
APPLICATION ORIGINALLY REFERRED FROM THE WEEKLY LIST**WEEKLY LIST NO. 1498 – 1 November 2019****19/00734/FUL****LAND OPPOSITE 1 TO 10 DISRAELI ROAD, RAYLEIGH****PROPOSAL TO ERECT A STABLE BLOCK AND LAY OUT HARDSTANDING****1 INTRODUCTION**

- 1.1 This application was determined at a meeting of this Committee on 21 November 2019. The application was approved, subject to the conditions set out in the report and subject to the applicant entering into a s.106 agreement. However, no action was taken by the Council or the applicant to instruct the legal agreement. As a result, the decision was not issued for this application and is still pending decision. Further details are set out in the addendum to this report.

2 DETAILS OF REFERRAL

- 2.1 This item was originally referred from Weekly List No. 1498 requiring notification to the Assistant Director, Place and Environment by 1.00 pm on Wednesday, 6 November 2019 with any applications being referred to the meeting of the Development Committee on 21 November 2019.
- 2.2 Cllr R Milne referred this item on the grounds of harm to the Green Belt, insufficient land to support animals within a stable block and conflict with policy DM15 in respect of impact on the Green Belt.
- 2.3 Cllr C M Stanley also referred this item on the grounds of the site not being large enough to accord with British Horse Society guidelines and there would need to be two or more horses in the interests of animal welfare as one animal being kept by itself was not healthy; and that this would result in previously developed land and the potential for re-development contrary to Green Belt policy.
- 2.4 The item that was referred is attached at appendix 1 as it appeared in the Weekly List.
- 2.5 A plan showing the application site is attached at appendix 2.

3 RECOMMENDATION

3.1 It is proposed that the Committee **RESOLVES**

To determine the application, having considered all the evidence.

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Application No: 19/00734/FUL Zoning: Metropolitan Green Belt
Case Officer: Ms Katie Ellis
Parish: Rayleigh Town Council
Ward: Lodge
Location: Land Opposite 1 To 10 Disraeli Road Rayleigh
Proposal: Erect stable block and lay out hardstanding

SITE AND PROPOSAL

1. The application site is located on the northern side of Disraeli Road, Rayleigh. This site is open in nature and absent of any development and allocated within the Green Belt. To the south of the site are detached and semi-detached bungalows. The site is bound to the north, east and west by open green fields.

Proposal

2. Planning permission is being sought to erect a building to be used as stables and layout hardstanding. The site area measures 0.31ha.
3. The proposed stable would measure 11.7m wide by 4.1m deep with an overall ridge height of 3.5m. The stable would provide three individual stables to accommodate horses. The materials proposed for the stables comprises brick plinths and timber cladding above together with roof tiles.
4. The area of hardstanding proposed would measure 9.2m deep by 3m wide. Materials proposed to be used for the hardstanding have not been provided as part of this application.
5. It was acknowledged at the site visit that there was one horse and two ponies grazing the field and that there is another field further along that accommodates a ménage and stable. It was noted that no horses were present in the neighbouring field and it has been confirmed by the owner of this field that the applicant is allowed to use their land for grazing and has done so for the past 20 years. Another letter has been received from the owner of land opposite 1 and 2 Disraeli Road who has confirmed the applicant has maintained their land for the past few years and in return are allowed to use the land for grazing.

Planning History

99/00777/OUT - Refused - Outline application for residential development - Dismissed at appeal

09/00592/OUT - Refused - Outline application to erect nine detached houses.

10/00686/OUT - Refused - Outline application for 9 new build detached houses - Dismissed at appeal

15/00612/OUT - Refused - proposed outline application for 2no. 4-bed passivhauses, associated landscaping and biodiversity enhancement, with all matters reserved

16/00570/FUL - Refused - Proposed construction of two detached passivhauses - Dismissed at appeal

16/00164/OUT - Refused - Proposed outline application for 2no. 4-bed passivhauses, associated landscaping and biodiversity enhancement, with all matters reserved

19/00414/FUL - Refused - Construct Stable Block Building with Hardstanding

Background to the application

6. The application was previously refused for the following reason: -

"The proposed stables would be situated on 0.3ha of land. The size of the site is not adequate to accommodate three stables as proposed on this site. It is therefore, considered that the site would not be adequate for the proper care of horses and is situated such a distance that it is not well related to an existing bridleway or byway and would cause conflict between equestrians and highway safety when travelling along residential roads to gain access to the bridleway or byway. The proposal would conflict with policy DM15 of the Development Management Plan."

