

## PLANNING COMMITTEE

Thursday 23 March 2023 at 7.30 pm

Place: Council Chamber - Epsom Town Hall

Link for public online access to this meeting:

<https://attendee.gotowebinar.com/register/4043716124711411799>

Webinar ID: 417-730-635

Telephone (Listen only): +44 330 221 9914, Telephone Access Code: 265-564-410

The members listed below are summoned to attend the Planning Committee meeting, on the day and at the time and place stated, to consider the business set out in this agenda.

Councillor Humphrey Reynolds  
(Chair)  
Councillor Phil Neale (Vice-Chair)  
Councillor Steve Bridger  
Councillor Kate Chinn  
Councillor Nigel Collin

Councillor Neil Dallen  
Councillor Liz Frost  
Councillor David Gulland  
Councillor Jan Mason  
Councillor Steven McCormick  
Councillor Lucie McIntyre  
Councillor Peter O'Donovan

Yours sincerely



Chief Executive

For further information, please contact Democratic Services, email: [democraticservices@epsom-ewell.gov.uk](mailto:democraticservices@epsom-ewell.gov.uk) or tel: 01372 732000

### **EMERGENCY EVACUATION PROCEDURE**

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- You should proceed calmly; do not run and do not use the lifts;
- Do not stop to collect personal belongings;
- Once you are outside, please do not wait immediately next to the building, but move to the assembly point at Dullshot Green and await further instructions; and
- Do not re-enter the building until told that it is safe to do so.

## **Public information**

**Please note that this meeting will be held in the Town Hall, Epsom and will be available to observe live on the internet.**

This meeting will be open to the press and public to attend as an observer using free GoToWebinar software, or by telephone.

A link to the online address for this meeting is provided on the first page of this agenda and on the Council's website. A telephone connection number is also provided on the front page of this agenda as a way to observe the meeting, and will relay the full audio from the meeting as an alternative to online connection. A limited number of seats will also be available in the public gallery at the Town Hall. For further information please contact Democratic Services, email: [Democraticservices@epsom-ewell.gov.uk](mailto:Democraticservices@epsom-ewell.gov.uk) , telephone: 01372 732000.

Information about the terms of reference and membership of this Committee are available on the [Council's website](#). The website also provides copies of agendas, reports and minutes.

Agendas, reports and minutes for the Committee are also available on the free Modern.Gov app for iPad, Android and Windows devices. For further information on how to access information regarding this Committee, please email us at [Democraticservices@epsom-ewell.gov.uk](mailto:Democraticservices@epsom-ewell.gov.uk).

### **Exclusion of the Press and the Public**

There are no matters scheduled to be discussed at this meeting that would appear to disclose confidential or exempt information under the provisions Schedule 12A of the Local Government (Access to Information) Act 1985. Should any such matters arise during the course of discussion of the below items or should the Chairman agree to discuss any other such matters on the grounds of urgency, the Committee will wish to resolve to exclude the press and public by virtue of the private nature of the business to be transacted.

### **Filming and recording of meetings:**

Those wishing to take photographs or record meetings are asked to read the Council's 'Recording, Photography and Use of Social Media Protocol and Guidance' ([Section 10, Part 5 of the Constitution](#)), which sets out the processes and procedure for doing so.

### **Security:**

Please be aware that you may be subject to bag searches and will be asked to sign in at meetings. Failure to comply with these requirements could mean you are denied access to the meeting. There is also limited seating which is allocated on a first come first serve basis, you should aim to arrive at least 15 minutes before the meeting commences.

## **Guidance on Predetermination /Predisposition**

The Council often has to make controversial decisions that affect people adversely and this can place individual members in a difficult position. They are expected to represent the interests of their constituents and political party and have strong views but it is also a well established legal principle that members who make these decisions must not be biased nor must they have pre-determined the outcome of the decision. This is especially in planning and licensing committees. This Note seeks to provide guidance on what is legally permissible and when members may participate in decisions. It should be read alongside the Code of Conduct.

### **Predisposition**

Predisposition is lawful. Members may have strong views on a proposed decision, and may have expressed those views in public, and still participate in a decision. This will include political views and manifesto commitments. The key issue is that the member ensures that their predisposition does not prevent them from consideration of all the other factors that are relevant to a decision, such as committee reports, supporting documents and the views of objectors. In other words, the member retains an “open mind”.

Section 25 of the Localism Act 2011 confirms this position by providing that a decision will not be unlawful because of an allegation of bias or pre-determination “just because” a member has done anything that would indicate what view they may take in relation to a matter relevant to a decision. However, if a member has done something more than indicate a view on a decision, this may be unlawful bias or predetermination so it is important that advice is sought where this may be the case.

### **Pre-determination / Bias**

Pre-determination and bias are unlawful and can make a decision unlawful. Predetermination means having a “closed mind”. In other words, a member has made his/her mind up on a decision before considering or hearing all the relevant evidence. Bias can also arise from a member’s relationships or interests, as well as their state of mind. The Code of Conduct’s requirement to declare interests and withdraw from meetings prevents most obvious forms of bias, e.g. not deciding your own planning application. However, members may also consider that a “non-pecuniary interest” under the Code also gives rise to a risk of what is called apparent bias. The legal test is: “whether the fair-minded and informed observer, having considered the facts, would conclude that there was a real possibility that the Committee was biased”. A fair minded observer takes an objective and balanced view of the situation but Members who think that they have a relationship or interest that may raise a possibility of bias, should seek advice.

This is a complex area and this note should be read as general guidance only. Members who need advice on individual decisions, should contact the Monitoring Officer.

