



Appeal Decision

Site visit made on 4 February 2020

by **L McKay MA MRTPI**

Inspector appointed by the Secretary of State

Decision date: 4th March 2020.

Appeal Ref: APP/Z3825/W/19/3240255

Menzies Wood Farm, Okehurst Lane, Billingshurst RH14 9HR

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a grant of planning permission subject to conditions.
- The appeal is made by Mr Mark Betts (Universal Trailers) against the decision of Horsham District Council.
- The application Ref DC/18/0661, dated 27 March 2018, was approved on 30 April 2019 and planning permission was granted subject to conditions.
- The development permitted is: Full planning permission for the full enclosure and refurbishment of existing barn and the retention of uses on site falling within use classes B1(c) and B8, including the repair and maintenance of trailers and ancillary equipment; assembly of new trailers, horse boxes (including those with accommodation on board); trailer, motorhome and horsebox conversions; pre sales work and customer collections; and the preparation and loading of trailers and horse boxes for export; and Outline planning application (with approval of access and layout) for demolition of existing workshop, barn and offices and erection of a new barn and workshop building and office building, creation of open storage area.
- The conditions in dispute are Nos 3, 4, 8, 9, 10, 12, 13, 14 and 20 which state that:
 - (3) *No development pertaining to the outline permission hereby approved shall commence until a drainage strategy detailing the proposed means of foul and surface water disposal has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved scheme.*
 - (4) *No development relating to the enclosure of the existing barn building and the erection of the new buildings shall commence until a specific scheme and details for sound attenuation against noise emanating from the buildings hereby approved have been submitted to and approved by the Local Planning Authority. The details shall include a separate acoustic assessment of the effectiveness of the noise control afforded by the building envelopes together with an assessment of the impact that the uses/activities hereby approved would have on the neighbouring properties. The approved sound attenuation works shall be completed before the buildings are occupied and operational. All aspects of the design of the enclosure and refurbishment of the open barn and the new buildings that affect the performance in respect of attenuation of noise from within shall remain in good repair in order to maintain that performance.*
 - (8) *Within six months of the implementation of the outline permission hereby approved, maximum visibility splays shall be provided at the site access onto Okehurst Lane in accordance with a plan to be submitted to and approved by the planning authority. These splays shall thereafter be kept clear of all obstructions to visibility above a height of one metre above the adjoining road level.*
 - (9) *Upon the first occupation of the buildings hereby permitted under the outline element of this planning permission, the existing buildings along the western part of the site as indicated on plan numbers 17267/P100 (labelled 'workshop', 'open barn' and 'offices') and 17267/P101 REV P1 shall cease to be used for any purpose whatsoever and within a period of 3 months thereafter such existing building(s)*

shall be demolished (including the removal of foundations) all materials arising from such demolition removed from the site and the site of the demolished building restored in accordance with details of landscaping which have been submitted to and approved in writing by the Local Planning Authority prior to demolition works commencing.

