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Application No: 20/1596/FH

Location of Site: Manor Barn, Teddars Leas Road Etchinghill CT18 8AE

Development: Retrospective application for the existing dwelling as constructed; variation of condition 2 of planning permission Y12/0442/SH for external alterations to stable block and machine/hay store building, conversion of part of the ground floor and loft space of the machine/hay store building to pool and gymnasium, use of loft space over detached stable block as tack rooms and horse feed storage; and installation of lamp standards.

Applicant: Mr. W Collins
Manor Barn
Teddars Leas Road
Etchinghill

Agent: Mr. J Dolan
James Dolan Architect
4 Upper Sheridan Road
Belvedere DA17 5AP

Officer Contact: Lisette Patching

SUMMARY

The application seeks retrospective planning permission to retain the existing dwelling, machine store/pool building and stables at the site. Planning permission has previously been granted for a dwelling on the site that incorporated integrated stables. Planning permission was subsequently granted for a separate stable building and a machine/hay storage building. None of these have been built in accordance with the previously approved plans. The principle of a dwelling and of three buildings of similar size, design and use to those that have been constructed has however already been established. It is not considered that there is sufficient additional harm arising from the development as constructed when compared to what has previously granted planning permission to justify refusing planning permission.

RECOMMENDATION:

That planning permission be granted subject to the conditions set out at the end of the report and that delegated authority be given to the Chief Planning Officer to agree and finalise the wording of the conditions and add any other conditions that he considers necessary.

1. INTRODUCTION

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- 1.1. The application is reported to Committee because the parish council has objected to the application.

2. SITE AND SURROUNDINGS

- 2.1. The application site comprises a detached two storey dwelling and 3 outbuildings on the southern side of Teddars Leas Road, between Etchinghill and Paddlesworth. The outbuildings comprise an indoor riding arena, a U shaped stable block with accommodation above and a garage/store building also containing a swimming pool and accommodation above, including a gym area.
- 2.2. To the west and immediately adjoining the site is a dwelling called Rivendell which was originally in the same ownership as the application site. The land has been subdivided through land sale and now forms two separate parcels of land in separate ownership.
- 2.3. Apart from Rivendell and its curtilage the site is surrounded by countryside, with the nearest other built development being a farmyard and two dwellings approximately 0.14 km to the east. The application site has mature trees along the boundaries with a large hard surfaced parking and turning area to the front of the dwelling and stable block. The trees around the boundaries are protected by Tree Preservation Order No. 5 of 1999.
- 2.4. An extract from the 2018 aerial photograph at Figure 1 below shows the application site on the right and the neighbouring dwelling on the left. The indoor riding arena is the large grey roofed building on the right and the stable block is in front of that. The dwelling is the larger of the two brown roofed buildings to the left of the riding arena and the building containing the store/gym/pool is in front of the dwelling. Rivendell is the grey roofed building to the left of the boundary hedge.

Figure 1 – 2018 aerial photograph of site



Figure 1 – 2018 aerial photograph of site

- 2.5. The application site is located within the North Downs Area of Outstanding Natural Beauty and Special Landscape Area outside of any settlement boundary. The Folkestone to Etchingill Escarpment Site of Special Scientific Interest (SSSI) and Special Area of Conservation (SAC) adjoins the rear boundary of Rivendell. The application site contains Japanese Knotweed.
- 2.6. The construction of the dwelling has been completed and it is being lived in by the applicant. In terms of the accommodation it appears that it was originally constructed as it is now, rather than being constructed as approved with the stables and then subsequently converted after. The applicant has confirmed this was the case.
- 2.7. The materials are red brick with flint panels and dark stained weatherboarding above, with a brown plain clay tile roof. It comprises 3 floors of accommodation with the upper two floors in the roofspace. The dwelling is a converted barn style design with a double height glazed cart entrance and half hipped roof.
- 2.8. The machinery store is constructed of the same materials and similar barn style design to the dwelling. On the ground floor it contains an elongated oval shaped swimming pool at one end, which the applicant stated was previously used for exercising foals. On the first floor is a kitchenette and gym area with the remainder unfinished.

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2.9. The stable building is U shaped and constructed of the same materials as the other two buildings. The stables contained at least 3 horses at the time of the officer's site visit. The upper floor area was boarded out but unfinished.

2.10. A site location plan is attached to this report as **Appendix 1**.

3. PROPOSAL

3.1 Planning permission has previously been granted for the three buildings the subject of this application but they were not constructed in accordance with the approved plans in terms of the purposes for which they are used or are intended to be used. Also some of the fenestration and elevation details are not in accordance with the approved plan. The details of the changes will be explained below in the Relevant Planning History section in respect of each relevant planning permission. This application essentially seeks to retain the buildings as constructed in terms of appearance and use of accommodation. The application also includes the retention of lighting columns around the site.

3.2 The following reports were submitted by the applicant in support of the proposals:

- Design and Access Statement
- Japanese Knotweed Proposal

3.3 The Design and Access Statement is a brief summary of what is being applied for. The Japanese Knotweed Report contains options for eradicating Japanese Knotweed from the site.

3.4 In terms of the dwelling on the site, the accommodation previously approved was for 5 stables and a tack room on two thirds of the ground floor with self-contained residential accommodation on the remainder of the ground floor and part of the first floor. This is shown at Figure 2 below.