## **AGENDA**

- 1. 22/00010/FUL - HOBLEDOWN, HORTON LANE, EPSOM, SURREY, KT19 8PT (Pages 5 - 28)**

The report requests the Planning Committee at the special meeting to determine Agenda Item 5 of the Planning Committee meeting held on 9<sup>th</sup> March 2023.

22/00010/FUL - Hobbledown, Horton Lane, Epsom, Surrey, KT19 8PT

<b>Head of Service:</b>	Justin Turvey, Interim Head of Place Development
<b>Wards affected:(All wards);</b>	Ruxley Ward
<b>Appendices (attached):</b>	Planning Committee report dated 9 <sup>th</sup> March 2023

### Summary

The report requests the Planning Committee at the special meeting to determine Agenda Item 5 of the Planning Committee meeting held on 9<sup>th</sup> March 2023.

### Recommendation (s)

#### The Committee is asked to:

- (1) **Make a planning determination on Item 5 and if the Committee is minded provide alternative proposals, impose conditions or if the Committee is minded reject the application providing planning reasons.**

## 1 Reason for Recommendation

- 1.1 The Planning Committee is required to determine the planning decision of Item 5 of the Agenda of the Planning Committee meeting held on 9<sup>th</sup> March 2023.

## 2 Background

- 2.1 The Planning Committee meeting held on 9<sup>th</sup> March 2023 heard a number of planning applications in connection with Hobbledown. Item 5 of that agenda related to a retrospective application on "Erection of perimeter boundary timber fencing, relocation of entrance gates and installation of gas tank holder". The reference number of the retrospective application is 22/00010/FUL ("Planning Application").
- 2.2 The Planning Application was presented by Officers, public speaking took place and Members of the Planning Committee debated the merits of the application.
- 2.3 The Planning Committee was required to determine the planning application in accordance with Part 5 of the Constitution, Codes and Protocols, Section 8 - Model Code of Practice in respect of Planning Matters: Probity in Planning.

- 2.4 Paragraph 6.1 of Model Code of Practice in respect of Planning Matters: Probity in Planning requires “All Committee decisions are made by a simple majority.”
- 2.5 A vote was taken on this item. However, there was confusion about the number of Committee Members voting for, against and abstaining and the effect of Chairman’s casting vote. This led to a declared outcome different from the vote upheld.
- 2.6 Therefore, the decision made to grant the planning application at the meeting has been deemed to be ineffective and this special meeting is being held.
- 2.7 The purpose of the meeting is to determine that item alone. It will be a continuation of the previous meeting and the same Committee Members will be required to attend and vote only. For the avoidance of doubt there will be no debate, no further presentation or questions from members of the public.

### **3 Risk Assessment**

Legal or other duties

#### **3.1 Equality Impact Assessment**

3.1.1 None.

#### **3.2 Crime & Disorder**

3.2.1 None.

#### **3.3 Safeguarding**

3.3.1 None.

#### **3.4 Dependencies**

3.4.1 None.

#### **3.5 Other**

3.5.1 None.

### **4 Financial Implications**

4.1 None arising from this report.

4.2 **Section 151 Officer’s comments:** None for the purposes of this report

### **5 Legal Implications**

5.1 The legal implications are contained within the body of this report.

**6 Policies, Plans & Partnerships**

- 6.1 **Council's Key Priorities:** The following Key Priorities are engaged:
- 6.2 **Service Plans:** The matter is not included within the current Service Delivery Plan.
- 6.3 **Climate & Environmental Impact of recommendations:** n/a
- 6.4 **Sustainability Policy & Community Safety Implications:** n/a
- 6.5 **Partnerships:** n/a

**7 Background papers**

- 7.1 The documents referred to in compiling this report are as follows:

**Previous reports:**

- Planning committee report dated 6<sup>th</sup> October 2022

**Other papers:**

- Planning committee report dated 9<sup>th</sup> March 2023.

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Hobbledown, Horton Lane, Epsom, Surrey, KT19 8PT

<b>Ward:</b>	<b>Ruxley Ward</b>
<b>Site:</b>	<b>Hobbledown Horton Lane Epsom Surrey KT19 8PT</b>
<b>Application for:</b>	<b>Erection of perimeter boundary timber fencing, relocation of entrance gates and installation of gas tank holder (Retrospective)</b>
<b>Contact Officer:</b>	<b>Ginny Johnson</b>

## 1 Plans and Representations

- 1.1 The Council now holds this information electronically. Please click on the following link to access the plans and representations relating to this application via the Council's website, which is provided by way of background information to the report. Please note that the link is current at the time of publication and will not be updated.

Link: <https://eplanning.epsom-ewell.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=R58V7SGYMLF00>

## 2 Overview

- 2.1 This planning application was presented to Planning Committee on 06 October 2022, along with four other planning applications at Hobbledown, the Application Site ('Site'). All five planning applications are detailed within the below table:

<b>Application reference number</b>	<b>Description Of Development</b>
22/00010/FUL (this application)	Erection of perimeter boundary timber fencing, relocation of entrance gates and installation of gas tank holder (Retrospective)
22/00009/FUL	Siting and installation of restroom facilities
21/02021/FUL	Installation of timber and netting outdoor play structures, installation of 3 no. bounce pillows and construction of Lorikeet enclosure/structure (retrospective)
22/00013/REM	Variation of Condition 14 (vehicular access) of planning application 11/00511/FUL to allow deliveries to the farm shop and cafe via McKenzie Way access