- (10) Within six months of the date of this permission a plan delineating the areas of outside storage shall have been submitted to and been approved in writing by the Local Planning Authority. All outside storage shall take place in accordance with the approved plan thereafter.*
 - (12) All works and operations hereby approved, except the open storage of trailers, shall take place inside the new buildings and the refurbished/enclosed existing central barn. Inside is defined as in a workshop totally enclosed by walls (including necessary windows and doors) and with all windows and doors closed. For the avoidance of doubt, works are not permitted inside buildings whilst windows or doors or both are open.*
 - (13) No manufacturing activities or processes involving power tools or other powered tools or equipment shall take place within the existing workshop and open barn buildings located to the western side of the site (labelled 'workshop', 'open barn' and 'offices' on plan number 17267/P100) after six months of the date of this decision.*
 - (14) No outside manufacturing activities or processes involving power tools or other powered tools or equipment shall take place at any time.*
 - (20) No Heavy Goods Vehicles (defined as any vehicle having 3 axles or more and with a weight exceeding 3,500kg) shall operate to or from the site at any time*
 - The reasons given for the conditions are:
 - (3) As this matter is fundamental to ensure that the development is properly drained and to comply with Policy 38 of the Horsham District Planning Framework (2015).*
 - (4) As this matter is fundamental in the interests of residential amenities by ensuring an acceptable noise level for the occupants of the development in accordance with Policy 33 of the Horsham District Planning Framework (2015).*
 - (8) In the interests of road safety and in accordance with Policy 40 of the Horsham District Planning Framework (2015).*
 - (9) The retention of existing buildings together with the new buildings would result in the proliferation of buildings on the site, detracting from the character of the area which would be contrary to Policy 33 of the Horsham District Planning Framework (2015).*
 - (10) To ensure that there is no detrimental impact on the amenity of nearby occupiers and in accordance with Policy 33 of the Horsham District Planning Framework (2015).*
 - (12) As this matter is fundamental in order to ensure that there is no detrimental impact on the amenity of nearby occupiers and in accordance with Policy 33 of the Horsham District Planning Framework (2015).*
 - (13) As this matter is fundamental in order to ensure that there is no detrimental impact on the amenity of nearby occupiers and in accordance with Policy 33 of the Horsham District Planning Framework (2015).*
 - (14) To safeguard the tranquillity of the countryside and amenities of neighbouring properties in accordance with Policies 24, 25, 26 & 33 of the Horsham District Planning Framework (2015).*
 - (20) In the interest of highway safety and amenity along Okehurst Lane in accordance with Policies 33 and 40 of the Horsham District Planning Framework.*
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Decision

1. The appeal is allowed and the planning permission Ref DC/18/0661 for full enclosure and refurbishment of existing barn and the retention of uses on site falling within use classes B1(c) and B8, including the repair and maintenance of trailers and ancillary equipment; assembly of new trailers, horse boxes (including those with accommodation on board); trailer, motorhome and horsebox

conversions; pre sales work and customer collections; and the preparation and loading of trailers and horse boxes for export; and Outline planning application (with approval of access and layout) for demolition of existing workshop, barn and offices and erection of a new barn and workshop building and office building, creation of open storage area at Menzies Wood Farm, Okehurst Lane, Billingshurst RH14 9HR granted on 30 April 2019 by Horsham District Council, is varied by deleting condition Nos 2, 3, 4, 8, 9, 10, 12, 13 and 14 and substituting for them the following conditions:

- 1)
 - a) Approval of the details of the appearance and scale of each building and the landscaping of the site (hereinafter called "the reserved matters") shall be obtained from the local planning authority in writing before any development is commenced. Plans and particulars of the reserved matters shall be submitted in writing to the local planning authority and the development shall be carried out as approved.
 - b) Application for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission.
 - c) The development hereby permitted shall begin either before the expiration of 3 years from the date of this permission, or before the expiration of 2 years from the date of approval of the last of the reserved matters to be approved, whichever is the later.
- 2) No development relating to the enclosure of the existing barn building or the erection of either new building hereby approved shall commence until a specific scheme and details for sound attenuation against noise emanating from that building has been submitted to and approved by the Local Planning Authority. The details shall include a separate acoustic assessment of the effectiveness of the noise control afforded by the building envelope together with any operational or acoustic measures proposed and an assessment of the impact that the uses/activities hereby approved would have on the neighbouring properties. The approved sound attenuation works for each building shall be completed before that building is first used for any of the uses hereby approved, other than as offices. Thereafter, each building shall be operated in accordance with the approved scheme and all aspects of the design of the building that affects the performance in respect of attenuation of noise from within shall be maintained in good repair in order to maintain its effectiveness.
- 3) Within a period of 7 calendar days of the first use of any of the buildings hereby permitted, labelled on drawing 17267/P101 Rev. P1 as New Barn/Workshop and New Office Unit, the existing buildings shown on the same drawing as 'workshop removed', 'barn removed' and 'offices removed' shall cease to be used for any purpose whatsoever; and within a period of 3 calendar months thereafter, all of the specified existing buildings shall be demolished (including the removal of foundations) and all materials arising from such demolition shall be removed from the site.
- 4) All planting, seeding or turfing comprised in the landscaping details approved in relation to the landscaping reserved matter shall be carried out in the first planting and seeding seasons following the demolition of the existing buildings shown to be removed on drawing 17267/P101 Rev. P1; and any trees or plants which die, are removed or become seriously damaged or diseased within a period of 5 years from the completion of the planting shall be replaced in the next planting season with others of similar size and species.