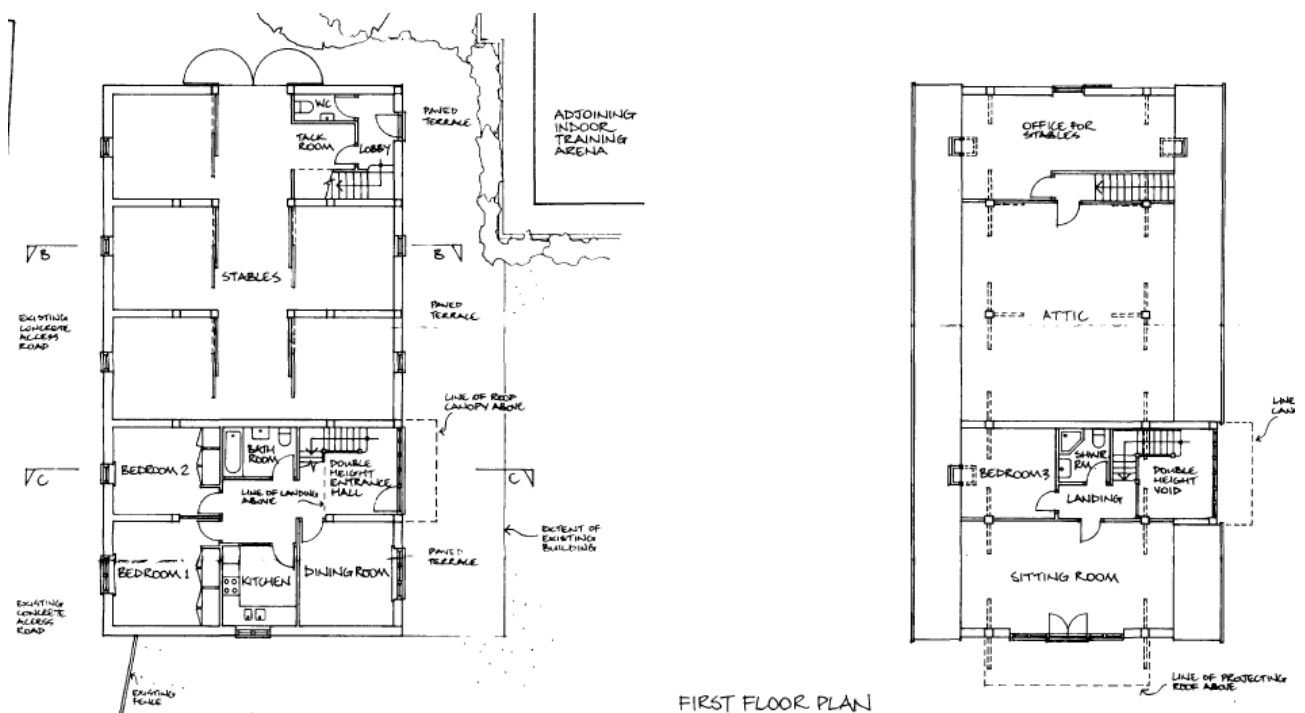


Figure 2 floor plan as approved (Y00/0545/SH & Y12/0337/SH)

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The accommodation as built comprises a living room where the stables would have been, the whole of the first floor is living space and there is a sitting room and bar area in the roof space at second floor level. As originally submitted, the living room was shown as an equine media room but on visiting the property it appears as a large living room. The use of the room was queried with the applicant and he was advised that there is no planning permission for a business use. The applicant stated that no business is operated at the property and that the room is used as a living room. The planning officer requested the plans be amended to reflect this and for the sake of clarity. See **Figure 3** below.

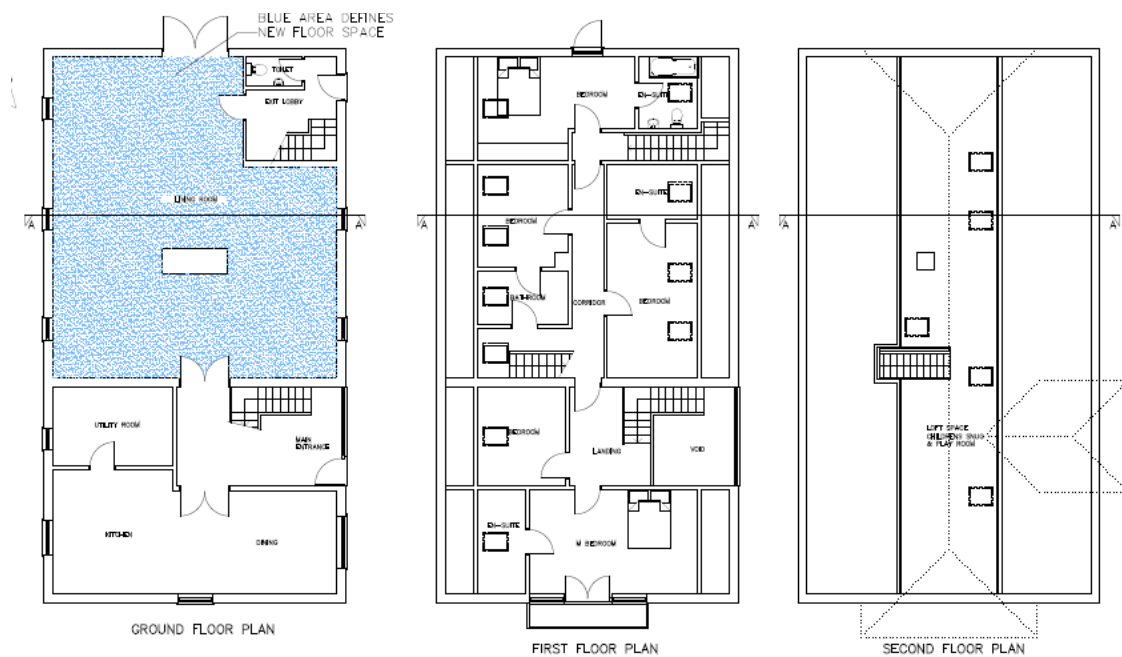


Figure 3 - current floor plans.

3.5 The approved elevations are at **Figure 4** below.

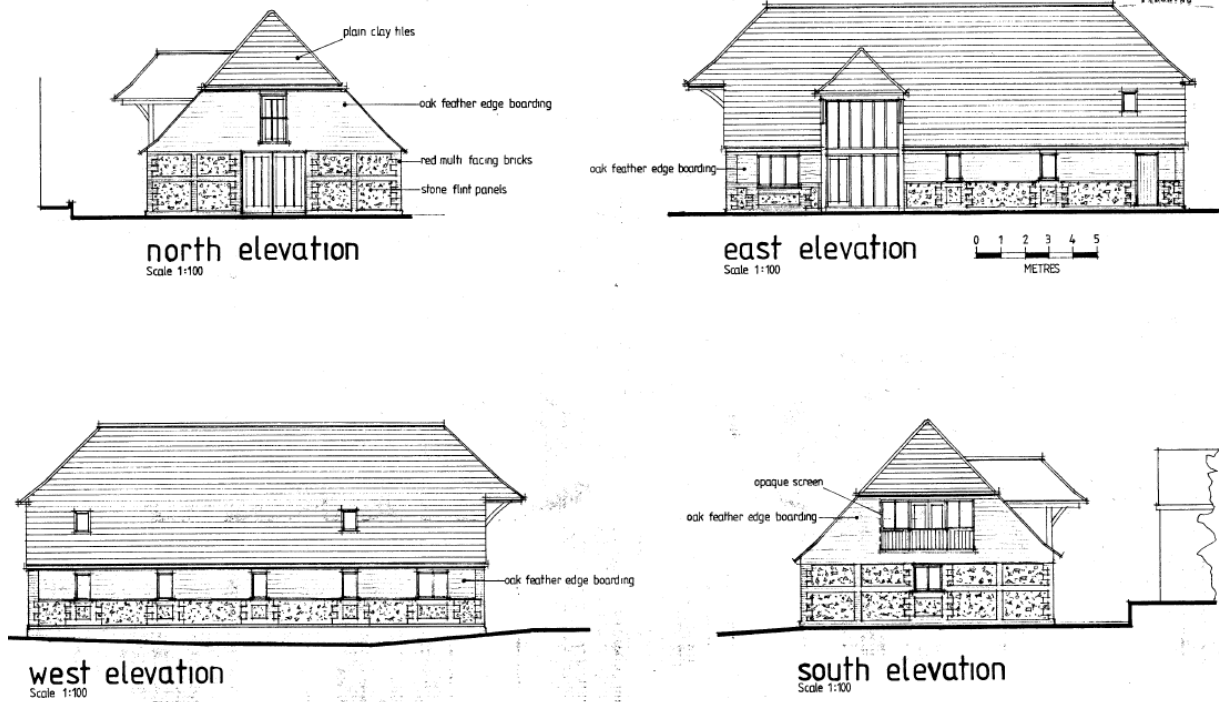


Figure 4 – elevations as approved (Y12/0037/SH)

The elevations as constructed are shown below at **Figure 5**



Figure 5 – elevations as constructed

- 3.6 The materials and design are as approved but it can be seen that there is a significant increase in the number of roof lights in the east and west elevations.
- 3.7 The floor plans and elevations of the hay barn and machinery store as approved are at **Figure 6** below.