Main Considerations

Principle of Development

7. The application property lies within the Metropolitan Green Belt where restrictive policies apply. In accordance with policies GB1 and GB2 of the Core Strategy, DM15 of the Development Management Plan and section 13 (Protecting Green Belt Land) of the NPPF it is imperative to establish if the proposal is inappropriate development in the Green Belt and whether there are any other considerations sufficient to clearly outweigh the harm caused by the development in this Green Belt location. Additionally, it is important to consider the impact on the character and appearance of the surrounding area, neighbouring occupiers and highway safety in accordance with policies CP1 of the Core Strategy and DM1 of the Development Management Plan.
8. Paragraph 145 of the NPPF indicates that, other than in connection with a small number of exceptions, the construction of new buildings should be regarded as inappropriate within the Green Belt. One exception to this is provision of appropriate facilities for outdoor sport or outdoor recreation

provided that it preserves the openness of the Green Belt and does not conflict with the purposes of including land within it.

9. Policy GB1 of the Core Strategy refers to protecting allocated Green Belt whilst GB2 of that strategy refers to rural diversification and recreational uses which includes promoting outdoor recreation and leisure activities in the Green Belt.
10. Considering these requirements, the use of the land for the keeping of horses together with the provision of stables would not be considered as inappropriate development. In this regard it would fall within the provision for outdoor recreation outlined in the NPPF and the Core Strategy and therefore, the principle of development is considered acceptable.

Openness of the Green Belt

11. Paragraph 133 of the NPPF advises that one of the essential characteristics of a Green Belt is its openness. This is a matter of physical presence rather than the visual qualities of the proposal. Policy GB2 of the Core Strategy and DM15 of the Development Management Plan identify that new development should not harm the openness of the Green Belt.
12. An area of hardstanding is proposed to the entrance of the field and would lead to the timber stable block which would be small scale and set back into the site along the eastern boundary. Natural vegetation exists along the eastern boundary and would provide an element of screening. The materials proposed assimilates into its surrounding rural setting. Additionally, the roof form of the building be modest, and the physical form of the building would not appear out of place in terms of its appearance. A stable is a common structure to house horses and by virtue of its siting, scale and use of materials would limit any impact the stables may have upon the openness.
13. Nevertheless, because openness is the result of absence of built development. The building would inevitably reduce and harm the openness of the Green Belt to a degree by reason of its siting on land which is currently free from buildings. However, when viewing the site in its context and taking into account its position amongst a row of fields that already accommodates horses and small-scale stables, it is considered that it would have a moderate harmful impact on the openness of the Green Belt.

Provision of land for the care of horses

14. Policy DM15 sets out a maximum number of stables per hectare. The reason given for this is the need to have regard to the requirements for grazing land for horses set out by the British Horse Society. In particular, the policy recommends 0.4 hectares of grazing land per horse. The standard also assists the planning process in securing the openness of an essential land area required for the stable and built form.