- 5) No raw materials, finished or unfinished products or parts, crates, packing materials or waste shall be stacked or stored on the site at any time other than within the areas marked 'Secure Storage Yard' and 'Storage/Maintenance Yard' on drawing 17267/P101 Rev. P1.
- 6) Notwithstanding the annotations on the approved plans, no activities or processes (including but not limited to manufacturing, fabrication, assembly, conversion, use of power tools or other powered tools or equipment) other than open storage and the servicing and maintenance of horticultural/estate machinery, shall take place anywhere other than inside the new buildings or the refurbished/enclosed barn hereby approved. Inside is defined as in a workshop totally enclosed by walls (including necessary windows and doors) and with all windows and doors closed. For the avoidance of doubt, such activities and processes are not permitted inside buildings whilst windows or doors or both are open.

Background and Procedural Matters

2. The description in the header above is taken from the Council's decision notice, albeit that I have removed reference to elements that are not development. The application was originally made in outline for uses falling within Use Classes B1c), B2 and B8, however during the application process it was amended to seek full planning permission for alterations to an existing building, to regularise some existing operations on the site, and outline permission for new development, for Use Classes B1c) and B8 only. The Council updated the description of development accordingly. Its description more accurately describes what is now proposed than the description given on the application form and I have therefore determined the appeal on that basis.
3. For the part of the proposal made in outline, only access and layout are sought for consideration, with appearance, landscaping and scale reserved for future consideration.
4. There is an existing planning permission¹ for use of the appeal site for servicing, maintenance and storage of trailers and horticultural/estate machinery. That permission was granted subject to conditions: condition 6 limits use of the development to Universal Trailers Ltd and by no other company; condition 10 limits the use of the site to the servicing, maintenance and storage of trailers and horticultural/estate machinery only and for no other purpose. The evidence before me is that some of the conditions on that permission have been breached and other activities have been taking place on the site, including use of part of the site by another company. The proposal subject of this appeal seeks to regularise some aspects of these unauthorised uses.
5. The appellant asserts that the disputed conditions are not necessary, reasonable and, in some cases, enforceable, relevant to planning or to the development permitted, having regard to what is allowed by the existing permission. They therefore seek removal of those conditions. Notwithstanding references to condition 15 in the appellant's statement of case, the appellant has confirmed that the appeal relates to condition 20, not 15. The Council and third parties have commented on condition 20 and I have considered the appeal on that basis.

Main Issue

6. The main issue is whether the disputed conditions are necessary, reasonable, enforceable, relevant to planning and relevant to the development to be permitted,

¹ Council Ref DC/07/0421

having regard to the effects of the development on: flood risk; pollution; the living conditions of neighbouring occupiers in respect of noise and disturbance; highway safety; and the character and appearance of the area.

Reasons

7. Although the principle of some commercial uses on the site has been established by the previous permission, the appellant is not seeking a personal permission to Universal Trailers. Condition 11 of this planning permission, which is not in dispute, limits the use of the site to uses within Use Classes B1c) and B8 only. The site could therefore be used by any party for any purpose falling within these Use Classes, subject to no material change of use occurring as a consequence. I have had regard to this possibility where relevant in the reasoning below.