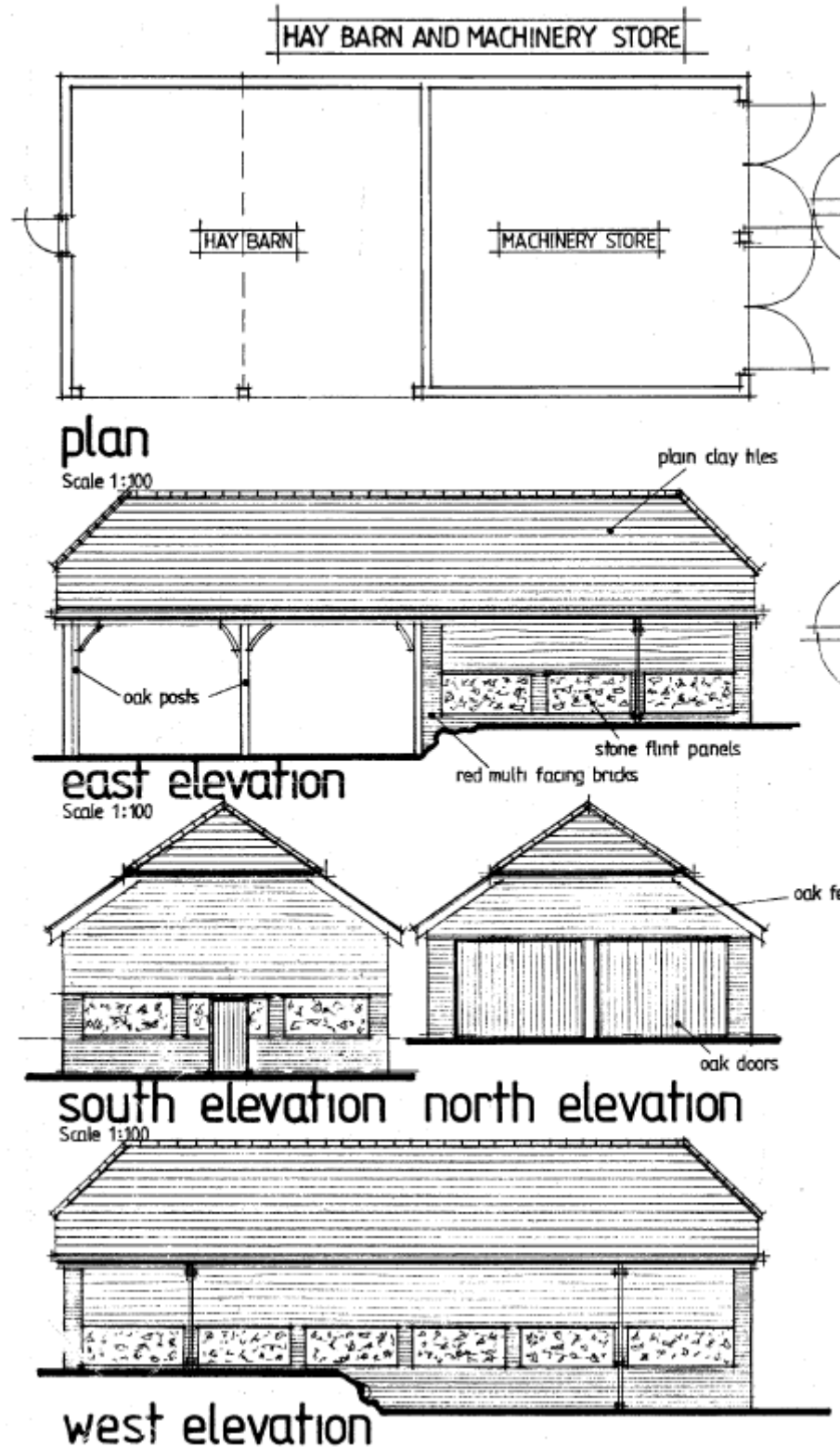


Figure 6 – Hay barn and machinery store as approved

Figure 7 below shows the building as constructed. It can be seen that as approved the building only contained one floor of accommodation. On the ground floor what was the hay barn now contains a pool and sauna area. The upper floor when complete is intended to comprise an office, kitchenette, small gym, shower and bathroom. On the eastern elevation the former open frontage to the hay store is now glazed.