22/00011/REM	Variation of condition 20 of planning permission 11/00511/FUL to allow for Zones 9 and Zone 10 to be accessed by the public for the purposes of over-flow car parking at times of peak demand
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- 2.2 All planning applications were deferred by Planning Committee, as they were not accompanied by a Site-wide Flood Risk Assessment. This is captured within the Minutes of the Planning Committee.
- 2.3 The Applicant has since prepared the following documentation to accompany this planning application, for the erection of perimeter boundary timber fencing, relocation of entrance gates and installation of gas tank holder (Retrospective):
- Flood Risk Assessment, dated 25 November 2022
  - Email, AvantiGas
  - Commissioning Certificate
  - Email from Planning Agent dated 09 December 2022
  - 004 Rev B – Service Yard – dated Oct '22.
- 2.4 This Report seeks to clarify:
- What new documentation has been prepared by the Applicant to accompany this planning application, since its deferral by Planning Committee on 06 October 2022
  - The Statutory Consultees formally consulted on the new documentation supporting this planning application and their responses
  - Representation received from neighbouring properties regarding the new documentation supporting this planning application and their responses
  - Other queries raised by Members during Planning Committee on 06 October 2022 relating to this application
  - Relevant sustainability policies
- 2.5 This Report focuses on the new documentation only. The Planning Committee Report, dated 06 October 2022, should be referred to. This is appended to this Report.

#### **New documentation accompanying this application**

- 2.6 Since deferral by Planning Committee on 06 October 2022, The Applicant has prepared the following documentation to accompany this planning application, for the erection of perimeter boundary timber fencing, relocation of entrance gates and installation of gas tank holder (Retrospective):
- Flood Risk Assessment, dated 25 November 2022
  - Email, AvantiGas
  - Commissioning Certificate
  - Email from Planning Agent dated 09 December 2022.
  - 004 Rev B – Service Yard – dated Oct '22.
- 2.7 The following paragraphs summarises the content of the new documentation.

#### **Flood Risk Assessment, RPS, 25<sup>th</sup> November 2022**

- 2.8 A Flood Risk Assessment (FRA) accompanies this application, and the other planning applications at Hobbledown, which were deferred by Planning Committee on 06 October 2022.

- 2.9 The aim of the FRA is to outline the potential for the Site to be impacted by flooding, the impacts of the proposed development on flooding in the vicinity of the Site, and the proposed measures which could be incorporated into the development to mitigate the identified risk. The FRA has been produced in consultation with SCC LLFA.
- 2.10 The Site is located within Flood Zone 1 and a Critical Drainage Area. The risk associated with flooding from fluvial/other sources of flooding is considered to be very low.
- 2.11 The FRA sets out that the total area covered by all planning applications is 382m<sup>2</sup>. This is approximately 0.07% of the total Site. This is a small proportion of area compared to the size of the Site, so likely to have a minimal impact of surface water runoff rate. The potential to provide surface water attenuation, including the use of Sustainable Drainage Systems (SuDS) has been considered as part of the preliminary design process. Table 4 (proposed mitigation) on page 21 of the FRA confirms no mitigation is required.
- 2.12 The FRA sets out that based on surface water calculations, there would be no to minimal change in surface water runoff rate as a result of the development.
- 2.13 Overall, the FRA sets out that the development proposed would be safe, without increasing flood risk elsewhere.

Email, AvantiGas, dated 20 October 2022

- 2.14 An email from AvantiGas, dated 20.10.2022, confirms that the installation (of the gas tank) accords with AvantiGas requirements, installed on 27 August 2021. The fence is 1 metre away from the tank to provide the appropriate barrier of protection for the circumstances on Site.

Emails from Planning Agent, 09.12.2022 and 28.02.2023

- 2.15 The Planning Agent confirms that Planning Committee raised comments about the safety of the Gas Tank installation. The Agent confirmed that this is a Building Control issue, rather than a Planning issue, but the email from AvantiGas confirms that the installation is appropriate and safe, with an installation Commissioning Certification provided too by the installer.
- 2.16 An email from the Agent confirms that it is expected that concerns raised by Planning Committee over the actual use of the land would be addressed as part of a future planning application and that this planning application seeks to regularise operational development that has taken place.
- 2.17 The Agent confirmed that the gas tank currently sits on a concrete plinth. Details are found within the LPG Storage Tank Details document, submitted with this planning application.
- 2.18 The Agent confirms that the electricity cabinet does not form part of the current application, being a later installation to the gas holder. This will be subject of a further application.
- 2.19 The Agent set out that both Local and National Policy Guidance requires an appropriate assessment proportionate to the scale of development proposed. In this respect, the Flood Risk Assessment is considered appropriate to the development proposals in question; something that is clearly confirmed by the lack of any technical objection from either the County Council as LLFA or the Environment Agency.

004 Rev B – Service Yard – dated Oct'22

- 2.20 Drawing ref: 004 Rev B – Service Yard – dated Oct'22 seeks to demonstrate moveability within the Site from McKenzie Way access. The Agent confirmed through email that a large refuse lorry (11.8m in length) could manoeuvre within the Site.