Condition 3

8. The existing site is mostly covered in hardstanding, predominantly compacted gravel and similar material, or cracked concrete. A landscaped bund runs around most of the site boundary. According to the submitted details, the existing relatively permeable surface would be maintained and repaired under the proposal, with part removed for planting along the boundary with neighbouring properties. As the proposed new buildings would be only around 9 sqm larger in surface area than those they are to replace, there would be no significant increase in impermeable surfacing. Consequently, the proposal would not result in a significant increase in surface water compared to the existing situation.
9. Third parties indicate that the site is within an area at risk of surface water flooding and that Okehurst Lane experiences issues at times of heavy rainfall. There is however no substantive evidence before me that the site floods or contributes to surface water flooding elsewhere. Consequently, as it has not been demonstrated that the proposed development would result in additional surface water or greater impacts on flood risk than the existing situation, no additional surface water drainage provision has been demonstrated to be necessary.
10. No new foul drainage provision is proposed in the application and the appellant seeks to rely on the existing, unspecified provision. The appellant states however, that the proposal would not result in an increase in employees on the site. Consequently, there is no substantive evidence that the proposal would require further foul drainage capacity or additional provision than the current operation.
11. Should the appellant subsequently seek approval for new impermeable surfacing as part of the landscaping scheme at reserved matters stage, it would be open for the Council to consider whether further surface water drainage provision was required as a result. If a new septic tank, package treatment plant or other such facility were to be required, it would potentially require planning permission. It would also have to comply with the permitting regime of the Environment Agency, both of which would ensure that any new provision would not result in pollution.
12. I therefore conclude that condition 3 is not reasonable or necessary in the interests of flood risk or pollution and that the development without the condition would comply with Policies 24 and 38 of the Horsham District Planning Framework 2015 (HDPF).

Conditions 4, 12 and 14

13. The conditions on the existing permission for the appeal site restrict the development to servicing, maintenance and storage of trailers and horticultural/estate machinery only and prevent servicing or maintenance of

trailers in outside areas. Therefore, only storage and servicing or maintenance of horticultural/estate machinery can take place in outside areas under that permission. While I note that a noise abatement notice was served on the site, it is unclear from the evidence before me whether the noise nuisance arose from the lawful use of the site or from unauthorised activities.

14. Nonetheless, a personal permission for the appellant is not being sought and the proposal now includes assembly of new trailers, horseboxes and conversions, which go beyond what has previously been permitted on the site. The nature of such work would, in my experience, include elements of fabrication and other activities including welding and paint spraying. These activities would therefore be likely to use a wider range of equipment, including power tools, than for servicing and maintenance of trailers and machinery. The proposal also includes Class B8 uses which could generate noise and disturbance from ancillary activities such as repair, servicing and maintenance of vehicles and equipment. Consequently, it is likely that the proposed activities would generate more noise and disturbance than those allowed by the existing permission. Unrestricted, this would be likely to result in unacceptable harm to the living conditions of neighbouring occupiers and the tranquillity of the countryside, in conflict with HDPF Policies 24, 26 and 33.
15. In the absence of a noise assessment, it has not been demonstrated that simply moving the main workshop further away from neighbours than the existing buildings would be sufficient to mitigate the noise impacts of the proposal. Although landscaping is proposed along the boundary with the nearest neighbours, there is no indication that this would include any specific acoustic measures, so it cannot be relied upon to provide any significant sound attenuation.
16. I therefore conclude that it would be necessary and reasonable to limit those activities that can take place outside to those that are already permitted, with all other activities taking place within the buildings proposed. The requirements of conditions 12 and 14 can however be amalgamated and I have therefore varied the wording accordingly. A condition requiring a scheme of sound attenuation for the buildings is also necessary to mitigate noise emissions from inside activities. The scheme could include administrative and operational measures as well as physical provision and as such would be a reasonable and proportionate response to the potential harm arising from the proposal. Such conditions would prevent unacceptable harm to the living conditions of neighbouring occupiers and to the tranquillity of the countryside from noise and disturbance, to comply with HDPF Policies 24, 26 and 33.
17. The development may be undertaken in phases and therefore it would be reasonable to require details and implementation of sound attenuation for each building individually. I have therefore varied the wording of the relevant condition to allow this flexibility. Furthermore, as the demolition element of the permission could be implemented before either the new building is erected or the existing barn enclosed, there is no need for this to be a pre-commencement condition.
18. The Council has cited HDPF Policy 25 in its reason for condition 14. That Policy seeks to protect the natural environment and landscape character against inappropriate development. The potential for noise emissions from the site does not appear to be directly relevant to any of the criteria of that Policy and I note that the Council's committee report only cites it in relation to the visual impacts of the proposal. As such, the condition is not necessary in relation to this Policy, but nevertheless is necessary in its varied form to comply with other policies of the HDPF.