15. There is one horse and two ponies currently kept on the 0.31ha of land. The applicant has provided a supporting statement to demonstrate that the proposal and size of the land is adequate. The British Horse Society webpage (<https://www.bhs.org.uk/advice-and-information/horse-care/pasture-management>) relating to pasture management and Department for Environment Food and Rural Affairs - Code of practice for the welfare of Horses, Ponies, Donkeys and their hybrids has been referred to. In particular, paragraph 1.2 has been applied to their reasoning which states "as a general rule, each horse requires approximately 0.5 - 1 ha of grazing of a suitable quality if no supplementary feeding is being provided...a smaller area may be adequate where a horse is principally housed and grazing areas are used only for occasional turnout."
16. Currently, the applicant resides at no.10 Disraeli Road where a stable is situated to the rear of the main dwellinghouse. The applicant has confirmed that the horse and ponies are fed everyday in the stables then turned out for grazing on land opposite.
17. It is important to consider the most recent planning history for no.10 Disraeli Road. In 2018 a planning application (18/00576/FUL) was approved for the sub-division of the plot and use the existing stable block as a 3-bed dwelling; this proposal accorded with the Councils policy relating to the conversion of existing rural buildings. This included alterations to the fenestration and roof and an extension to the north elevation.
18. The comments received in response to neighbour notification and publication of the proposal have been considered and whilst it is the case that the proposed stables would only be required following the residential conversion of the existing stables, there is no policy requirement that would prevent an application for a new stable block on this basis.
19. The proposed location of the new stable block, close to No. 10 Disraeli Road is logical, close to the owner's home. Statements have been provided by owners of land to the east and west of the application who confirm that the applicant uses their land for grazing. This arrangement appears to be formal. Both these sites have been measured and together these sites total 0.9ha.
20. It is considered, the application site which measure 0.31ha together with the areas of land formally agreed to be used for grazing is adequate for the proper care of animals even if reliant on grazing land elsewhere.
21. The nearest bridleway and byway are situated over 1000m to the east of the application site. Horses and their riders are allowed to travel along the main highway and country lanes. The free flow of traffic on roads in the immediate vicinity is relatively low. Towards the end of Disraeli Road is a no through road but allows access to pedestrians and horse riders to travel towards Rawreth-Hall Woods in the northernly direction. Although the application site is situated some distance from the existing bridleway or byway, it is not considered that a conflict would be caused between equestrians and highway safety when

travelling along residential roads to gain access to the bridleway or byway. The proposal would accord with policy DM15 of the Development Management Plan.

Impact on Residential Amenity

22. The proposed stable block is single storey measuring 3.5m in height situated along the eastern boundary of the site well away from the residential dwellings to the south. Given the scale, bulk, height and use of the proposed stable building, it is not considered to have a detrimental impact upon the surrounding neighbouring properties in terms of overlooking or have an overbearing impact.

Highways and Parking

23. The site currently benefits from an existing vehicular access off Disraeli Road which the proposal will utilise. The stables will be used for the applicants own personal use therefore not generating more traffic than what currently accesses the site. No objections are raised on highways grounds.

Representations:

24. RAYLEIGH TOWN COUNCIL - No objections
25. NEIGHBOUR RESPONSES - Letters have been received from the following addresses: -
26. No. 2 Disraeli Road -
27. This planning request is linked to planning ref 19/00736/FUL where existing stables are to be removed to make way for an additional garden area. There has been a history of attempted requests to build residential properties on this land, the latest planning application ref 16/00570/FUL was turned down as was the subsequent appeal. Therefore, an established precedent has been set that no residential property will be built on this land.
28. My concern is that the planning consent given in ref 18/00576/FUL now opens the way to effectively build residential property on green belt land, by allowing the initial build of a permanent structure (stable block) on a site, with subsequent consent to allow conversion into a residential property. Could I suggest that if consent is given for the stable block, it is conditional, restricting future use to that of a stable block only.
29. The welfare of the horses is a priority and whilst there is a supporting document in the new planning request, the requirements within Policy DM15 are still not being met. As stated by the British Horse Society 0.4 hectares of land is a minimum.
30. No. 3 Disraeli Road -

31. Objects on the grounds that the site is Green belt. This area should not be subjected to any application for any types of builds.
32. No. 5 Disraeli Road -
33. By allowing the build of a permanent structure (stable block) on the site, creates 'a way in' for further development for residential property. If permission is granted it should only be given restricting use of the land to that of a stable block. Discrepancy over land ownership.
34. No. 6 Disraeli Road -
35. Objects for the following reasons: -
36. The land is Green Belt and due to close proximity of woodland which is a safe haven for an assortment of wildlife this should remain so. If permission is granted this would lend leverage for future development of houses opposite, which a great percentage of the residents have fought tirelessly against for many years. Building a stable would reduce the grazing area for the three horses. Although the applicant has supporting letter giving permission for the horses to graze the land this could change at any time, this support is irrelevant to the application. Boundary fences have been moved claiming land the applicant does not own and removing an oak tree. The residents have fought tirelessly to preserve the road. Since moving to the area there has been declined in wildlife.
37. No. 7 Disraeli Road -
38. We are writing to make a formal objection to the proposed application above. Whilst on first sight the application may seem reasonable, we wish to highlight some facts that we feel are very relevant and should be considered as evidence that this application should not be granted.
39. There is a long history of the applicant's intentions to develop the green belt land into large residential buildings. Please see seven previous planning applications listed below and one current application as evidence;