#### **Statutory Consultee responses**

- 2.21 Statutory consultation responses received are as follows:

<b>Consultee</b>	<b>Original comment</b>	<b>Comment on updated documentation</b>
Environment Agency	No requirement for consultation	11.01.2023: This is a mis consultation and falls outside the EA's remit.
SCC LLFA	No requirement for consultation	15.12.2022: No comments
SCC Highways	04.10.2022: Response provided for ref: 22/00013/REM, which recommended alterations/improvements to the existing access to allow for deliveries to take place. Both application 22/00010/FUL and 22/00013/REM are somewhat linked, and so the response for 22/00010/FUL is subject to the outcome of 22/00013/REM	11.01.2023: Satisfied that the application would not have a material impact on the safety and operation of the adjoining public highway.  The CHA notes that whilst these proposals do not currently affect the highway and therefore no comments have been made, should a further application (22/00013) be approved at the Site, further assessment would need to be undertaken with regards to the boundary treatment at the (northern) McKenzie Way access.
EEBC Ecology	24.10.2022: No issues with this application relating to biodiversity	No requirement for re-consultation
EEBC Environmental Health	19.05.2022: No comments	No requirement for re-consultation

#### **Neighbour representation**

- 2.22 Neighbours consulted on the original planning application and those that commented on the original planning application were notified of new documentation.
- 2.23 3 letters from neighbouring properties have been received, summarised as follows:
- The Flood Risk Assessment includes only the area covered by the Bounce Pillows, some play structures, the lorikeet enclosure and the gas tank holder, all added without planning permission, and the proposed location for the rest rooms. It does not include an appraisal of developments on the entire Site as required by Planning

Committee. A thorough Flood Risk Assessment should be conducted, including all development added to the Site

- It is not clear that the fencing would provide adequate protection against impact from a vehicle to the tank, which is a health and safety risk
- The area forms part of field F2 of the approved Masterplan (6773/50 Rev H), restricted by Condition 20, to be solely used for the keeping of animals. Would require planning permission for a change of use
- The email from Ricardo Freitas of Avantigas, to Ashley Terry of Hobbledown has no context as to its purpose.
- What is not evident is whether the planning application has been amended to cover matters including resurfacing/concreting, change of Condition of use of part of field F2, the electricity cabinet, etc
- Previous Committee Reports did not reference Policy CS6 or DM6.

#### **Queries raised by Members during Planning Committee, 06 October 2022**

- 2.24 Officers have reviewed the recording of the Planning Committee, dated 06 October 2022. During the meeting, Officers answered questions raised by Planning Committee. The recording confirms that Planning Committee raised queries relating to:
- Committee Report refers to reviewing the Site holistically
  - Development in the Green Belt
  - No Flood Risk Assessment
  - Confirmation of whether the concrete plinth is installed and forms part of this planning application
  - Whether there has been a Buildings Control inspection.
- 2.25 Officers answered the queries raised by Planning Committee during the meeting.
- 2.26 Other queries included:
- Condition 20 of the original 2011 Planning Permission (as amended) affects Field F7, subject of this planning application
  - Policy CS6 Sustainability not referred to.

#### **Officer review of additional documentation**

- 2.1 Condition 24 of the 2011 Planning Permission sets out that the development permitted shall be carried out in accordance with approved documents, including the Flood Risk Assessment, dated July 2011. This confirms that the flood risk associated the original development was assessed in 2011. The FRA confirmed that the proposed development was appropriate and sustainable.
- 2.2 The Applicant has provided additional documentation, including a Flood Risk Assessment, to support this planning application. This concludes that overall, the development would be safe, without increasing flood risk elsewhere as a result of development. SCC LLFA has reviewed this and confirmed no further comments. The Environment Agency has confirmed that this is a mis consultation and falls outside of the EA's remit. SCC Highways confirms that their original consultation response remains appropriate.
- 2.3 The gas tank is positioned on a concrete plinth, which forms part of this planning application.

- 2.4 Drawing ref: 004 Rev B – Service Yard – dated Oct'22 submitted with this planning application seeks to demonstrate moveability within the Site from McKenzie Way access. The Agent's email, dated 14.12.2022, sets out that a large refuse lorry (11.8m in length) could manoeuvre within the Site.
- 2.5 The Applicant provided an email from AvantiGas, confirming that the installation of the gas tank is appropriate and safe, with an installation Commissioning Certification included too.
- 2.6 Officers sought legal advice with regards to the planning applications deferred at Planning Committee on 06 October 2022. This is detailed within the below section but concludes that the Applicant is entitled to submit a retrospective planning application, which should be considered on its own merits. Should planning permission be granted, the Applicant should submit a S.73 planning application (Section 73 of the Town and Country Planning Act 1990) to vary the relevant Condition of the original Planning Permission, to amend the Masterplan.

#### **Counsel advice**

- 2.7 Officers sought legal advice with regards to the planning applications deferred at Planning Committee on 06 October 2022.
- 2.8 This is a retrospective application for full Planning Permission for operational development. The application "*relates to the functional service yard area*", which is the north-eastern part of the Site shaded orange on the 2011 Masterplan (Drawing no. 6773/50 Rev H).
- 2.9 Should Planning Permission be granted, it would be inconsistent with the Masterplan (6773/50 Rev H), as the proposal encroaches into Zone F2 (Large Animals Walk Through).
- 2.10 The Applicant has chosen to submit a retrospective planning application and is entitled to do so. As case law makes clear, the Local Planning Authority must consider this planning application on its own merits. Subject to this planning application being granted Planning Permission, the Applicant should submit a S.73 planning application, to vary the relevant Condition of the original Planning Permission, to amend the Masterplan.