Condition 8

19. The proposal seeks to use the existing access. Although the existing visibility splays are less than those stipulated in the Manual for Streets, that document allows for splays to be adapted in low speed situations such as this. I am mindful of the highway authority's comments that the existing visibility is sufficient for anticipated vehicle speeds.
20. The use of the site in accordance with the existing permission would involve numerous movements of towed vehicles, which are likely to be relatively slow moving. There is no substantive evidence before me that the use of the access by vehicles associated with Universal Trailers has resulted in any accidents. Although additional uses are now proposed, the use of the site would remain within Use Classes B1c) and B8 and there would only be a slight increase in the floorspace of the buildings compared to the existing permission. Consequently, there is unlikely to be a significant increase in the number of vehicles using the access, even if occupied by other users.
21. Accordingly, while it would be desirable to improve the visibility splays, it has not been demonstrated that such works are necessary for the proposed use to operate without unacceptable harm to highway safety. The proposal without the condition would therefore maintain the existing situation and would provide safe and suitable access in accordance with HDPF Policy 40 and the provisions of the National Planning Policy Framework (the Framework).

Condition 9

22. The appeal site is outside of the boundary of any built-up area as defined in the HDPF and as such, in planning policy terms, it is in the countryside. The existing buildings cover a relatively small proportion of the appeal site, with the remainder largely open and undeveloped. Although large parts of the site are used for storage of trailers and horseboxes these are not easily seen from outside the site as they are screened by the existing bund and boundary vegetation. The site does not therefore appear densely developed and does not significantly detract from the rural and relatively undeveloped character of the surrounding area.
23. If the new buildings were erected and the existing buildings were not demolished, there would be a significant increase in built form on the site, detracting from the open character of the site and the rural character of the area. Consequently, it would result in significant harm to the character and appearance of the area. Furthermore, it would allow for a significant intensification in use of the site, with considerable potential for additional noise and disturbance to the detriment of the living conditions of neighbouring occupiers.
24. Although the appellant intends to demolish the existing buildings, in the absence of a planning condition there would be no requirement to do so. Therefore, I conclude that a condition requiring the removal of the existing buildings is necessary to maintain the character and appearance of the area and safeguard the living conditions of neighbours in accordance with HDPF Policies 25, 26 and 33. I have however amended the way in which the buildings are identified in the condition in order to avoid confusion over which of the two buildings labelled 'open barn' is required to be demolished.
25. The appellant has not sought to make a case that the time periods given to cease the use and for subsequent demolition are unreasonable or unduly onerous. As drafted however, the trigger to cease use of the existing buildings is open to interpretation and therefore the condition is imprecise. As both the workshop and office are proposed to be moved, there may be some overlap where part of the

existing buildings are still in use at the same time as one of the new buildings. There is however a need to limit the period during which both sets of buildings could be in operation, having regard to the potential impact on neighbouring occupiers. Accordingly, I have varied the condition to allow 7 days to complete this move, which is a precise and enforceable period which strikes a reasonable balance between the needs of the existing business and the neighbours.

26. The period of 3 months for demolition of the existing buildings appears to be reasonable, given their size and construction. It would not however be reasonable to require all landscaping to be completed within the same period, as the 3-month period may not cover an appropriate season for planting. It is nevertheless important that all landscaping approved at reserved matters stage is implemented, in order to ensure that the proposal respects the rural character of the area in accordance with HDPF Policies 25, 26 and 33. Therefore, I conclude that a condition to require implementation of any soft landscaping approved at reserved matters stage within the first planting season following demolition of the buildings would be both necessary and reasonable. In addition, a requirement to replace any planting that fails within the first 5 years is necessary to ensure that the landscaping establishes and is effective.