REFERENCE	DATE	OUTCOME
99/00779/OUT	21/12/1999	Outline application for residential development.
09/00592/OUT	13/10/2009	Application to erect 9 detached houses
10/00686/OUT	26/10/2010	Application to erect 9 new build detached houses.
15/00612/OUT	20/08/2015	Application for 2 4 bedroom houses.
16/00570/FUL	17/06/2016	Proposed construction of 2 detached passive houses.

18/00576/FUL 18/06/2018 10 Disraeli Road, Proposed division of subplot change existing stables to 3-bed dwelling

19/00414/FUL May 2019 Previous application to construct a stable block. Rejected

19/00736/FUL August 2019 Current application on land adjacent to Number 10 Disraeli Road to build a bungalow.

40. A precedent has been set by the applicant, showing the true intentions to build a stable block to then apply to convert these into residential dwellings. We strongly feel that this is a back doorway of obtaining such planning permission and makes a mockery of the council's policy to protect the green belt from such urban sprawl.
41. We also feel that if approved it will create a proliferation of similar, or other associated equestrian developments on this and the adjoining land which does not comply with policy DM15 (i) of the Local Development Plan. The adjacent landowners have also made planning applications (as per the above) and therefore have an invested interest in this application.
42. The application does not comply with policy DM15 (ii) as there is not adequate land within the curtilage of the site and does not meet the minimum amount of 0.4 hectares per horse required as per the advice of the British Horse Society Standards.
43. Despite letters from adjoining landowners claiming the applicant has use of their land. The applicant still does not have any legal control over these areas and therefore this agreement can change at any given moment. Also, the area of land is still not sufficient in size to meet the requirements of three horses even after taking into consideration, pasture, turnout and additional feed.
44. The applicant's statement that smaller area may be adequate, where a horse is principally housed, and grazing areas are used only for occasional turnout is not supported as these horses will be permanently turned out on the grazing area.
45. Last year the applicant intentionally extended the boundary to the North of the site, into other landowners. We understand the applicant is not the lawful landowner of all the site highlighted in red. This has been clarified by an objection raised on the previous application 19/00414/FUL by the rightful landowner's daughter.
46. Please, can you tell us, what the purpose of Section 25 of the application form Ownership Certificate and Agricultural Land Section Declaration is for? The Agent/Applicant has signed the declaration claiming to be the lawful landowners of all the site, which is simply not true. Therefore, please explain why the application should be valid? If this is not the case, then we feel land ownership evidence should be provided to prove such. We feel that the

stables size and design will have an impact on the openness of the Green Belt as well as lighting, noise, smell and disturbance to the residents and does not comply with DM15 (vi and vii).