#### **Sustainability, Climate & Environmental Impact of the proposal**

- 2.11 The NPPF states that the purpose of the planning system is to contribute to the achievement of sustainable development (paragraph 7). It sets out that sustainable development has overarching economic, social and environmental objectives. The environmental objectives include mitigating and adapting to climate change. Paragraph 9 of the NPPF states that planning decisions should play an active role in guiding development towards sustainable solutions, but in doing so should take local circumstances into account.
- 2.12 Consideration of sustainability and climate change are embedded within the Local Planning Authority's Core Strategy and Development Management Policies Document. Specifically, Policy CS1 sets out that the Council will expect the development and use of land to contribute positively to the social, economic and environmental improvements necessary to achieve sustainable development, both in Epsom and Ewell, and more widely. Changes should protect and enhance the natural and built environments of the Borough and should achieve high-quality sustainable environments for the present, and protect the quality of life of future generations. Policy CS6 sets out that development should result in a sustainable environment and reduce, or have a neutral impact upon, pollution and climate change.

- 2.13 The updated documentation includes a Flood Risk Assessment, which confirms that the development proposed would be safe, without increasing flood risk elsewhere. It is considered to comply with relevant sustainability policies, including CS1 and CS6 of the Core Strategy 2007.

#### **Conclusion**

- 2.14 The Applicant has provided additional documentation, including a Flood Risk Assessment, a drawing to demonstrate moveability within the Site and an email to confirm the safety of the gas tank to support this planning application. No objections have been received by Statutory Consultees.
- 2.15 Officers recommend approval of this planning application, subject to Planning Conditions.

#### **Recommendation**

- 2.16 Approve subject to conditions

#### **Condition(s):**

1.The development hereby permitted shall be carried out in accordance with the following approved plans and documents:

188/0.011 Rev 03 – Location Plan – dated November 2021  
188/3.011 Rev 02 – Proposed Fence/Gas Holder Site Plan – dated November 2021  
004 Rev B – Service Yard – dated Oct'22  
LPG Storage Tank Details document  
Boundary Fence document

Reason: For the avoidance of doubt and to ensure that the development is carried out in accordance with the approved plans to comply with Policy CS5 of the Core Strategy (2007)

2.The development hereby permitted shall be constructed entirely of the materials as detailed on the schedule of materials on the Application Form.

Reason: To secure a satisfactory appearance in the interests of the visual amenities and character of the locality in accordance with Policy CS5 of the Core Strategy (2007) and Policies DM9 and DM10 of the Development Management Policies 2015.

#### **Informative(s):**

1. In dealing with the application the Council has implemented the requirement in the National Planning Policy Framework to work with the applicant in a positive and proactive way. We have made available detailed advice in the form of our statutory policies in the Core Strategy, Supplementary Planning Documents, Planning Briefs and other informal written guidance, as well as offering a full pre-application advice service, in order to ensure that the applicant has been given every opportunity to submit an application which is likely to be considered favourably

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Hobbledown, Horton Lane, Epsom, Surrey, KT19 8PT

<b>Ward:</b>	<b>Ruxley Ward</b>
<b>Site:</b>	<b>Hobbledown Horton Lane Epsom Surrey KT19 8PT</b>
<b>Application for:</b>	<b>Erection of perimeter boundary timber fencing, relocation of entrance gates and installation of gas tank holder (Retrospective)</b>
<b>Contact Officer:</b>	<b>Ginny Johnson</b>

## 1 Plans and Representations

- 1.1 The Council now holds this information electronically. Please click on the following link to access the plans and representations relating to this application via the Council's website, which is provided by way of background information to the report. Please note that the link is current at the time of publication and will not be updated.

Link: <https://eplanning.epsom-ewell.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=R58V7SGYM LF00>

## 2 Summary

- 2.1 This application seeks retrospective planning permission for perimeter boundary timber fencing, relocation of entrance gates and the installation of a gas tank holder at "Hobbledown", the Application Site ("Site")
- 2.2 The wider Site is in use as a children's farm, comprising a variety of buildings, structures and play equipment. The elements sought as part of this application are required to support the functionality of the children's farm.
- 2.3 When considering the wider Site "holistically", the elements sought as part of this application do not encroach further into the Green Belt and do not further erode the openness of this part of the Green Belt, given that it is already subject to built form and development. The fencing proposed intends to provide further screening.
- 2.4 The proposal is considered to comply with exception B) of paragraph 149 of the NPPF. The elements sought as part of this application would not further encroach into the Green Belt or erode the openness of this part of the Green Belt, which is already subject to built form and development. Therefore, the proposal would not be inappropriate development and there would be no need to demonstrate that Very Special Circumstances exist in order that development can be approved.

2.5 The elements sought as part of this application are located within the wider Site and are positioned away from nearby residential properties (approximately 40 metres). These are not considered to adversely impact the neighbouring amenity enjoyed at nearby residential properties, given the separation distances that exist between the wider Site and surrounding residential houses.

2.6 Officers recommend approval of the application.

### 3 Site description

3.1 The wider Site is known as “Hobbledown”, which is a children’s farm comprising a fantasy themed adventure park and zoo, with indoor and outdoor children’s play areas and apparatus. It measures approximately 13.3 hectares in size, located to the west of Horton Lane and to the south of McKenzie Way.

3.2 The wider Site is designated as:

- Green Belt
- Horton Country Park Nature Reserve

3.3 Part of the wider Site is designated as:

- Critical Drainage Area
- Intermediate Gas Main.

3.4 The wider Application Site is within Flood Zone 1.

### 4 Background and Proposal

4.1 Planning permission was granted in 2011, under ref: 11/00511/FUL, for:

*“Continued use of agricultural/educational farm as children's farm (sui generis) including extension to main barn, new entrance kiosk, replacement lean to barn, replacement kiosk, replacement of party/school rooms, relocation of play equipment, creation of new pond, additional landscaping, biodiversity improvements and new sensory/kitchen garden (amended description)”*

4.2 Since the planning permission was granted in 2011, “Hobbledown” has undergone major refurbishment and expansion as a leisure attraction.

