP - Installation of electric gates and piers (retrospective) - Approved

14/02604/APP - Retrospective application for the construction of the Shooting Lodge including car park, patio and other incidental works. - Approved

14/03531/APP - Retention of mobile home. – Refused. Appeal dismissed

15/03801/APP - Retention of three outbuildings in connection with an existing game bird rearing and shooting enterprise and area of hardstanding (part retrospective). - Approved

16/04003/APP - Conversion of part of agricultural building to residential use (C3) including formation of small curtilage, parking, internal alterations and temporary retention of a mobile home for residential use until the conversion is ready for occupation. - Refused

17/04003/APP Conversion of part of agricultural building to residential use (C3) including formation of small curtilage, parking, internal alterations and temporary retention of a mobile home for residential use until the conversion is ready for occupation-Refused. Appeal dismissed

## 8.0 PARISH/TOWN COUNCIL COMMENTS

8.1 Wotton Underwood Parish Council objects to the application and fully supports the objections raised by one of the objectors (Mr Graham Lucas).

## 9.0 CONSULTATION RESPONSES

9.1 **Environmental Health:** No objections

- 9.2 Proposed condition 4 lifts the restriction on its use solely for people attending game shoots. The use of the lodge is not an inherently noisy activity, whilst the shooting activities are. AVDC Enforcement Officers will investigate any future complaints of noise or breaches of planning under relevant regulations, and where necessary take formal enforcement action.
- 9.3 **Bucks CC Highways**
- 9.4 Initially requested that further information be submitted and justification as to why the applicant did not anticipate that the proposed variation of condition would not result in an increase in vehicle movements.
- 9.5 Following receipt of additional information, the County Highway Authority now consider that it is clear that the proposed variation of condition relates to the use of the lodge, not the entire site. Currently clay and simulated shooting can be carried out as permitted development for up to 28 days a year, and there is no restriction on numbers attending these events. Therefore the proposed variation of condition solely for the use of the lodge in connection with these shooting activities would not increase the number of vehicle movements to and from the site.
- 9.6 The proposed variation of condition solely for the use of the lodge in connection with these already permitted shooting activities (under permitted development) would not in itself increase the number of vehicle movements to and from the site.
- 9.7 The creation of two rooms for overnight accommodation for two people would not result in a material intensification of the access compared to the existing number of vehicles visiting the site to use the shooting facilities.
- 9.8 As this would not result in a material increase in vehicle movements through the existing access, BCC Highways are unable to justify asking for the access to be upgraded. However they are satisfied that sufficient visibility can be achieved through the existing access.

## **10.0 REPRESENTATIONS**

- 10.1 39 letters have been received from local residents objecting to the application to vary condition 4 of Planning Permission 14/02804/APP). These letters raise the following points of concern:

### *Issues relating to the planning history of the site/compliance with regulations*

- Owner of Tittershall Woods has failed to comply with many planning requirements.
- The lodge was built much larger than permitted as always been intention to build a commercial shooting establishment.. Then had to apply for retrospective planning.
- The venue has been used for wedding functions.
- Owner and employees have disregard for locals and have not followed the rules.
- They have had to remove illegal erected scaffold towers to house the clay traps.
- After 13 years the applicants have removed the illegal mobile home which should have been removed when Game Keepers House was built.

### *Economy/ long term impacts of proposed variation of condition*

- The enterprise does not contribute to local economy as owners live in London.
- The variation of condition 4 will add nothing except noise traffic and individuals that fail to understand communities.
- Applicants will chip away until achieve long term aim of clay shooting 5-6 days per week.

### *Intensification of use of the shooting lodge*

- It is acknowledged that there will be no increase in the number of clay shooting events, but if allowed to market and use the lodge facility in connection with clay shooting, it will lead to an increased number of people using the facility, leading to more people, more shots and more noise and more traffic.
- The lodge could be used to host major clay pigeon shooting competitions, and could exceed 250 people shooting per day.
- Most 28 rule clay shoots have rudimentary facilities use a small wooden shed and do not have luxury of restaurant and bar facilities.
- The 28 day Permitted Development Rule (class B-temporary use of land) would normally only allow moveable structures to be used and the lodge is not a moveable structure.