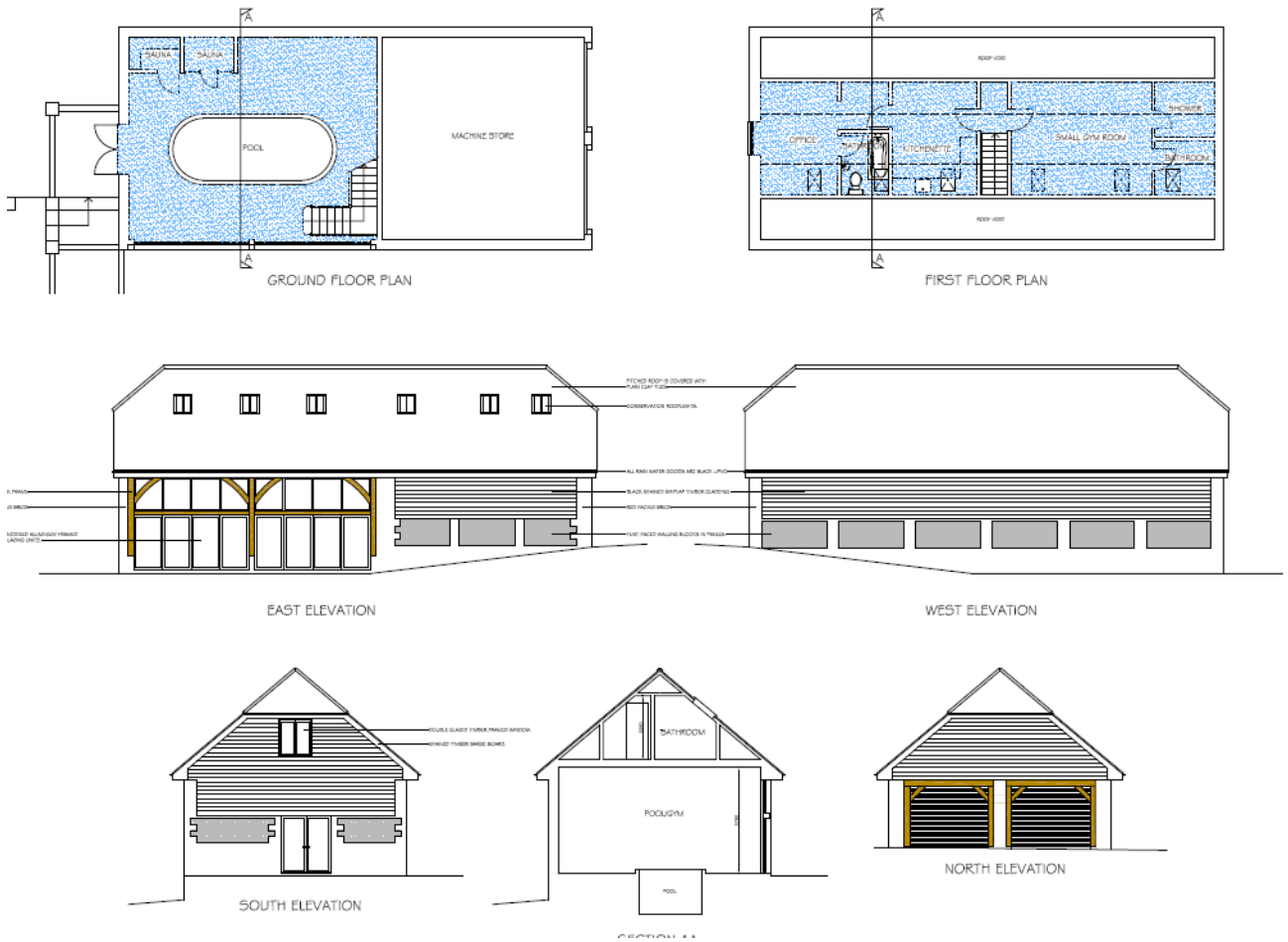


Figure 7 – Machinery store and pool block elevations as constructed.

3.8 The approved plans for the stable block also granted planning permission under Y12/0442 are shown below at **Figure 8**.

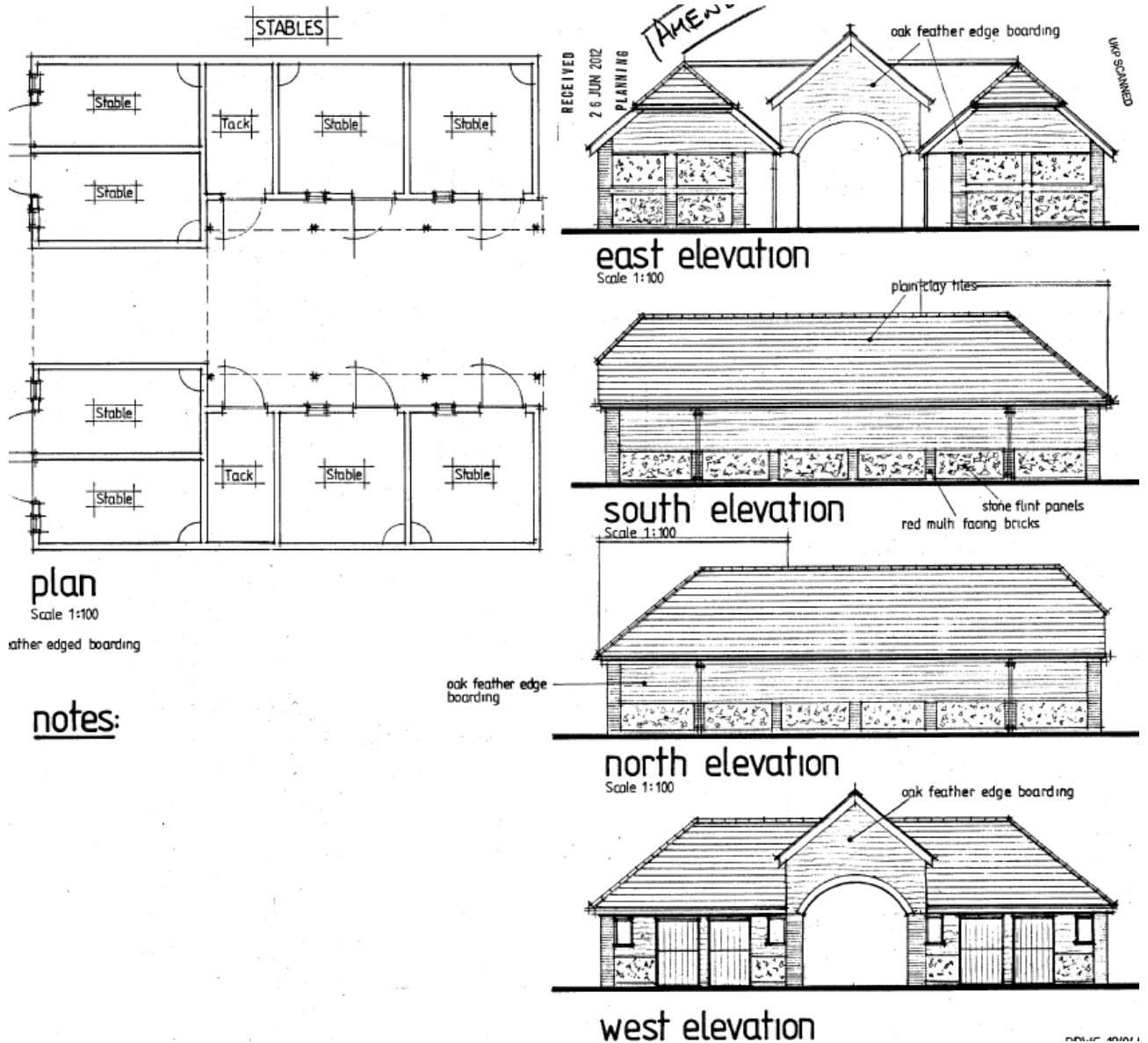


Figure 8 – Stable block as approved Y12/0442/SH

3.9 The plans for the stable block as constructed are below at **Figure 9**. There are 8 stalls as approved and what were shown to be tack rooms now provide access to the upper floor, which was not part of the approved plan. The upper floor is shown to comprise tack rooms and horse feed storage. The upper floor was not finished internally at the time of the planning officer’s visit. The entrance to the stables has also been changed from what was approved, with it now comprising an archway with a taller pitched roof over.