4.3 This application seeks retrospective planning permission, which is the granting of planning permission after works have taken place. This application seeks retrospective planning permission for perimeter boundary timber fencing, relocation of entrance gates and the installation of gas tank holder.

### 5 Comments from third parties

5.1 The application was advertised by means of letters of notification to 10 neighbouring properties. 6 letters of objection have been received regarding:

- Precedence set by potentially approving retrospective planning applications
- Green Belt impact
- Visual impact of fencing
- Protection of gas tank
- Vehicle impacts

**6 Consultations**

- EEBC Ecology: no objection
- EEBC Environmental Health: no objection
- SCC Highways: response outstanding

**7 Relevant planning history**

Application number	Decision date	Application detail	Decision
22/00008/REM	Pending	Variation of condition 2 of planning permission 11/00511/FUL (hours of operation) to open the site to the public at 08:30 instead of 09:00 as previously conditioned	Pending
22/00009/FUL	Pending	Siting and installation of restroom facilities	Pending
22/00010/FUL	Pending	Erection of perimeter boundary timber fencing, relocation of entrance gates and installation of gas tank holder (Retrospective)	Pending
22/00011/REM	Pending	Variation of condition 20 of planning permission 11/00511/FUL to allow for Zones 9 and Zone 10 to be accessed by the public for the purposes of over-flow car parking at times of peak demand	Pending
22/00013/REM	Pending	Variation of Condition 14 (vehicular access) of planning application 11/00511/FUL to allow deliveries to the farm shop and cafe via McKenzie Way access	Pending
21/02021/FUL	Pending	Installation of timber and netting outdoor play structures, installation of 3 no. bounce pillows and construction of Lorikeet enclosure/structure (retrospective)	Pending
19/01691/FUL	Granted	Development of a bird of prey shelter	10 December 2020
19/01573/REM	Granted	Amendment to play structure permitted under 17/00988/FUL to provide new smaller play structure for younger children	16 March 2020
18/00154/FUL	Refused	Erection of bird of prey shelter	03 July 2018
18/00141/FUL	Granted	Use of land for the siting of one canvas yurt and one timber clad tepee	04 July 2018

Application number	Decision date	Application detail	Decision
18/00044/FUL	Granted	Siting of eight animal shelters (retrospective)	15 June 2018
17/00988/FUL	Granted	Addition of timber and netting outdoor play structure	20 December 2017
14/00144/FUL	Granted at appeal, 02.07.2015	Creation of overflow car parking area and associated landscaping	Granted at appeal, 02.07.2015
14/00145/REM	Granted	Variation of Condition 3 (amplified sound) of permission 11/00511/FUL to allow the use of amplified sound without permanent Public Address Systems for children's entertainment activities within designated areas of the site subject to restrictions on audience capacity, hours of use and noise levels	28 July 2014
14/00146/REM	Granted at appeal, 02.07.17	Variation of Condition 20 of 11/00511/FUL (Continued use of agricultural/educational farm as children's farm (sui generis) including extension to main barn, new entrance kiosk, replacement lean-to barn, replacement kiosk, replacement of party/school rooms, relocation of play equipment, creation of new pond, additional landscaping, biodiversity improvements and new sensory/kitchen garden) to remove the reference to Zone F.7 on the approved plan 6773/50 Rev H that restricts its use solely for the keeping of animals and not, at any time, being accessible to the public, in order to allow it to be utilised as an extension to the existing car park	Granted at appeal, 02.07.17
13/01184/FUL	Granted	Demolition of an existing kiosk and relocation and erection of a replacement kiosk building and the demolition of an existing handwash facility and erection of a replacement toilet block building incorporating handwash facility	14 February 2014
13/00499/FUL	Granted	Roof canopy extension to main barn, to provide covered space for existing outdoor eating area	15 October 2013
11/01394/NMA	Granted	Revision of entrance kiosk layout and revised floor layout. Re- use of existing	1 June 2012

Application number	Decision date	Application detail	Decision
		playrooms and new barn (6773/71D) not being constructed	
11/00511/FUL	Granted	Continued use of agricultural/educational farm as children's farm (sui generis) including extension to main barn, new entrance kiosk, replacement lean to barn, replacement kiosk, replacement of party/school rooms, location of play equipment, creation of new pond, additional landscaping, biodiversity improvements and new sensory/kitchen garden (amended description_	09 December 2011
98/00724/FUL	Granted	Erection of open fronted hay barn & new machinery shed, and erection of a new barn suitable for demonstration, picnic and play area involving demolition of old open sided barn	08 April 1999
98/00220/FUL	Granted	Extension to existing car park for visitors	10 September 1998

## 8 Planning Policy

### National Policy Planning Framework (NPPF) 2021

Chapter 2	Achieving sustainable development
Chapter 6	Building a strong, competitive economy
Chapter 8	Promoting healthy and safe communities
Chapter 9	Promoting sustainable transport
Chapter 12	Achieving well-designed places
Chapter 13	Protecting Green Belt Land
Chapter 14	Meeting the challenge of climate change, flooding and coastal change

### Core Strategy 2007

Policy CS1	Creating Sustainable Communities in the Borough
Policy CS2	Green Belt
Policy CS3	Biodiversity and Designated Nature Conservation Areas
Policy CS16	Managing Transport and Travel

