

13/05046/FUL

## **Consultations and Notification Responses**

### Ward Councillor Preliminary Comments

**Councillor Pollock** – If minded to recommend approval, due to local concerns please bring to the Planning Committee. The site has already been the subject of two planning inspector appeals; there is great concern locally about further encroachment on to Grassy Lane and protection of Policy C16.

### Parish/Town Council Comments/Internal and External Consultees

**Bourne End and Wooburn Parish Council** - Strongly Object: to the impact this will have on the nature and character of the area and the ongoing effect on Chilterns sunken paths. The Parish Council does not believe this is in line with C16, it is unsustainable and we support the local community who also strongly object.

### **Landscape Officers Planning Policy:**

Ecological Comments: *Comments on Protected Species Report submitted following 3 July Planning Committee:*

The survey is relatively brief and not as detailed as we would usually expect, however as it is a survey update, rather than a full survey, this is acceptable in this case.

Regarding the Great Crested Newts, the ecologists were not granted access to the ponds. In the absence of seeing the ponds they assessed the likelihood of Great Crested Newts being present on the application site on the basis that the ponds are being used by Great Crested Newts. The likelihood of Great Crested Newts utilising the site is “highly unlikely” due to the large distance between the site and the ponds.

Regarding reptiles, the ecologists carried out three site visits, rather than the seven recommended in the survey guidelines. This approach is acceptable considering that previous survey information existing and we did not request an update to the reptile survey. Again no reptiles were found on site.

I do not expect the development to have an adverse effect no protected species.

### Landscape Comments:

Landscape & Visual Impact Assessment (LVIA): A landscape & visual impact assessment has been submitted with the application to assess the impact of the development on both the site itself and Grassy Lane. It concludes that the development will have a neutral or negligible effect on the landscape character and the visual amenity of the area.

Notwithstanding the shortcomings of the assessment I believe that the site can accommodate a small dwelling without causing significant landscape and visual impacts. However, the existing structures should in my view be removed and the garage moved closer to the entrance to reduce the amount of hard-standing.

Landscape Proposals: Some of the annotations seem to point to the wrong areas on the plan. Apart from that the proposals seem acceptable however more information is required on how the landscape proposals will be implemented and managed,

especially where these are also delivering ecological benefits as well as landscape benefits.

**Arboricultural Officer** - No objection. The Arboricultural report has identified the main issue of the tree at the access point to the site and that an Arboricultural Method Statement is required to deal with works within the RPA. Suggest conditions requiring the development to be undertaken in accordance with the arboricultural method statement, to require submission of details of utilities, and a method statement if any are within the tree protection area, and to require arboricultural supervision in accordance with the arboricultural method statement.

**County Highway Authority – Final Comment:**

The Highway Authority has provided comments upon several planning applications at this site, dating back to early 2006. Initially, it was seen that the erection of a dwelling on this site was unacceptable with regard to highway safety and convenience of use due to the intensification of the Grassy Lane/Harvest Hill junction.

Subsequent applications proposed improvement works to the aforementioned junction and to Grassy Lane itself. As a result the Highway Authority, in conjunction with the Council's Rights of Way section, deemed that the submissions overcame their respective objections to the proposals. Consequently, responses were issued on subsequent consultation responses that conditioned both sets of improvement works.

Application ref: 09/05883/FUL was then submitted to Wycombe District Council in which access to the application site via a new access from Kiln Lane was proposed. After careful consideration, it was deemed that the proposed access could achieve the minimum requisite visibility splays in reflection of the recorded 85<sup>th</sup>ile speeds on Kiln Lane.

However, the Local Planning Authority believed that the scale and appearance of the access would be detrimental to the local landscape. The Inspector presiding over the Public Inquiry agreed with Wycombe District Council's reason to refuse the application and dismissed the appeal against refusal of permission. In addition, the Public Inquiry also sought to determine the appeal against refusal of a parallel planning application at this site, whereby the proposed dwelling was accessed via Grassy Lane (PINS ref: APP/K0425/A/10/2128368).

This appeal was also dismissed due to the Inspector's opinion that the proposed improvements to Grassy Lane itself would have a detrimental impact upon the character and appearance of the area.

Following the outcome of PINS appeal ref: APP/K0425/A/10/2120704, the applicant's engineering consultant (Abington Consulting Engineers) attempted to find a way in which the erection of a 3-bed dwelling at this site would be acceptable to the respective Local Planning and Highway Authorities. This approach took the form of a comparative trip generation analysis compiled by Carter Jonas property consultants regarding the permitted and historical use of the site for agricultural use.