Condition 10

27. Given the proximity of the site to residential properties, it is necessary to ensure that storage areas are located away from sensitive areas due to the potential impact of noise and disturbance associated with manoeuvring of vehicles and loading/unloading of materials, waste and other items. I note that the existing planning permission includes such a condition, limiting the areas of the site that can be used for outside storage.
28. Two outside storage areas are outlined on the approved plans, both of which are sited away from residential dwellings and garden areas. I therefore conclude that it is necessary and reasonable to limit storage to those areas, to safeguard the living conditions of neighbouring occupiers in accordance with HDPF Policy 33. However, as these areas are clearly defined there is no need for any further information to be submitted. I have therefore varied the wording of the condition to limit outside storage to these areas, commensurate with that on the existing permission.

Condition 13

29. The existing buildings can be used for the purposes allowed by the existing permission, subject to the limitations of the conditions thereon. Other legislation exists to address issues of noise nuisance, as evidenced by the serving of a noise abatement notice on the site. It would not therefore be reasonable to use a condition on any new permission to require such lawful activities to cease. Nor would it be reasonable to use this proposal to seek to rectify any perceived limitations on the effectiveness of the conditions on the existing permission.
30. For the reasons set out above, limiting the additional activities now proposed to the new buildings or enclosed barn would satisfactorily mitigate their impacts and would not allow those activities to take place within the existing buildings, other than the barn proposed to be enclosed. If such activities are already taking place without planning permission, it would be open to the Council to consider taking enforcement action and to specify a period by which those activities should cease. It would not therefore be appropriate to seek to address the impacts of unauthorised uses on the site by a condition on this permission. Therefore, while condition 13 is enforceable, it is not necessary or reasonable in order to prevent

unacceptable harm to the living conditions of neighbours from this proposal. Without this condition, but with those amended conditions set out above, the proposal would accord with to HDPF Policy 33.

Condition 20

31. The term Heavy Goods Vehicle (HGV) covers a range of vehicle sizes, lengths and numbers of axles. The condition imposed by the Council limits only those HGVs defined as having 3 or more axles and a weight over 3500kg from using the site, in other words large multi-axle HGVs.
32. Okehurst Lane is a narrow lane which serves approximately 19 residential properties, the appeal site and several equestrian yards. There are few passing places available along the lane and large vehicles are likely to overrun verges or have to reverse some distance to pass other vehicles. Such manoeuvres would result in hazards to highway safety due to the limited visibility around corners on the lane and the likelihood of bringing debris onto the carriageway. Moreover, the lane connects the various equestrian yards to bridleways in the area and as such is likely to be well used by horse riders, who are at particular risk of injury should their horses spook at large or manoeuvring vehicles.
33. The existing permission for the site does not include any restriction on the types of vehicle accessing the site. However, given the restricted uses permitted, there is limited likelihood of large HGVs needing to access the site. Indeed, the appellant's evidence is that HGVs are not an operational requirement. I note that the highway authority's concerns about the use of the site by larger HGV vehicles were only withdrawn when the appellant confirmed that the proposal would not increase traffic volume or vehicle types using the site. However, this does not take into account the fact that permission is not sought for Universal Trailers alone. Other future occupiers, particularly for Class B8 uses, could very well generate large HGV movements.
34. I recognise that the existing use of the site and the various equestrian yards must already generate movements by trailers and horseboxes along the lane, including larger horseboxes which may be classed as small HGVs. However, given the nature of the lane, an increase in large HGVs entering and exiting the site and using the lane would have an unacceptable impact on highway safety. Condition 20 is therefore necessary to restrict such use in order to achieve safe and suitable access for all users and minimise conflict between vehicles and other road users as required by HDPF Policy 40 and Framework paragraphs 108 and 110.
35. The condition as drafted would still allow smaller HGVs, including some types of horsebox conversion, to access the site and therefore would not prevent the appellant carrying out the activities for which permission is sought. Consequently, condition 20 is also reasonable, relevant to planning and relevant to the development to be permitted.
36. The Council's reason for the condition also cites HDPF Policy 33 in relation to amenity along the lane. Given the types of traffic that already use the lane and the existing use of the site however, there is no substantive evidence before me that large HGVs would result in unacceptable harm to the living conditions of nearby residents. As such, I find that the condition is not necessary in relation to HDPF Policy 33.