47. We would also like to highlight that Muntjacs and Badgers are living within the woodland area of the North and East of the site and that their habitat is at risk from harm and that their conservation is taken into consideration and protected.
48. Further evidence of the applicant's intentions to create residential sprawl along Disraeli Road is supported by another current application 19/00736/FUL on land adjacent to 10 Disraeli Road to build a new bungalow. This proposes to build on the roadside yet again trying to pan the way for future residential developments within the green belt. Finally, because of the facts and issues raised above, we do not feel this application meets the criteria and therefore should be refused. We urge the Council to see the bigger picture and support one of the last areas in Rayleigh that have such a beautiful open green space with wonderful wildlife for us all to enjoy.
49. No. 8 Disraeli Road -
50. We are writing to you to make a formal objection on the application 19/00414/FUL.
51. I have worked in the building industry most of my working life and this looks to me that it is an attempt to abuse a back door way of gaining planning permission on what has already been turned away so many times over the last 19 years for residential houses on what is green belt ancestral land which is not to be built on. I am extremely concerned that if Mr Spicer gains permission to build what he is calling a stable block he will then gain permission to build residential houses on this beautiful piece of land that not just me and my wife, but all of our neighbours enjoy so much.
52. Following on from this, any development which is permitted should be of a scale, design and siting such that the character of the countryside is not harmed and nature conservation interests are protected as per policy DM15, Mr Spicer has already before building, breached this policy by destroying a woodland area at the bottom of the land in question which doesn't even belong to him, this land had Muntjac deer, badgers, bats and lots more wild life depending on it and now it's gone!
Also he has taken it upon his self to extend the same piece of land at the opposite end where the road is by 9ft onto land he does not own, turning the road from 2 lanes wide to now only one lane wide, how has the council allowed this to happen? Now visitors can't park along the road we live on causing our neighbouring areas to suffer the overflow of cars when us and our neighbours have visitors.

The application does not comply with policy DM15 (ii) as there is not adequate land within the curtilage of the site and does not meet the minimum space

required of 0.4 hectares per horse as per advice of the British Horse Society Standards.

53. So, in summary of the facts above we strongly feel that this application does not meet the criteria and should be refused. If, however the council should find the application successful then I would request that the intended use as a stable is for life and will never be built on or changed into residential houses/bungalows.
54. No. 9 Disraeli Road -
55. I am a neighbour of the applicant and I support the application for a hard-standing stable to be built on his land I feel that it would be in keeping with the area and would not affect the wildlife in any way.
56. The stables would be in full view of my property and not anyone else's, Mr Spicer already has planning agreed to demolish the existing stable block and build a bungalow on it, the ponies have to be stabled and they have been in this field for many years.
57. No. 43 Green Lane -
58. We have been lucky enough to walk our dogs regularly over many recent years along this parcel of land. Mr and Mrs Spicer have always provided our family with the opportunity to interact with the Horses and feed them, giving us all a great deal of pleasure. Our family were born in the area and have known this area for Horses for more than 50 years. Horses form part and parcel of this great area and a safe place to be stabled and grazed must surely continue for the next generation. We do hope the council will continue to support Mr and Mrs Spicer and their horses with this planning application.
- The Stables, Ailey Lane -
59. The clue is about road width is look at the top of the road. The road is the same width all the way. About stealing the road, I have paperwork to confirm I own it
60. No. 101 Rayleigh Avenue -
61. The neighbour evidence would set a precedence if one or other party was to leave/vacate their parcel of land what agreements would be put in place for the new land owner so that they would share the same view of the current land owners by letting their parcel of land or alternatively if they said stable were to be permitted and the current owner sold the land along with the 3 stables would this mean the new land owner would be permitted to have 3 horses with a solid stable accommodation on the single parcel of 0.3ha of land. Land at the north end still being in dispute over ownership.

Officer Comments:

62. A number of comments have been made relating to the applicant moving boundary fences and claiming land not under their ownership. Concerns relating to land ownership are civil matters and thus not determinative in the scope of this application.
63. The proposal would not be inappropriate development in the Green Belt. It would be well sited and of a suitable scale and form. In addition, there would be no adverse neighbour impacts or highway safety issues. There would be some harm to openness. However, considering the case as a whole the proposal would be acceptable.

APPROVE

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
- 2 The development hereby permitted shall be carried out in complete accordance with the following approved plans: 3540-4 rev A 1 of 2, 3540-4 rev A 2 of 2
- 3 The external surfaces of the development hereby approved shall be constructed of materials and finish as detailed in the application, unless otherwise agreed in writing by the local planning authority.