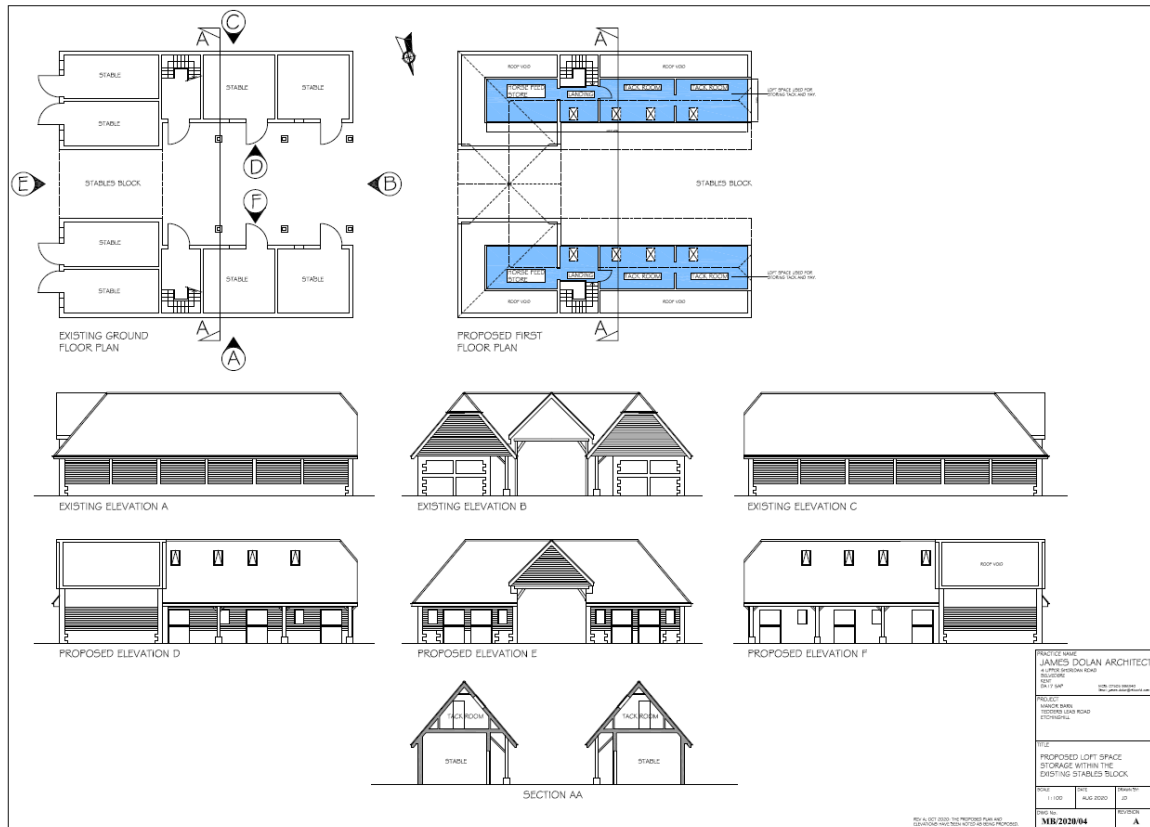
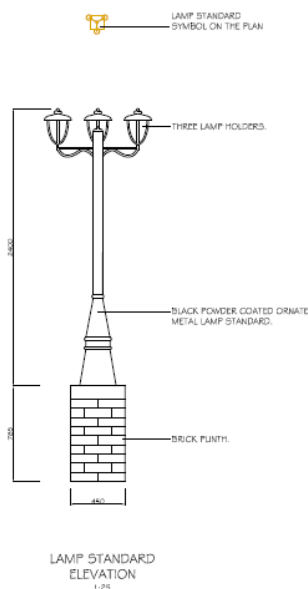


Figure 9 – stable block as constructed.

3.10 The application also includes the retention of the replacement lamp columns and a report for the eradication of Japanese Knotweed on the site. The lap columns are shown at **Figure 10** below.



3.11 Measures for dealing with the Japanese Knotweed were required by condition 4 of the planning permission for the stables and machinery store and are currently the subject of a Breach of Condition Notice. The information submitted as part of this application is insufficient to satisfy the requirements of the condition. Further information has been requested.

4. RELEVANT PLANNING HISTORY

4.1 The relevant planning history for the site is as follows:

SH/86/0107	Erection of building for agricultural storage and training of horses. This was under the same ownership as Greenloaming (now Rivendell)	Approved
SH/87/0469	Erection of stables. This was under the same ownership as Greenloaming (now Rivendell)	Approved
SH/96/0227	Erection of extension over existing stables to provide residential accommodation.	Approved
99/1067/SH	Temporary siting of mobile home	Refused
Y00/0545/SH	Erection of a replacement building with residential and stable accommodation. Condition restricting occupancy of dwelling to person involved with stabling/training horses in the stables	Approved
Y00/0829/SH	Retention of a mobile home for 6 months. Conditions requiring removal by 31.03.01 and restricting occupancy to person involved in stabling/training of horses at Greenloaming.	Approved
Y05/0565/SH	Renewal of planning permission Y00/0545/SH for replacement building for residential & stable accommodation.	Refused
Y08/0920/SH	Variation of condition 2 of SH/86/0107 and condition 2 of SH/87/0469 which restricts use of barn and stables to applicant only.	Approved
Y09/0905/SH	Erection of two storey detached dwelling, garage and stable block	Refused
Y10/0709/SH	Erection of two storey detached dwelling, garage and stable block, following demolition of existing building	Refused
Y11/0223/SH	Erection of a two storey detached dwelling with attached garage and fodder store.	Refused
Y12/0337/SH	Variation of condition 2 of planning permission Y00/0545/SH to change the external materials of the building to brick, flint and weatherboard	Approved

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Y12/0442/SH Erection of a new hay and machinery storage barn and stable block following demolition of existing barn and stables Approved