The report demonstrated that the potential use of the land *to its maximum capacity* could generate more daily vehicular movements per day than those that are associated with a typical 3-bed house (which are generally accepted to be around 6-8 vehicle movements per day).

The Highway Authority evaluated the submitted information and found it to be suitably robust in order to justify the erection of a residential property. Therefore, as the proposed dwelling would generate fewer vehicle movements than the extant/historical use of the land, the Highway Authority;

- 1) Would have no reason to believe that the proposals would intensify the Grassy Lane/Harvest Hill junction to the detriment of highway safety.
- 2) Could not support any improvement measures for Grassy Lane due to the lack of vehicular intensification on Grassy Lane.

On the submission of application 13/05046/FUL, a Transport Statement compiled by Abington Consulting Engineers contained the Carter Jonas traffic appraisal report within Appendix 1. This document was published on the Wycombe District Council planning website on 22<sup>nd</sup> January 2013 and listed as 'Transport Statement'.

The County Council received the consultation on planning application on 11<sup>th</sup> January 2013 and subsequently both the Highway Authority and the Rights of Way service issued responses in early February 2013.

Discrepancies in the interpretation of the evidence in these responses were identified by the case officer at the Local Planning Authority and, following further consideration, a revised Rights of Way response was issued within a letter dated 4<sup>th</sup> March 2013 (published on the Wycombe District Council planning website on 18<sup>th</sup> April 2013) that confirmed understanding of the Highway Authority's stance on the comparative trip generation potential. Furthermore, it endorsed the suggested condition within the Highway Authority's letter consultation response dated 6<sup>th</sup> February 2013 that required the applicant to submit a Construction Traffic Management Plan and repair any damage incurred to Grassy Lane during the construction phase.

One of the conditions recommended by the Highway Authority aimed to secure the submission of a Construction Traffic Management Plan (CTMP) in the event that planning permission is granted. The CTMP would need approval by the Local Planning Authority in consultation with the Highway Authority prior to the commencement of any works on site. Should permission be granted, I expect a provision of the CTMP to include a Section 59 (Highways Act 1980) pre-start inspection and agreement to reinstate Grassy Lane to its original state prior to occupation. It may be possible for the reinstatement works to Grassy Lane to include minimal drainage mitigation measures that would not amount to the nature and extent as those improvement works that led to PINS dismissing the appeal against refusal of application 09/05885/FUL (PINS ref: APP/K0425/A/10/2128368).

Ultimately though, the developer is only duty bound to return Grassy Lane to its pre-start condition, which is acceptable to this Authority in view of the proposals' likelihood not to increase any adverse effects where the springs interact with the section of the bridleway that is subject to seasonal springs.

Whilst I acknowledge that the amount of the vehicular movements suggested in the Carter Jonas report can be seen to be substantial, I nonetheless expect these to be toward the higher end of the spectrum permitted for intensive agricultural activities. I have seen no additional evidence that would cast any doubt upon the information submitted by the applicant.

Furthermore, it is our opinion that the vehicles associated with the historical/permitted use of the site (e.g. tractors, 4x4's with trailers, cattle trucks etc) have the propensity to cause more damage in terms of tyre size and axle weight than the considerably

lighter impact caused by cars associated with the proposed residential dwelling. At the very worst, it would still result in a nil-detriment situation.

I am aware that there have been issues raised with regard to the lawful use of this land. Although it has been stated that it is agricultural in nature, it has also been stated that it has been used to accommodate horses. This differentiation is critical in analysing the comparative trip generation associated with the site.

The application form for the current application states that it has been used for both uses in the past. However, I note that the previous applications stated an agricultural use to which the application was then determined. Furthermore, the Inspector for appeals ref: APP/K0425/A/10/2120704 and APP/K0425/A/10/2128368 did not appear to question the specific use.

It should be noted that the Planning Inspectorate comments for appeal ref: APP/K0425/A/10/2128368 pertained to the proposed improvements to Grassy Lane and not the principle of vehicular access to the application site. Since that time (and aside from this appeal being dismissed due to the Inspector's decision that the improvements would be harmful to the character and appearance of the area), the comparative trip analysis between consented/historical and proposed uses has circumvented the requirement for improvement works to Grassy Lane.

Regardless of the lack of a highway objection to the current application, I will re-iterate our belief that the potential vehicle trips stated within the Carter Jonas report are toward the extremes that one could reasonably expect from an agricultural use allied to rearing and keeping livestock. Therefore, and without prejudice to specific details that may be presented in future approaches, it is unlikely that the Highway Authority will be able to support any further development at this site.