Development Management Policies Submission Document November 2014

Policy DM1 Extent of the Green Belt

Policy DM3 Replacement and extensions of buildings in the Green Belt

Policy DM4 Biodiversity and New development

Policy DM5 Trees and Landscaping

Policy DM6 Open Space Provision

Policy DM9 Townscape Character and Local Distinctiveness

Policy DM10 Design Requirements for New Developments

Policy DM19 Development & Flood Risk

Policy DM35 Transport and New Development

Policy DM36 Sustainable Transport for New Development

## **9 Planning considerations**

Principle of Development: Green Belt and Community Facilities

- 9.1 Paragraph 147 of the NPPF sets out that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.
- 9.2 Paragraph 149 of the NPPF sets out that a Local Planning Authority should regard the construction of new buildings as inappropriate in the Green Belt. Exceptions to this are:
  - a) buildings for agriculture and forestry
  - b) the provision of appropriate facilities (in connection with the existing use of land or a change of use) for outdoor sport, outdoor recreation, cemeteries and burial grounds and allotments; as long as the facilities preserve the openness of the Green Belt and do not conflict with the purposes of including land within it;
  - c) the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building;
  - d) the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces;
  - e) limited infilling in villages;
  - f) limited affordable housing for local community needs under policies set out in the development plan (including policies for rural exception sites); and

- g) limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings), which would:
  - not have a greater impact on the openness of the Green Belt than the existing development; or
  - not cause substantial harm to the openness of the Green Belt, where the development would re-use previously developed land and contribute to meeting an identified affordable housing need within the area of the Local Planning Authority.
- 9.3 Policy CS2 of the Epsom and Ewell Core Strategy establishes that strict control will continue to be exercised over inappropriate development as defined by Government policy.
- 9.4 Policy CS13 sets out that the loss of community, cultural and built sports facilities, particularly those catering for the young or old will be resisted (unless certain criteria is demonstrated). The provision of new community, cultural and built sports facilities, and the upgrading of those facilities, will be encouraged, particularly where they address a deficiency in current provision, and where they meet the identified needs of communities both within the Borough and beyond.
- 9.5 Policy DM25 sets out that planning permission for employment developments will be approved, provided that (inter alia) the accommodation is flexible and suitable to meet future needs, especially to provide for the requirements of local businesses and small employers and the development must not significantly harm the amenities of nearby occupiers nor cause adverse environmental impact on the surrounding area.
- 9.6 Policy DM34 sets out that planning permission will be given for new or extensions to existing social infrastructure on the basis that it (inter alia) meets an identified need, is co-located with other social infrastructure uses, is of a high-quality design and does not have a significant adverse impact on residential character and amenity.
- 9.7 Planning permission was granted in 2011, under ref: 11/00511/FUL, for (inter alia) the continued use of the wider Site as a children's farm. Since the planning permission was granted, the wider Site has been subject to major refurbishment and expansion as a leisure attraction.
- 9.8 This application seeks retrospective planning permission, which is the granting of planning permission after works have taken place. This application seeks retrospective planning permission for perimeter boundary timber fencing, relocation of entrance gates and the installation of a gas tank holder.
- 9.9 The provision of appropriate facilities (in connection with the existing use of land or a change of use) for outdoor sport and outdoor recreation is appropriate in the Green Belt, as long as the facilities preserve the openness of the Green Belt and do not conflict with the purposes of including land within it.
- 9.10 The wider Site is in use as a children's farm, comprising a variety of buildings, structures and play equipment. The elements sought as part of this application are required to support the functionality of the children's farm.

- 9.11 Openness is one of the essential characteristics of the Green Belt. It is the absence of buildings or development. Openness is epitomised by the lack of buildings rather than those that are unobtrusive or screened in some way. As such, there is a clear distinction between openness and visual impact.
- 9.12 The wider Site does not benefit from the absence of buildings or development. Instead, it comprises a variety of buildings, structures and play equipment, with no uniform design style. The elements sought as part of this application are required to support the functionality of the children's farm. The fencing proposed seeks to screen the existing service yard and the wider Site itself, when viewed from the highway.
- 9.13 When considering the wider Site "holistically", the elements sought as part of this application do not encroach further into the Green Belt and do not further erode the openness of this part of the Green Belt, given that it is already subject to built form and development. The fencing proposed intends to provide further screening.
- 9.14 The proposal is considered to comply with exception B) of paragraph 149 of the NPPF. The elements sought as part of this application would not further encroach into the Green Belt or erode the openness of this part of the Green Belt, which is already subject to built form and development. Therefore, the proposal would not be inappropriate development and there would be no need to demonstrate that Very Special Circumstances exist in order that development can be approved. Furthermore, there would be no conflict with Policy CS2.
- 9.15 The proposal is considered to comply with Policies CS13 and DM34, supporting the functionality of the children's farm, to ensure it continues operating as a community facility.

#### Design

- 9.16 Policy DM9 sets out that planning permission will be granted for proposals that make a positive contribution of the Borough's visual character and appearance. In assessing this, the Council considers the proposal's compatibility with local character and the relationship to the existing townscape and wider landscape.
- 9.17 Policy DM10 sets out that development proposal will be required to incorporate principles of good design.
- 9.18 A Cover Letter, documentation and drawings accompany this application.
- 9.19 The Cover Letter, dated 22 December 2021, sets out that the application relates to the functional service yard area, which supports the wider operations of the established farm, including operations relating to animal welfare and the general ongoing maintenance and upkeep of the Site. This part of the Site comprises a range of buildings of typical functional agricultural design.
- 9.20 The Cover Letter sets out that fencing that screens the existing service yard measures approximately 2 metres in height, as shown on Proposed Site Plan drawing ref: 188-3.011 Rev 02. Further fencing continues within the Site, along the north-western boundary of the service yard, measuring approximately 2.3 metres in height. The fencing seeks to provide functionality and screening of the existing service yard.