- 4.2 The buildings on the site in the 1980s and 1990s were used for the training of horses used for top level dressage by the then occupant of Greenloaming (now Rivendell). Due to the stated need to sell the dwelling the then applicant applied for planning permission in 1996 (SH/96/0227) for the erection of residential dwelling over existing stables in order to continue to train her own horses and due to the value of the horses. This would have created a 3 bedroom self-contained residential unit over the existing single storey building containing 7 stables, offices and tack room. It was subject to a condition requiring the occupation of the dwelling to be limited to a person involved with the stabling or training of horses in the stables below and adjacent arena, or dependent of such person. Permission was granted as it was considered essential for the security and operation of the establishment given the unique facilities that existed on the site.
- 4.3 Following separation of the dwelling from the equestrian part of the site planning permission was granted for the erection of a replacement building for the above with residential and stable accommodation (Y00/0545/SH). This was subject to a condition restricting occupancy of dwelling to person involved with stabling/training horses in the stables that formed part of the building and adjacent arenas and one removing permitted development rights. There was no condition required the retention of the stables in perpetuity. A temporary permission for a mobile home was granted the same year in order to retain a residential presence on site while the new accommodation was being constructed (Y00/0829/SH).
- 4.4 Y05/0565/SH for renewal of the previous planning permission for residential and stables was refused as the business for which the dwelling was previously considered essential no longer existed on the site. However in 2008 planning permission was granted for the variation of the conditions on the 1986 and 1987 planning permissions for the barn and stables that restricted their use to the named applicant only (Y08/0920/SH). This was granted on the basis that although the residential and stable accommodation approved under Y00/0545/SH had not been built out, all conditions had been discharged and development had commenced within the relevant time period. The permission to vary the conditions was sought so that the occupant of the unbuilt building would be able to use the storage and training barn and stables in connection with the occupation of the new stables and residential accommodation and so that the premises could be used privately by a person other than the former applicant. Planning permission was granted subject to conditions restricting the use of the buildings for horses and ponies for the private use and enjoyment of the owners/occupants of the site only and not for any commercial purposes, or for hire or reward including uses as a riding school, livery or animal sanctuary and that no shows, display events or other activities shall be carried out for attendance by the general public.

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- 4.5 In 2009 the current applicant submitted an application for a dwelling with separate stables (Y09/0905/SH). Planning permission was refused on the grounds of unsustainable development in the countryside without sufficient overriding justification and lack of drainage details. A similar application was submitted under Y10/0709/SH. The reason for refusal relating to drainage details had been overcome but other reason for refusal had not and planning permission was refused on the grounds of unsustainable development in the countryside without sufficient overriding justification. A further application was submitted for the erection of a two storey detached dwelling with attached garage and fodder store (Y11/0223/SH). Planning permission was refused on the grounds of unsustainable development in the countryside without sufficient overriding justification and on the overall scale and massing of the building.
- 4.6 In 2012 an application was submitted under reference Y12/0373/SH to vary a condition on planning permission Y00/0545/SH (Erection of a replacement building for the above with residential and stable accommodation) in order to change the external materials for the elevations of the building. The building design on the submitted plans was the same as that previously approved with the only difference being a change from oak weather boarding above a red brick plinth to a mixture of red brick and stone panels on the lower sections, with oak feather boarding above. The previously proposed plain clay tiles to the roof were shown to be kept. There were also minor changes to some of the fenestration. Planning permission was granted with conditions requiring the internal layout of the building to be as approved under Y00/0545/SH; the occupation of the dwelling to be limited to a person involved with the stabling or training of horses in the stables which form part of the building and adjacent; and the removal of permitted development rights Classes A to E relating to alterations and extensions to the building and erection outbuildings. There was no condition requiring the stables to be retained in perpetuity.
- 4.7 In 2012 planning permission was granted for the erection of a new hay and machinery storage barn and stables block following demolition of existing barn and stables (Y12/0442/SH). These were two separate buildings and planning permission was granted subject to conditions, including requiring the development to be built in accordance with the approved plans; a scheme for dealing with the Japanese Knotweed on the site; and that the buildings only be used for the private enjoyment of the occupants and not for any commercial purposes.
- 4.8 As can be seen from the planning history of this site there have been a number of applications for residential accommodation since the mid-1990s. Planning permission was originally granted for residential accommodation in connection with an established facility the training of horses for high level dressage following the separation of the site from the dwelling previously known as Greenloaming, now Rivendell. That permission was for one building containing stables and residential accommodation and was granted subject to a condition tying the occupation of the dwelling to the stables and the equine use on the site. It is important to note that the condition specified 'dwelling', rather than residential accommodation. Therefore, at this point the principle of the

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acceptability of a residential use on the site was established. Also there was no condition requiring the stables to be retained once constructed.

- 4.9 Also on the site at that time as part of that equine use were the indoor arena, a separate stables block and a store building. The stable block and store building had personal conditions on them tying them to use by the then owner. There was no such personal condition on the dwelling/stable building.
- 4.10 The dressage training use ceased before the dwelling/stable building was built out. However, the relevant conditions were discharged and the development had commenced on site within the relevant time period – therefore the permission was extant and could not be revoked.

5. CONSULTATION RESPONSES

- 5.1 The consultation responses are summarised below.

Consultees

Newington Parish Council:

Object on material grounds because previous planning decisions have not been complied with. Comments made on withdrawn application 20/0653/FH still apply.

Natural England:

Comments awaited

Contamination Consultant/Environmental Protection:

Comments awaited

Arboricultural Manager:

No objections. All recommendations within the accompanying Japanese Knotweed Report to be adhered to and actioned within the recommended timescales.

Local Residents Comments

- 5.2 One neighbour directly consulted. 2 emails of objection and 5 of support received
- 5.3 I have read all of the letters received. The key issues are summarised below:

Objections

- Contrary to policy as outside settlement boundary and in AONB.
- Back door attempt at obtaining planning permission
- Fourth attempt to obtain unrestricted dwelling on the site
- Not a replacement dwelling and no justification provided
- Dwelling not needed for security and operation of equine establishment

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- Dwelling and machinery store considered to be higher than approved.
- Buildings unduly large and prominent
- Kept awake at night by loud music
- Eight velux windows facing us, permission only given for two
- Third floor rooflight on west elevation not accurately shown on plans
- Concern that buildings bigger than previously approved
- Balcony reintroduced after being removed.
- Balcony should have been removed to safeguard neighbours' privacy
- Overbearing and overlooking impacts from dwelling
- Third storey not included in description
- Loud music from third storey of building causes noise nuisance
- Have provided evidence of deliberate concealment
- No justification provided for proposed tack rooms and horse feed storage
- Has been very little if any equine activity on this site since unauthorised use by Harrington Horses ceased
- No justification for additional stables or conversion of loft space
- Ornate lamp standards and fencing out of place in countryside
- No steps taken to deal with Japanese Knotweed

Support

- Stunning job with build, tastefully done
- No objection to turning derelict site with ugly commercial buildings into beautiful home
- Traditional materials used
- Improvement

5.4 Responses are available in full on the planning file on the Council's website:

<https://searchplanapps.folkestone-hythe.gov.uk/online-applications/>

6. RELEVANT PLANNING POLICY

6.1 The Development Plan comprises the Places and Policies Local Plan 2020 and the Core Strategy Local Plan 2013.

6.2 The Folkestone & Hythe District Council Core Strategy Review Submission Draft (2019) was published under Regulation 19 of the Town and Country Planning (Local Planning) (England) Regulations (2012) for public consultation and has been subject to an Examination in Public in January 2021. As such its policies should be afforded weight where there are not significant unresolved objections.