Relevant Development Plan Policies and Proposals:

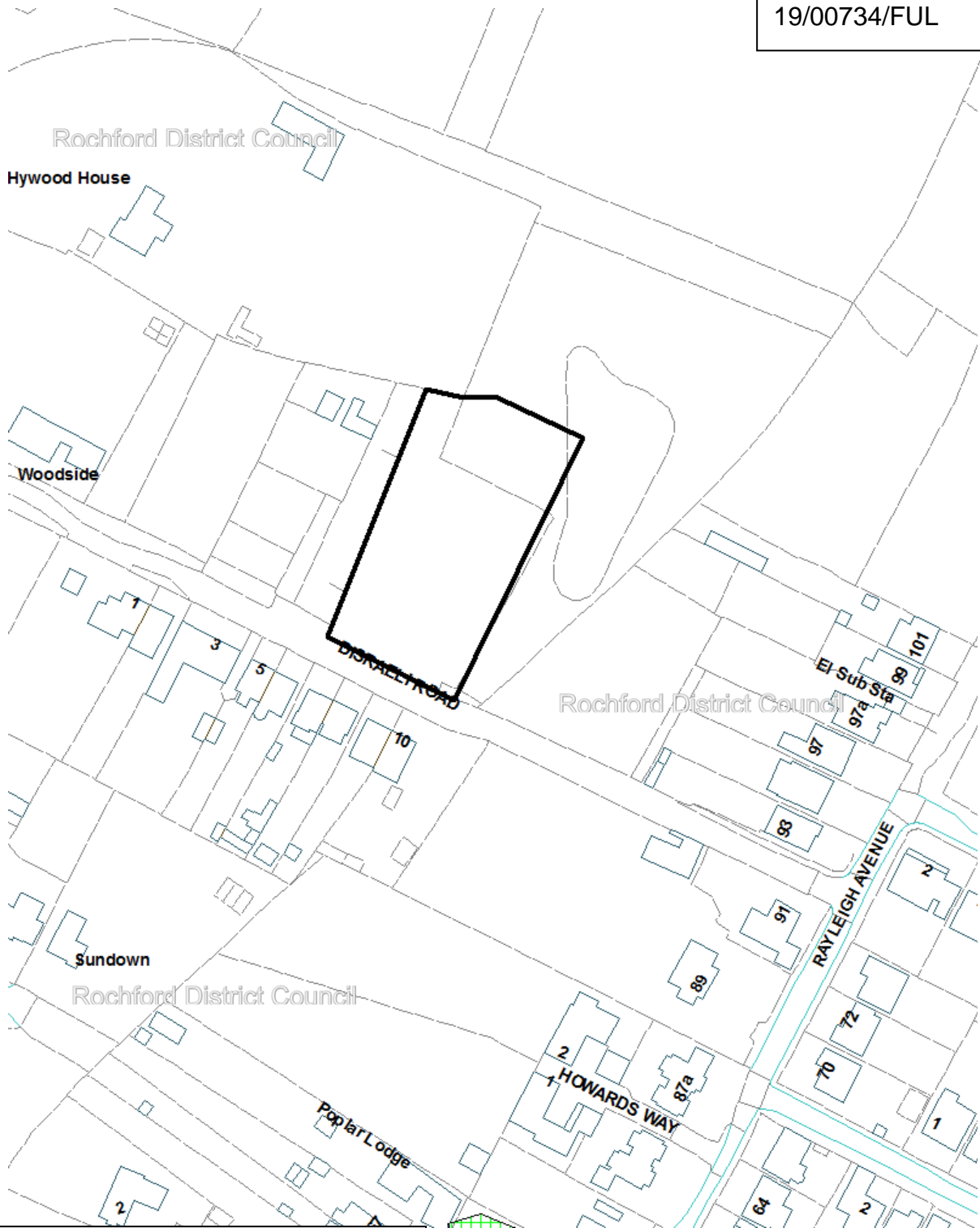
National Planning Policy Framework (NPPF)

Core Strategy - GB1, GB2

Development Management Plan - DM15

The local Ward Member(s) for the above application are Cllr I H Ward
Cllr R Milne Cllr R Lambourne