Other Matters

37. Condition 2 on the permission is a standard condition setting out those matters that are reserved for future consideration, the time limits for submission of

reserved matters and implementation of the proposed development. As drafted however, it identifies access and layout as reserved matters. It is evident from the application form and appeal submissions that these matters are sought for determination now. The Council has confirmed that this is how it considered the proposal. I have seen no correspondence to indicate that these matters were removed from consideration. The wording of this condition therefore appears to be an error. In these circumstances, I do not consider that any party would be prejudiced by my varying the wording to delete layout and access from the reserved matters.

38. I have been directed by third parties to several Grade II listed buildings in the area around Okehurst Lane. The Framework directs that great weight should be given to the conservation of heritage assets and that any harm to, or loss of, the significance of a designated heritage asset, including from development within its setting, should require clear and convincing justification.
39. Minstrels Wood (listed as Wynstrode Farmhouse) and Copped Hall are both approximately 300 metres from the appeal site. Both are dwellings set in large plots with clearly defined boundaries. There is very little intervisibility between either listed building and the site due to intervening buildings and vegetation. As such, the site has a negligible impact on how the listed buildings are experienced. Furthermore, there is no evidence before me of any historic connection between the sites. As such, there is no substantive evidence that the appeal site contributes to the setting, and thereby the significance, of these listed buildings. Subject to the conditions on the permission, as varied by this decision, the nature of the activities and the limited increase in built form on site would not have a significant adverse effect on the character or appearance of the area. Accordingly, the proposal would not harm the setting, and thereby significance, of Minstrels Wood or Copped Hall.
40. The other listed buildings mentioned are a considerable distance from the site and there is no substantive evidence before me that the wider countryside including the appeal site forms part of their setting or contributes to their significance. Therefore, the proposal would preserve the setting of all of the nearby listed buildings and would not adversely affect any features of special architectural or historic interest which they possess.
41. I note the concerns of third parties regarding compliance with conditions, however breaches of previous conditions and the Council's enforcement of such are not matters before me. I have considered whether each condition is enforceable and have varied the wording where necessary to ensure this.
42. I have had regard to all other matters raised by third parties. Conditions preventing retail sales and limiting hours of use are not disputed by the parties, and so remain in place. Various conditions, including some of those set out above, seek to safeguard the living conditions of neighbouring occupiers and would prevent interference with their human rights to the peaceful enjoyment of their possessions and respect for private and family life and home, under Articles 1 and 8 of the Human Rights Act 1998. The existing buildings are not of a type suitable for bats and if nesting birds are present, their demolition would have to take place outside of the nesting season to ensure compliance with wildlife legislation, so a condition to secure this is not necessary. Potential for contamination is addressed by condition 18 of the permission.
43. Concerns have also been raised about odour from the appeal site, including through paint spraying. Such activities are regulated through permitting regimes and it is not the purpose of the Planning system to duplicate controls under other

legislation. As such, it is not necessary to impose a condition to control such activities beyond those already discussed.

Conclusion

44. On the basis of the evidence before me, for the reasons set out above I have found that condition 3 is not necessary or reasonable to prevent flood risk and pollution. Condition 8 is not necessary in order to provide safe and suitable access and condition 13 is not necessary or reasonable given the limitations imposed by other conditions on the permission. With variations to the wording of some as set out above, the other disputed conditions are necessary and reasonable to conserve the character and appearance of the area and avoid unacceptable harm to highway safety and to the living conditions of neighbouring occupiers in respect of noise and disturbance. They are also enforceable, relevant to planning and to the development to be permitted. Furthermore, for condition 2 to be precise and relevant to the development, it is necessary to correct the wording to reflect the proposal before me.
45. For the reasons given above I conclude that the appeal should therefore succeed on these terms only. As a result, I will vary the planning permission by deleting the disputed conditions and substituting others.

L McKay

INSPECTOR