### *Noise/Residential amenity*

- Shooting should not normally take place with separation distances of less than 1km.
- Tetchwick residents, less than 700m away from the shooting ground, are already affected by the shooting facility; noise can be heard with windows shut and TV on.
- The planning agent for approved application 14/02604/APP stated there would never be a clay shoot and that if there was there could be 150 guns.
- Now in situation where there could be 150 to 200 guns with potential to generate 400 vehicle movements per hour.
- Increased noise at weekends.
- Noise transmission carries more in winter.
- If application approved noise situation will worsen and would be a statutory nuisance.
- Nearest residential properties are not 1.2 km to west but 365m to north (Tetchwick Moat House) .
- Travellers site is 240m to south-east.
- Shoots can be heard from properties in Tetchwick and interrupts enjoyment of properties.
- Level of noise in Tetchwick has risen considerably in the last year.
- Increase in noise disturbance at Ludgershall.
- Area is widely used for horse riding and loud noise can cause alarm to horses/injure riders
- Detrimental impact of noise on pets.

### *Game/ Clay pigeon shooting*

- Game shooting in winter months (1<sup>st</sup> September to 1<sup>st</sup> February) creates less disturbance, intermittent at changing locations. It is more traditional and less of a nuisance than clay pigeon shooting.
- Extra clay pigeon shoots are often in summer months when people are outside in their gardens.
- Game shooting lasts for a short time when residents are in their homes with doors and windows shut.



- Game shooting has only 8-10 people shooting, but clay pigeon shooting has 150 to 200 people shooting each day.
- Applicants originally stated in 2011 that they would not use the site for clay pigeon shooting.
- Tittershall Lodge has hosted game shooting for many years, but not clay pigeon shooting.
- Clay pigeon shooting has only taken place for one year.
- The lodge would never have received permission for clay pigeon shooting.
- Applicants have failed to adhere to guidelines issued by Institute of Environmental Health on Clay target shooting.
- Clay pigeon shooting is very disruptive.
- There is increased uninterrupted barrage of noise with clay pigeon shooting comprising 500-800 shots per day.
- Potential for growth in clay pigeon shooting will have negative impact on local area because of increased shots and increased frequency.
- Whilst no problem with true country sports, this is a commercial business.
- Clay pigeon shooting has the potential to be encouraged to reach full capacity as will be profit driven.
- The shooting activities have exceeded 28 day rule.

#### *Contamination*

- Overall site is less than 100m from Flood Zone 3. Increase in shooting and lead shot fall out could cause contamination to water source.

#### *Rights of way/signage*

- There are a number of rights of way surrounding the site and clay shooting activities have an effect on these.
- Shooting affects enjoyment of use of public footpaths.
- Footpath signs are often taken down, signs thrown into ditches and not replaced.
- Footpaths have been closed at various times of year so residents/walkers are unable to enjoy countryside.
- Danger signs on footpaths should not be a scare tactic for local walkers.

#### *Overnight accommodation*

- Accommodation proposal indicates intention to perpetuate the proposed use to commercial levels.
- The applicant has just lost the mobile home after being illegally sited for 13 years and this request to accommodate 1-2 people comes very close in terms of a timeline just after that happening
- It is another way of offsetting loss of the mobile home, and would be likely to be used by employees.
- With existing arrangements regarding storage of club guns and bar provisions, it could create security issues.

### *Highway/traffic*

- Entrance is on a fast and dangerous stretch of road on tight bend in Kingswood Lane with limited vision.
- Road is in poor condition suffering subsidence.
- Road is often flooded and during wet periods soil and stones are dragged onto the highway from vehicles using unsurfaced track.
- Roads are used by walkers, cyclists and horse riders.
- Access has been subject of near misses with vehicles emerging onto the bend.
- Point of access is close to a caravan park.
- A41 is dangerous and both junctions with Kingswood Lane and Tetchwick are dangerous
- Intensification of use of lodge with large shooting parties coming and going detrimental to highway safety.
- Planning condition was included for good reason-to achieve balance between commercial interests of owners and local residents.
- BCC Highways requested restrictive wording due to substandard access. Additional vehicles using entrance on poorly maintained road on bad bend.
- BCC Highways are right to be concerned about the reliability of the applicant's statement that proposed change of use would not result in increase in the number of vehicle movements.