19/00734/FUL



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1. Additional Condition

- 1.1 This item was presented to Members at the Development Committee of 21 November 2019. Members voted to approve the application, subject to the conditions within the report and the applicant entering into a Section 106 agreement.
- 1.2 The S106 agreement would be such that the building should be used as a stable block and for no other purpose, and that if at any stage in the future this is no longer used as a stable or if the land edged red on the application submission is no longer available for the grazing of horses occupying the stable hereby approved, the stable building must be removed from the site in its entirety, including footings.
- 1.3 Following this decision, no action was taken either by the Council or the applicant to instruct the S106. As a result, the decision was not issued for this application and it is still pending decision.
- 1.4 Officers proceeded to follow this up with the applicant in an attempt to issue a decision. The applicant expressed inconsistency with the determination of applications within the district as no other applications for stables that had been recently granted were subject to this S106 requirement.
- 1.5 Since this application was presented to the Committee in November 2019, a number of applications for stables have been permitted. None of which have been subject to a S106 agreement (ref: 22/00498/FUL – Blounts Farm, Church Road, Hockley. Ref: 22/00344/FUL – Land North of Tudor Lodge, St Johns Drive, Rayleigh. Ref: 21/01295/FUL – Land East of Royston at Track between Lyndhurst Road and Canewdon Road. Ref: 21/00297/FUL – Land Between Hillside Road and New England Wood, Eastwood Rise. Ref: 20/00785/FUL and 20/00359/FUL – Land Rear of Concord Lodge, The Chase, Ashingdon. Ref: 20/00078/FUL – Land at Southern End Stables, Burlington Gardens, Hullbridge. Ref: 19/00887/FUL – Land North of Hambro Close, Hambro Hill, Rayleigh. Ref: 19/00877/FUL – Land East of Little Orchard Cottage, Barling Road, Barling Magna).
- 1.6 However, the applicant has agreed to the implementation of a condition. This is considered reasonable by officers as the condition would still be as enforceable as the S106 agreement were it not complied with. Additionally, it would still relate to the site as the S106 agreement would, meaning that if the applicant did not carry out the works, any owner of that site would have to comply with this condition.

- 1.7 Members are reminded of the National Planning Practice Guidance which states that Planning obligations, in the form of section 106 agreements, should only be used where it is not possible to address unacceptable impacts through a planning condition. It is Officers' view that a condition could be imposed to achieve the requirements that Members had sought through the S106 agreement.
- 1.8 Further, it would enable the Council to enact on their statutory duty to issue the decision with appropriate control over the stable block and reduce the cost that would be incurred to both parties by entering into a legal agreement.
- 1.9 Officers recommend that in addition to the conditions listed within the officer report, that the following condition is also attached to the planning consent were Members minded to approve the application:
- (4) The stable block hereby approved shall be used only as a stable block and for no other purpose. If at any stage in the future this is no longer used as a stable, or if the land edged red on drawing no. 3540-4 Sheet 2 of 2 REV B is no longer available for the grazing of horses occupying the stables hereby approved, the stable building must be removed from the site in its entirety, including footings, within 1 month of the use ceasing (or a timeframe as may be agreed in writing with the local planning authority) and return the land to its former condition including reseeding where necessary.

2. Additional Neighbour Comment

Since publication of the report, an additional comment was received from a neighbour. No address was provided but the comments can be summarised as follows:-

- A S106 agreement should be applied not a condition that can be discharged later
- This should be a new application not brought back to committee
- This case is being given special treatment
- There are concerns of residential development regardless of ownership which is why a S106 is so important
- This does not seem fair or to show transparency

3. Officer Comments

The comments raised by the neighbour above are noted; however, a condition would hold as much weight as a S106 agreement. The condition, as can be read above, is a compliance condition. Meaning that the condition cannot be discharged but rather it has to be complied with.

There is no special treatment with this application and there is no requirement for it to be a new application as it was never determined by way of a decision notice being sent out. The statutory process is being duly followed by presenting the application back to Members at Committee to determine whether the additional condition is acceptable instead of the S106 agreement.

There has been no change to the proposal or the circumstances that the application was made under to warrant a re-consult.

There is no requirement, nor is it usual practice, to consult neighbours on an officer's recommendation. Therefore no member of the public is disadvantaged by the application being returned to the development committee as it is for the decision makers (Members) to determine whether they consider the additional condition in substitution for the S106 acceptable.