6.3 The relevant development plan policies are as follows:-

Places and Policies Local Plan 2020

Policy HB1 - Quality Places Through Design

Policy HB5 - Replacement Dwellings in the Countryside

Policy HB8 - Alterations and Extensions to Buildings

Policy NE2 - Biodiversity

Policy NE3 - Protecting the District's Landscapes and Countryside

Policy NE4 - Equestrian Development

Policy NE5 - Light Pollution and External Illumination

Policy NE7 - Contaminated Land

Local Plan Core Strategy (2013)

Policy DSD - Delivering Sustainable Development

Policy SS1 - District Spatial Strategy

Policy SS3 - Place-Shaping and Sustainable Settlements Strategy

Policy CSD3 - Rural and Tourism Development of Shepway'

Policy CSD4 - Green Infrastructure of Natural Networks, Open Spaces and Recreation

Core Strategy Review Submission draft (2019)

Policy SS1 - District Spatial Strategy

Policy SS3 - Place-Shaping and Sustainable Settlements Strategy

Policy CSD3 - Rural and Tourism Development of Shepway'

Policy CSD4 - Green Infrastructure of Natural Networks, Open Spaces and Recreation

6.4 The following are also material considerations to the determination of this application.

Supplementary Planning Guidance/Documents

Kent Downs AONB Management Plan

Policy SD1 – AONBs given highest level of protection in development control decisions

Policy SD3 – New development opposed if disregard primary purpose of AONB

Policy SD9 – New developments to be complementary to location character in form, setting, scale, contribution to settlement pattern and choice of materials.

Government Advice

National Planning Policy Framework (NPPF) 2019

Members should note that the determination must be made in accordance with the Development Plan unless material considerations indicate otherwise. A significant material consideration is the National Planning Policy Framework (NPPF). The NPPF

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says that less weight should be given to the policies above if they are in conflict with the NPPF. The following sections of the NPPF are relevant to this application:-

Paragraph 11 - Presumption in favour of sustainable development.

Paragraph 47 - Applications for planning permission be determined in accordance with the development plan.

Paragraph 48 - Weight to be applied to emerging policies

Paragraph 79 - Avoid development of isolated homes in the countryside

Paragraphs 124, 127- Design

Paragraphs 170-173 - Conserving and enhancing the natural environment

Paragraph 175 – Habitats and biodiversity

Paragraph 178 – Ground conditions and pollution

7. APPRAISAL

7.1 In light of the above the main issues for consideration are:

- a) Principle of development and sustainability
- b) Visual amenity
- c) Residential amenity
- d) Ecology and biodiversity
- e) Contamination

Principle of development and sustainability

7.2 For clarity, it can be seen that the historical set of events referred to in the Planning History section of the report has resulted in an extant permission for a private dwelling on the site. It is unfortunate that at the time of the original permissions the Council did not bind the land and development together in a legal agreement to stop sub-division as would be the case today. In considering this application therefore the Council must take into account the previous planning history and the development that could be further implemented without the need for further planning permission i.e. the erection of the approved building. It is also worth highlighting that the original permission did not unfortunately include any conditions requiring the integrated stables to remain in situ in perpetuity and, as such, it would have been open to the applicant at the time to lawfully implement the stables and the following day convert them to living accommodation. Once again this was a historic error but material in the consideration of this application and whether a refusal of planning permission could be sustained at appeal.

7.3 In light of the extant permission a further planning permission was granted for the variation of the conditions on the 1986 and 1987 planning permissions for the barn and stables that restricted their use to the named applicant only. This variation sought to link the use and occupation of the unbuilt dwelling/stable building to the occupation of the new stables and residential accommodation. As a result all the buildings were

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restricted to use for horses and ponies for the private use and enjoyment of the owners/occupants of the site only and not for any commercial purposes. In short the Council had granted permission for a dwelling in the countryside.

- 7.4 Planning permission was subsequently granted in 2012 for a replacement stable building and storage building and these had the same use conditions. Therefore in 2012 the site had permission for a dwelling and associated stables and storage buildings all conditioned for private equine use only. The only main difference to what exists on the site now is that the dwelling also had integral stables.
- 7.5 The current applicant has previously applied several times for a dwelling without any integral stables and planning permission was refused on the grounds of unsustainable development in the countryside without sufficient overriding justification, as the previous justification for granting planning permission was considered to no longer exist, given the training of top level dressage horses had ceased. The applicant has now built a dwelling on the site without internal stables through a breach of planning control.
- 7.6 While this is contrary to the planning permission that was granted, the key consideration is whether the application before the Council is materially different to that already approved and extant and whether what is currently on site would result in any additional level of harm to the countryside.
- 7.7 The principle of a dwelling on the site has been established (albeit it as an integrated building with stables) and the principle of a private equine use on the site has been established, both as combined stables building with the dwelling and as a separate stables building. However, it is no longer acceptable under modern living standards for horses and humans to live in the same building, where that building is the self-contained dwelling of the occupants. Therefore, given that both the principle of a dwelling and the principle of an equine use have been established on the site by previous grants of planning permission it is considered that there is no valid justification on planning grounds for refusing to grant planning permission for the dwelling as constructed, without the integral stables.
- 7.8 If the dwelling on the site is considered to be acceptable then there are no valid planning grounds for objecting in principal to the pool, gym and other accommodation within the pool/machine store building as they acceptable ancillary parts of a residential use and can be conditioned to be used for private domestic use only. Similarly, as the principle of a stables building has already been established, the installation of an upper floor in the roof space to accommodate tack rooms and feed store is considered reasonable.

Visual amenity

- 7.9 Although internally the accommodation within the buildings is different in part to that shown on the previously approved plans, externally the changes are minor and, in terms of form, design and materials, overall the appearance of the buildings is as previously approved. In terms of visual impact the only significant difference from previously approved plans is the entrance way to the stables which is of a different design and higher than approved. Given the location of the building set back from the road and screened from the rear by the indoor school there is no adverse visual impact

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arising from this. The additional glazing to the pool/machine building is only visible from inside the site and is considered acceptable. The additional rooflights in the western elevation of the dwelling have a neutral impact in terms of the visual impact of the building. The balcony has been constructed in accordance with the previously approved plans but has been shown incorrectly on the plan submitted with this current application so an amended plan has been requested. As a result it is not considered that the proposal results in any further material harm to the AONB over what has previously been approved.

Residential amenity

- 7.10 The closest neighbouring dwelling to the site is Rivendell, which adjoins the site to the west. The western elevation of Manor Barn has 8 roof lights compared to 2 on the previously approved plans. This elevation is opposite the eastern elevation of Rivendell. In terms of separation distances, the distance of Manor Barn from the boundary is 9.87m at the front and 10.07m at the rear, when scaled from the plans. The separation distance between the two dwellings is 20.85m at the front and 21.5m at the rear, when scaled from the plans. Although it is possible for occupants to have views out of the rooflights as they have cill heights below 1.7m, given the separation distance between the boundary and the rooflights and the existing boundary screening and tree planting, which is protected by a TPO, it is not considered that these result in an unacceptable level of overlooking, sufficient to justify refusing planning permission. With regard to overlooking from the balcony, when measured from the floor plans (which show it correctly), the distance of the closest part of the balcony to Rivendell from the boundary is 13.81m and 24.61m on the side elevation of Rivendell. This is considered sufficient distance to prevent unacceptable overlooking and, furthermore, the balcony as constructed was shown on the previously approved plans, so there is no reasonable justification for raising an objection to it now.