## **11.0 EVALUATION**

### ***(a) The planning policy position and the approach to be taken in the determination of the application***

- 11.1 The starting point for decision making is the development plan, i.e. the adopted *Aylesbury Vale District Local Plan (AVDLP)*. S38(6) of the Planning and Compulsory Purchase Act 2004 requires that decisions should be made in accordance with the development plan unless material considerations indicate otherwise. The *National Planning Policy Framework* (the Framework) and the *Planning Practice Guidance* (PPG) are both important material considerations in planning decisions. Neither changes the statutory status of the development plan as the starting point for decision making but policies of the development plan need to be considered and applied in terms of their degree of consistency with the Framework, PPG and other material considerations.
- 11.2 The Council has set out proposed policies and land allocations in the draft Vale of Aylesbury Local Plan. Whilst the VALP hearing has taken place there are a number of unresolved objections to the housing strategy and other policies. Paragraph 48 of the NPPF advises on the weight to emerging plans depending on the stage of preparation, unresolved objections and consistency with the NPPF. In view of this the policies in this document can only be given limited weight in planning decisions. The site is within the open countryside outside of the settlement of Wotton Underwood, and there is no neighbourhood plan for Wotton Underwood. The determination of this application needs to consider whether as a result of the proposed variation of condition the proposal would constitute sustainable development, having regard to Development Plan policy in the AVDLP and the Framework as a whole.
- 11.3 Paragraph 170 of the NPPF states that planning policies and decisions should contribute to

and enhance the natural and local environment by recognising the intrinsic character and beauty of the countryside.

11.4 Saved Policy GP35 of the AVDLP requires amongst other things that development respects and complements the physical characteristics of the site and surroundings and does not adversely impact upon environmental assets. These objectives are broadly consistent with the core planning principles of the Framework to always take account of the different roles and character of different areas, and to recognise the intrinsic character and beauty of the countryside.

11.5 Saved Policy RA 4 of the AVDLP states that in considering proposals for the recreational use of land outside the built-up areas of settlements the Council will have particular regard to:

- a) the visual effect of car parking and access roads;
- b) the siting and design of any associated buildings;
- c) the accessibility of the site, including public transport links and walking or cycling networks; and
- d) agricultural land quality and the effect on land drainage.

11.6 Planning permission was granted for a shooting lodge in 1999 under planning permission 99/01977/APP, and for a replacement shooting lodge in 2010 under planning permission 10/01141/APP. The officer's report for 10/01141/APP acknowledged that the shooting activities are ideally suited to the countryside location. Retrospective Planning Permission 14/02604/APP for the shooting lodge at Tittershall Wood was granted on 5<sup>th</sup> January 2016. The building consented in 2016 was larger than that which had previously existed on the site and had improved facilities; this was as a result of the owners wish to improve facilities at the site to meet a rising demand for game and subsequent rising standards in catering and presentation. It was clear that given the open countryside location, the unrestricted use of the lodge would have been unacceptable in principle and in terms of the impact on highway safety and convenience. Following consultation with the Highway Authority, Planning Permission 14/02604/APP was granted subject to the following condition and reason (Condition 4):

:

*The building hereby approved shall only be used as a shooting lodge in connection with game shoots operated on and from the land, and for no other purpose including overnight or residential accommodation, retail sales to visiting members of the public or a venue for hire.*

*Reason: The building has only been approved in the light of the guidance in Para 17 of the NPPF because of the special needs of game shoots operated on and from the land. This control is necessary to prevent inappropriate uses taking place and in the interests of highway safety given the substandard nature of the access to the site.*

11.7 Together with a landscaping condition, and condition requiring the retention of parking, it was considered that the retrospective application for the shooting lodge complied with policies GP35 and RA4 of the AVDLP and the NPPF principle which seeks to support the intrinsic character of the countryside. The principle of a shooting lodge on the site to cater for beaters, shooters and their guests has therefore been established.