I hope that these comments clarify the Highway Authority's historical involvement and current position on the erection of a dwelling at the 'Formoso' site. I also trust that you see this communiqué fit to both address the issues raised by the Hawk's Hill Widmoor Residents Action Group, and that it contains further information that you may require when the application is re-presented to the WDC Planning Committee in the near future.

*Comments on draft Construction Traffic Management Plan:* That looks acceptable to me. As the vast majority (if not all) of the issues that necessitate the CTMP is because of Grassy Lane's Right of Way status, I believe that the suitability and adequacy of the plan rests with the Strategic Access Officer.

**County Strategic Access Officer** - in the light of comments from Transportation on 6 February 2013, and if you are satisfied the Transport Statement reflects the position when comparing previous agricultural use with future residential access along the lane, I am satisfied the development can go ahead without resurfacing the lane. However, if you are minded to grant permission, I would seek a condition requiring the applicant repairs damage to the surface of Grassy Lane as a result of construction traffic accessing the property.

*Comments on draft Construction Traffic Management Plan:* Would like included that delivery drivers should be made aware the access track is a public bridleway and they may encounter and should give way to walkers, cyclists and horse riders. The condition of the access to the property along the unmade section of bridleway should be surveyed pre-construction and brought back to a standard as good as, or better than the existing condition, post-construction, including the effective repair of

potholes. Advanced details of repairs should be agreed with the Highway Authority Rights of Way Section.

*Comments on revised draft Construction Traffic Management Plan:* Thank you for the opportunity to comment on the CTMP, but we have nothing further to add.

**Environmental Services** (foul drainage proposals) - The foul drainage proposed by the applicant, namely the use of a Klargester Biodisc package treatment plant, is entirely appropriate and as such no special condition is required and no objection is raised in environmental health terms.

**Building Control** (foul drainage proposals) – None received

**Environment Agency** (foul drainage proposals) - The application is deemed to either have a low environmental risk or relate to conditions that were not recommended by the EA. Due to workload prioritisation we are unable to make an individual response to this application at this time.

**WDC Flood risk/SuDS** - No objection subject to the agreement of the local authority to a detailed plan for dealing with surface water taking account of the geological and geomorphological attributes of the site.

### Representations

3 letters of support received making the following comments:

- Application is reasonable, respectful and appropriate for the surrounding area.
- Site is only in the line of site for three houses in the winter months and will not impact on surrounding views.
- Visited the site regularly as a child, by mini and range rover, to see and transport the horses.
- Road access is well maintained, easy access on hard-standing and the entrance is marked by a farm gate which has been used since the area was operating as a small holding.
- Will not impact on the bridleway further down to Cores End.
- Parents bought the site in 1954 and ran a small holding raising saddle back pigs (the building for which remains). Feed lorries and animal transporters had to access the land regularly. The lane always had a firm made up base at least down to the entrance to the land and was periodically repaired with stone, crushed rubble or road planings. After the pig farming stopped two local girls kept horses there and the stable block was put up for them. Then we kept my sons pony there and regularly collected it using a horse box and range rover. Hay was delivered by lorry and a farmer accessed the site with a tractor to mow the grass and maintain fencing and hedging. Vehicles were frequently being driven in and out of the land, sometimes several times a day.
- Should allow permission for homes on land which is not Green Belt to protect the Green Belt.
- NPPF gives less priority to highway concerns and greater support for development which will help to overcome an increasing housing shortage.
- Will not have a material impact on the track.
- Selfish of those who have housing to prevent provision of similar housing for others.
- Would support the provision of two houses on the site.

55 letters of objection, including 1 from the Chiltern Society, 5 from the Hawks Hill Widmoor Residents Action Group (HHWRAG) and two from a consultant on behalf of HHWRAG, received making the following comments:

- Contrary to Policy C16.
- Adverse impact on Grassy Lane of additional traffic.
- Will compromise safety of pedestrians and horse riders using the bridleway.
- Alterations to Grassy Lane to allow cars to access the site will be detrimental to the character of the lane and the area, as stated by the appeal Inspector.
- Grassy Lane is a sunken green lane and part of a network of ancient green lanes.
- Site cannot be accessed by ordinary cars, only by four wheeled drive vehicles.
- Site cannot be accessed by cars without making alterations to the lane, although none are proposed.
- Permission for new house at Aston House required a field gate further down the bridleway to be permanently closed (ref. 06/07599/FUL).
- If the Council are minded to approve development suggest conditions are attached to safeguard and maintain the character of the lane, including the surface and vegetation, and to secure landscaping of the site in relation to the lane.
- Argument that the proposal does not increase traffic on the lane compared to existing use and that the surface does not therefore need to be made up is spurious. Current access is used for agricultural requirements by vehicles suitable for such use. This application is for residential use and it would be unsustainable to permit such use without proper access. Visitors to a residential property would be driving ordinary cars.
- The track beyond The Stables is narrow, sloping and for much of the year is rutted, boggy and difficult to negotiate.
- If permitted this will result in an almost immediate requirement to upgrade the lane which will be contrary to the findings of the appeal Inspector.
- Site is an important habitat for wildlife.
- Reference to "existing access" is misleading as there is a small, very old metal gate leading of the footpath and bridleway which appears no to have been used over many years.
- Development would necessitate major highway improvements which would introduce urban characteristics to the area contrary to Policy C16.
- Some tree works have already been carried out in the vicinity.
- Natural spring in the area makes the path sensitive to heavy usage.
- Reduction in traffic movements of proposed use compared to agricultural use is hypothetical and does not reflect the actual change which would occur.
- This is not a sustainable development.
- Will introduce an urban character into the area, contrary to Policy C16.
- Dispute the statement in the draft CTMP that "Grassy Lane is an unmade character lane with a sub-base suitable for vehicles" as the lower section of the lane is not suitable for vehicles. The TPO oak tree on the approach would also restrict access.
- Not enough detail in CTMP about vehicle sizes.
- No detail in CTMP about potential impact of construction traffic on the bridleway, users and their rights of way.
- CTMP not adequate or fit for purpose.
- BCC Highway and Rights of Way Officers do not make any reference to the appeal decision.

- Not clear why Highway Authority no longer require improvements to the lane when this was an integral part of previous proposals.
- Concern that Council Officers have recommended the application for permission,
- Concern over the advice provided by the County Council,
- The proposal will result in an intensification in the use of the sunken lane and residential use requires a higher duty of care when considering the access arrangements,
- Policy CS 20 has not been considered which states that:
- Transport and Infrastructure Development proposals will be expected to:
  2. Ensure that the convenient use and enjoyment of existing public rights of way such as footpaths and bridleways are not affected by development.
  4. Be appropriately located to the strategic road network and provide satisfactory vehicular access(es) to and from the area of development so that the convenience, safety, and free flow of traffic using public highways (including pedestrians, riders and cyclists) are not adversely affected.
- The proposed recommendation is inconsistent with the previous appeal decision, in that the proposal will result in harm to the historic sunken green lane,
- For the Council to go against the Inspector's decision would be both perverse and illogical,
- Case law states that when dealing with European Protected Species appropriate surveys are required before an application is determined and should not be requested by condition.

*Comments received since 3 July Planning Committee*

1 Letter received from Consultant representing Hawks Hill Widmoor Residents Action Group (HHWRAG) with accompanying appraisal addressing the issues of whether residential development would lead to pressure to improve Grassy Lane and whether a CTMP could mitigate the impact of construction traffic.

- Original draft CTMP is misleading as there is no sub base to the lower section of the lane.
- Muddy sloping surface will not be suitable for either construction lorries or residential traffic and will lead to exacerbated mud, rutting and potentially dangerous skidding of vehicles, leading to pressure to improve the bridleway.
- As an unsurfaced bridleway the route has to be suitable for horse riders and pedestrians.
- Grassy Lane has two distinct sections: Section 1, mainly hard surface vehicular access to the properties as far as The Stables, and Section 2, beyond The Stables and the sharp bend which slopes down for the field access gateway for the application site.
- Difference in the surface in the second section is readily apparent, comprising bare earth and with no sub-base but with a scattering of surface pebbles and gravel size material but not a fully surfaced track.
- Winter photos show that with only light traffic the lower section becomes "tracked" which gives an indication of what would happen with heavier construction vehicles and delivery lorries.
- Construction traffic and regular residential traffic would significantly alter the lane in character and for its user enjoyment, on account of tyre rutting and the surface becoming destroyed by movement of vehicles. Pressure for improving

the surface would therefore be greater.

- Grassy Lane is a bridleway and much used by pedestrians. There are rights-of-way user safety implications that would result from lorries, vans, and cars using the unsurfaced lane. A heavily tracked / rutted lane would render the surface less safe or suitable for walkers or riders.
- Potential adverse impact on trees along Grassy Lane, either with low hanging branches and/or trunks close to the surface of the bridleway.