Ecology and biodiversity

- 7.11 The application does not include any new building work and as such a Preliminary Ecological Appraisal was not required. Natural England were consulted on the application due to the proximity of the site to an SSSI and SAC but no comments have been received. Given there is no new building work proposed there are unlikely to be any issues.

Contamination

- 7.12 There is Japanese Knotweed on the site and the previous planning permission for the stables and machine store required its eradication from the site. The required information was not submitted and it appears that Knotweed is still present on site. A Breach of Condition Notice has been served under that planning permission and the matter is being dealt with by the Senior Planning Enforcement Officer. The information submitted as part of this application is insufficient to satisfy the requirements of the condition. Further information has been requested. This is not a valid reason for refusing planning permission as Japanese Knotweed is essentially a civil matter with other legislation in place outside of the planning system to control the spread or nuisance of this plant.

Environmental Impact Assessment

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7.13 In accordance with the EIA Regulations 2017, this development has been considered in light of Schedules 1& 2 of the Regulations and it is not considered to fall within either category and as such does not require screening for likely significant environmental effects.

Local Finance Considerations

7.14 Section 70(2) of the Town and Country Planning Act 1990 (as amended) provides that a local planning authority must have regard to a local finance consideration as far as it is material. Section 70(4) of the Act defines a local finance consideration as a grant or other financial assistance that has been, that will, or that could be provided to a relevant authority by a Minister of the Crown (such as New Homes Bonus payments), or sums that a relevant authority has received, or will or could receive, in payment of the Community Infrastructure Levy. There is no CIL requirement for this development as the dwelling already exists on site by virtue of a previous planning permission.

Human Rights

7.15 In reaching a decision on a planning application the European Convention on Human Rights must be considered. The Convention Rights that are relevant are Article 8 and Article 1 of the first protocol. The proposed course of action is in accordance with domestic law. As the rights in these two articles are qualified, the Council needs to balance the rights of the individual against the interests of society and must be satisfied that any interference with an individual's rights is no more than necessary. Having regard to the previous paragraphs of this report, it is not considered that there is any infringement of the relevant Convention rights.

Public Sector Equality Duty

7.16 In determining this application, regard has been had to the Public Sector Equality Duty (PSED) as set down in section 149 of the Equality Act 2010, in particular with regard to the need to:

- Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act;
- Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and
- Foster good relations between persons who share a relevant protected characteristic and persons who do not share it. It is considered that the application proposals would not undermine objectives of the Duty.

It is considered that the application proposals would not conflict with objectives of the Duty.

Working with the applicant

7.17 In accordance with paragraphs 38 of the NPPF, Folkestone and Hythe District Council (F&HDC) takes a positive and creative approach to development proposals focused on solutions. F&HDC works with applicants/agents in a positive and creative manner.

8. CONCLUSION

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- 8.1 Although the dwelling and the other two buildings have not been built in accordance with the planning permissions that were granted, what has to be considered is whether there is sufficient justification on planning grounds for now refusing planning permission given what the site had planning permission for – a dwelling with integral stables, a separate stables, a storage building and an indoor arena. The principle of a dwelling on the site was established by previous grants of planning permission, there were no conditions requiring the retention of the integral stables, the principle of a private equine use on the site has been established and it is not acceptable under modern living standards for horses and humans to live in the same building.
- 8.2 If the dwelling on the site is considered to be acceptable then there are no valid planning grounds for objecting to the pool, gym and other accommodation within the pool/machine store building as they acceptable ancillary parts of a residential use and can be conditioned to be used for private domestic use only. Similarly, as the principle of a stables building has already been established, the installation of an upper floor in the roof space to accommodate tack rooms and feed store is considered reasonable.
- 8.3 The development as built is not considered to have any greater impact on neighbouring amenity than that which was previously granted planning permission, if anything the activity generated by the current residential use is likely to be less. The only outstanding issue is that of the Japanese Knotweed on the site, which has not been dealt as required under the previous planning permission. This is being dealt with separately with a breach of condition notice and is recommended to be included if Members resolve to grant planning permission.

9. BACKGROUND DOCUMENTS

- 9.1 The consultation responses set out at Section 5.0 are background documents for the purposes of the Local Government Act 1972 (as amended).

10. RECOMMENDATIONS

That planning permission be granted subject to the following conditions and that delegated authority be given to the Chief Planning Officer to agree and finalise the wording of the conditions and add any other conditions that he considers necessary.

Conditions:

1. The development is approved in accordance with the following plans only:
TMB/2020/05 – Site Location Plan
MB/2020/01 Revision B – Existing Site Plan
MB/2020/02 Revision A – Existing Plans, Elevations & Section - Dwelling
MB/2020/03 – Existing Plans, Elevations & Section – Machine Store & Pool
MB/2020/04 Revision A – Existing Plans, Elevations & Section – Stables

Reason:

For the avoidance of doubt.

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2. Within 28 days of the date of this decision notice a report by a certified specialist in eradicating Japanese Knotweed shall be submitted to the Local Planning Authority either verifying that the Japanese Knotweed has been eradicated from the site or setting out how the Japanese Knotweed will be eradicated from the site. Such details shall include the extent of all works that have been or will be undertaken, a timetable of works including a completion date any subsequent visits that may be necessary, site management procedures and a verification plan. Once approved all works shall be undertaken by certified specialist. The works shall be carried out in accordance with the approved details unless otherwise agreed in writing by the Local Planning Authority. The Local Planning Authority shall be given two weeks written notification of commencement of the eradication works.

Within one month of the agreed completion date of the works a verification report shall be submitted to the Local Planning Authority demonstrating completion of the works and any additional measures required to ensure that the Knotweed has been eradicated (including any subsequent visits) The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the eradication process has been met. It shall also include details of longer term monitoring and arrangements for contingency action, as identified in the verification plan, and for the report of this to the Local Planning Authority.

Reason:

In the interests of preventing the spread of Japanese Knotweed in the interests of the ecology and biodiversity of the area.

3. The stables and machine store/pool building hereby approved shall be used for the keeping of horses/ponies and for storage and domestic and private use and enjoyment of the owners/occupants of the site only and shall not be used for any commercial purposes for hire or reward including uses as a riding school or for livery purposes or use as an animal sanctuary.

Reason:

In order to protect the character of the countywide, Area of Outstanding Natural Beauty and Special Landscape Area and the amenity of neighbouring residents.