11.8 The applicant now wishes to vary the condition 4 as follows:

- to permit the use of the existing shooting lodge for clay pigeon and simulated shooting
- to allow the existing shooting lodge to be used for the sales of goods to members of the public attending shooting events at the site

- to allow two existing storage rooms at first floor level within the shooting lodge to be used for overnight accommodation for clients attending shooting events.

11.9 It remains to be considered whether proposed variation of condition 4 of Planning Permission 14/ 02604/APP to allow the use of the lodge for clay pigeon and simulated shoots in addition to game shoots, sales of goods to guests attending shooting events and the use of two existing rooms for overnight accommodation for shooting clients would constitute a sustainable form of development when assessed against the material planning considerations within the NPPF.

**(b) Whether the proposal would be a sustainable form of development**

- ***Building a strong competitive economy***

11.10 The NPPF states at paragraph 83 that planning authorities should support sustainable growth in rural areas to create jobs and prosperity by taking a positive approach to sustainable new development. To promote a strong rural economy, the sustainable growth and expansion of all types of business and enterprise in rural areas, and the development and diversification of agricultural and other land-based rural businesses, should be supported. In addition, the paragraph advises that support should be given to sustainable rural tourism and leisure developments that have the potential to benefit businesses in rural areas, and which respect the character of the countryside.

11.11 Saved AVDLP policy GP72 states that proposals for the conversion or change of use of existing rural buildings to self-catering holiday accommodation will be considered against the background of the Council's Tourism Strategy, and the need to protect the character and appearance of the countryside. In granting permission the Council will impose conditions or seek planning obligations to control the use and occupation of holiday accommodation.

11.12 In support of the application to vary condition 4 of Planning Permission 14/02604/APP, the applicant has explained that clay and simulated shooting events are a lawful uses which can be carried out up to 28 days a year and that these events are already in operation in Tittershall Wood. Currently condition 4 only allows for game shooting clients to use the shooting lodge. Given the similar nature of the different uses, the applicant considers that it is not reasonable to permit clients participating in one type of shooting use and restrict the other types from using the lodge, and that the condition should be varied to allow members of the public attending clay and simulated shooting events to also use the lodge.

11.13 The applicant also considers that the current condition preventing retail sales to visiting members of the public is currently flawed, as it suggests that members of the public cannot use the lodge. However the shoot is not a membership organisation so technically all shooters are members of the public. It is suggested that this condition be varied to enable members of the public attending shooting events to purchase goods whilst attending shooting events. The applicant considers that this would prevent the lodge from becoming a retail destination whilst ensuring the proper operation and function of the lodge. The applicant also notes that many of the clientele expect to be able to purchase shooting goods at the premises, and considers that this is a reasonable expectation.

11.14 It is acknowledged that the site at Tittershall Lodge can be lawfully used for clay pigeon and simulated shooting for up to 28 days per year, and that it would seem reasonable and justifiable to allow members of the public attending these events to also use the shooting lodge as this would use an existing facility at the site be beneficial to the business. It is also acknowledged that it would be beneficial to the business for clients attending shooting events to be able to purchase goods at the lodge. Therefore it is considered that the

proposed variation of condition would accord with Para 83 of the NPPF which seeks to promote a strong rural economy, the sustainable growth and expansion of all types of business and enterprise in rural areas

- 11.15 The applicant considers that the use of two rooms within the existing lodge for overnight accommodation for clients travelling from a distance would be beneficial to the business use of the site and has confirmed that this would not be permanent residential accommodation.
- 11.16 Whilst the use of the lodge for unrestricted overnight accommodation has previously been considered unacceptable, the applicant is proposing to use only two existing storage rooms in the roofspace of the lodge for overnight accommodation. Policy GP72 specifically encourages the conversion of buildings in rural locations to increase the stock of holiday accommodation which accords with Paragraph 83 of the NPPF supporting rural tourism. The proposal would use two existing rooms in the lodge. Therefore it is considered that the use of just two rooms for overnight accommodation for guests attending shooting would support sustainable rural tourism, and benefit the game bird rearing enterprise in accordance with Para 83 of the NPPF and Policy GP72 of the AVDLP
- 11.17 The site is within an open countryside location. For the avoidance of doubt as to what is hereby being permitted, in the interests of tourism and economic vitality of the countryside, and because the Council would not accept any additional dwellings on this site due to its open countryside location, the Council's solicitor has confirmed that it would be appropriate and reasonable to impose two new additional conditions. These new conditions would ensure that the resulting accommodation shall only be lived in as short term overnight accommodation for guests attending shooting events, and in relation to the two rooms specified on the submitted plan, and would require that those rooms shall not be occupied by the same person or persons for more than 28 days in any six month period.
- 11.18 The benefit to the rural economy that would be achieved through the variation of condition 4 of Planning Permission 14/02604/APP should be afforded positive weight in the planning balance.

- ***Conserving and enhancing the natural environment***

- 11.19 This application to vary Condition 4 of Planning Permission 14/02604/APP relates to the use of the existing shooting lodge on the site. Simulated and clay pigeon shoots already take place at Tittershall Wood as a lawful use under the 28 day rule, and the use of the lodge and existing parking area, by clients attending shoots, will not require any external alterations to be made to the lodge or parking area. Neither will the sales of goods to existing shooting clients using the lodge require any external changes to be made to the shooting lodge.
- 11.20 The proposal to use two storage rooms within the loft space for overnight accommodation does not involve the insertion of any new window openings, and any clients using this facility would use the existing parking area adjacent to the lodge. As such the proposal would not result in any greater visual impact than the already permitted use on the site.
- 11.21 The proposal to vary condition 4 of Planning Permission 14/02604/APP therefore accords with Policy GP35 of the AVDLP that development respects and complements the physical characteristics of the site and surroundings and does not adversely impact upon environmental assets, and with the NPPF which requires that development respects intrinsic character and beauty of the countryside. This should be afforded neutral weight in the planning balance.

*Impact upon public rights of way*

11.22 There are a number of public rights of way to the south, south-west and east of the site. However the variation of condition relates only to the use of the shooting lodge and these would not be impacted by the proposal. Therefore the proposal would accord with Policy GP84 of the AVDLP and should be afforded neutral weight in the planning balance.

- **Promoting sustainable transport**

11.23 The promotion of sustainable transport is a principle of the NPPF which advises that it is necessary to consider whether the proposed development is located where the need to travel will be minimised.

11.24 The site relates to an existing shooting lodge in the open countryside and the principle of the shooting lodge in this location has been accepted due to the special needs of game shoots operated on and from the land.

11.25 Paragraph 109 of the NPPF (2018) states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

11.26 Policy RA4 requires the visual effect of car parking and access roads to be considered.

11.27 The permission for the lodge has been the subject of permissions under 10/01141/APP and 14/02604/APP. The County Highway Authority entered into discussions with the applicant regarding issues around the access. At that time, concerns were raised with regards to the visibility splays and construction of the access to serve the proposed development. The applicant and the Highway Authority came to an agreement that the imposition of Condition 4 would ensure that the replacement shooting lodge would not materially increase vehicle movements from the site. Clay pigeon and simulated shoots are currently permitted up to 28 days a year. There is currently no restriction on the number of people/vehicles attending these events. Therefore the proposed variation of condition solely for the use of the lodge in connection with these already permitted shooting activities (under permitted development), would not in itself increase the number of vehicle movements to and from the site. The sale of goods to members of the public attending shooting events would also not in itself increase the number of vehicle movements to and from the site. The creation of two rooms for overnight accommodation for two people would not result in a material intensification of the access compared to the existing number of vehicles visiting the site to use the shooting facilities. Furthermore the Highway Authority are satisfied that sufficient visibility can be achieved through the existing access. Consequently it is considered that the proposed variation of condition would be acceptable in terms of highway safety and convenience.

11.28 Policy GP24 of AVDLP seeks to ensure satisfactory levels of car parking are provided appropriate to the level of development. The parking area permitted under Planning Permission 14/02604/APP adequately serves the shooting lodge. Given the ancillary nature of the development proposed no additional parking is required to be provided as a result of the variation of condition. Therefore the proposed variation of condition accords with Policy GP24 of the AVDLP.

11.29 It is considered that variation of condition would have an acceptable impact upon highway and parking issues and should be afforded neutral weight in the planning balance.

- ***Impact upon the amenity of neighbouring residential properties***

- 11.30 Policy GP8 of the Aylesbury Vale District Local Plan (AVDLP) (2004) states that planning permission will not be granted where the proposed development would unreasonably harm any aspect of the amenity of nearby residents when considered against the benefits arising from the proposal. Where planning permission is granted, the Council will use conditions or planning obligations to ensure that any potential adverse impacts on neighbours are eliminated or appropriately controlled.
- 11.31 Policy GP95 states that in dealing with all planning proposals the Council will have regard to the protection of the amenities of existing occupiers. Development that exacerbates any adverse effects of existing uses will not be permitted.
- 11.32 Paragraph 127 of the NPPF states that developments should ensure a high standard of amenity for existing and future users.
- 11.33 The application to vary Condition 4 of Planning Permission 14/02604/APP, to enable the existing shooting lodge to be used by clients attending clay pigeon and simulated shooting events in addition to allowing it to be used for the game shooting events, has resulted in a large number of letters of objection being received from members of the public who are concerned that the variation of condition will give rise to increased shooting noise. There is concern that clay pigeon is more disruptive as it takes place at different times of year than game bird shooting. However in response to this the land at Tittershall Lodge can lawfully be used for clay and simulated shooting for up to 28 days a year, and the variation of condition application relates only to the use of the shooting lodge by members of the public already attending those events. The applicant's agent has confirmed that the frequency of shoots is not proposed to increase. The Environmental Health Officer has been consulted on the application, and notes that the use of the lodge is not an inherently noisy activity whilst the shooting activities are. As this application relates only to the use of the lodge by members of the public already attending clay and simulated shooting events, the proposed variation of condition would not give rise to any further noise issues such that the suggested variation would be considered unacceptable.
- 11.34 Several members of the public have raised concerns that enabling the lodge to be used by members of the public attending clay and simulated shooting events will make the events more attractive and result in an increase in the number of people attending them. However in response to these concerns, if the current condition remains in place restricting the use of the lodge to members of the public attending game shoots, the applicant could bring in mobile catering/marquee facilities to effectively enable the same facilities to be provided by alternative means. Given what could already be achieved through permitted development, and the lack of demonstrated harm, it would not be reasonable to restrict the use of the lodge only to those members of the public attending game shoots.
- 11.35 Given that the only dwelling in close proximity is the gamekeeper's dwelling on the site, which is within the ownership of the site, the proposed use of two existing storage rooms within the lodge for overnight guest accommodation would also have no detrimental impact upon the amenity of any neighbouring residential properties.
- 11.36 It is acknowledged that one of the reasons for imposing condition 4 of Planning Permission 14/02604/APP was to prevent inappropriate uses taking place at the site in the form of unrestricted events not associated with the business and unrestricted retail sales. It is not considered that the proposed variation of condition 4 would have a detrimental impact upon any aspect of residential amenity. Therefore this should be afforded neutral weight in the planning balance.

- **Other matters**

- 11.37 One objection expresses a concern that an increase in shooting and lead shot would lead to contamination to the water source. However as the application relates only to the use of the lodge by existing uses and no increase in shooting is proposed, this is not material to consideration of the application
- 11.38 Issues have been raised about compliance with planning regulations and the shooting activities on the wider site. These are not material the variation of condition 4 of Planning Permission 14/02604/APP. However AVDC Enforcement Officers will investigate any future complaints of noise or breaches of planning under relevant regulations, and where necessary take formal enforcement action

***What condition is required to ensure the reason and intention of the varied condition is still met***

- 11.39 The planning practice guidance states ‘ Where an application under Section 73 is granted, the effect is the issue of a new planning permission, sitting alongside the original permission, which remains intact and un-amended. A decision notice describing the new permission should be issued, setting out all the conditions related to it. To assist with clarity, decision notices for the grant of planning permission under Section 73 should also repeat the relevant conditions from the original planning permission, unless they have already been discharged. ‘
- 11.40 In order to set out the same intentions as set out by the original condition, the condition should be varied to identify the approved drawings of the previous permission that are still valid and unaltered and the amended plan put forward by this proposal. Other conditions should be repeated, identifying those that relate to details approved under the previous permission.

Case Officer: Mrs Diana Locking