- 9.21 The Cover Letter sets out that it is proposed to relocate the existing boundary gates a further 2 metres into the Site, as shown on Proposed Site Plan drawing ref: 188-3.011 Rev 02, to allow for a larger area for vehicles to pull off the main carriageway before entering the Site.
- 9.22 The Cover Letter sets out that a concrete plinth is within the service yard, to facilitate the installation of an above ground Gas Holder. It is screened by the existing perimeter fencing, natural screening and close-boarded fencing. It is not generally visible beyond the boundaries of the Site.
- 9.23 The wider Site comprises a variety of buildings, structures and play equipment, with no uniform design style. The elements sought as part of this application support the functioning of the wider Site as a children's farm and provides fencing, to act as screening. The design and materials used as considered acceptable. The proposal is considered to comply with Policies DM9 and DM10.

#### Neighbour Amenity

- 9.1 Policy DM10 sets out that development proposal should have regard to the amenities of occupants and neighbours, including in terms of privacy, outlook, sunlight/daylight, and noise and disturbance.
- 9.2 The elements sought as part of this application are located within the wider Site and are positioned away from nearby residential properties (approximately 40 metres). These are not considered to adversely impact the neighbouring amenity enjoyed at nearby residential properties, given the separation distances that exist between the wider Site and surrounding residential houses.
- 9.3 EEBC Environmental Health were formally commented on this application and raised no objection. The elements sought as part of this application are not considered to adversely impact the neighbouring amenity enjoyed at nearby residential properties in terms of noise and disturbance.
- 9.4 The proposal is considered to comply with Policy DM10.

#### Ecology, Trees, and Landscaping

- 9.5 Policy DM4 sets out that development affecting existing or proposed nature conservation sites and habitats of international, national or local importance will only be permitted if (inter alia) the development would enhance the nature conservation potential of the Site, there is no alternative location for the development and there are imperative reasons of overriding public interest for the development. Elsewhere in the Borough, development affecting any Site or building that supports special species protected by Law, will only be permitted if appropriate mitigation and compensatory measures are agreed to facilitate the survival of the species, keep disturbance to a minimum and provide adequate alternative habitats to ensure no net loss of biodiversity.
- 9.6 Policy DM4 further sets out that whether or not there are any species or habitats that enjoy statutory protection, every opportunity should be taken to secure net benefit to the Borough's biodiversity. To this end, an assessment of the existing nature conservation assets on a development site should be undertaken at the application stage and suitable biodiversity enhancements proposed.

- 9.7 Policy DM5 sets out that landscape proposals are required for new developments, which retain existing trees and other important landscape features where practical.
- 9.8 Policy DM6 sets out that development proposals should not result in the whole or partial loss of open space or outdoor recreation facilities.
- 9.9 Policy DM5 sets out that every opportunity should be taken to ensure that new development does not result in a significant loss of trees, hedgerows or other landscape features unless suitable replacements are proposed.
- 9.10 The Development Management Policies Document (2015) sets out that the Borough's varied Green Infrastructure assets are a key feature that makes it a unique place to live, work and play. It is a term that is applied to a wide variety of assets, which includes local nature reserves.
- 9.11 The Site is located within Horton Country Park Nature Reserve. The principle of development was established on the Site through the 2011 planning permission (ref: 11/00511/FUL), with the Site since undergoing major refurbishment and expansion as a leisure attraction. It is therefore no longer an open green space.
- 9.12 It is understood that no trees were removed as part of this application.
- 9.13 EEBC Ecology has confirmed no objection to this application.
- 9.14 The proposal is considered to comply with Policies DM4 and DM5.

#### Transport and car parking

- 9.15 Policy CS16 sets out that development proposals shall (inter alia) minimise the need for travel through measures such as travel plans, provide safe, convenient and attractive accesses for all, be appropriate for the highways network in terms of the volume and nature of traffic generated, and ensure that the safety, convenience and free flow of traffic using the highway are not adversely affected, provide appropriate and effective parking provision, both on and off-site and ensure that vehicular traffic generated does not create new, or exacerbate existing, on street parking problems, nor materially increase other traffic problems.
- 9.16 The Cover Letter accompanying this application sets out that the existing boundary gates are proposed to be relocated a further 2 metres into the Site, to allow for a larger area for vehicles to pull off the main carriageway, before entering the Site. This would be to the benefit of highway safety and the immediate road network, avoiding potential disruptions and obstructions of the carriageway, when larger delivery vehicles are attending the Site and not able to immediately enter at times when the gates are closed.
- 9.17 SCC Highways has been consulted on this application, with the response currently outstanding. Officer considers that the proposal is probably beneficial, given that it enables vehicles to pull off the main carriageway, before entering the Site, avoiding potential disruptions and obstructions of the carriageway.

**10 Conclusion**

- 10.1 This application seeks retrospective planning permission for perimeter boundary timber fencing, relocation of entrance gates and the installation of a gas tank holder.
- 10.2 The wider Site is in use as a children's farm, comprising a variety of buildings, structures and play equipment. The elements sought as part of this application are required to support the functionality of the children's farm.
- 10.3 When considering the wider Site "holistically", the elements sought as part of this application do not encroach further into the Green Belt and do not further erode the openness of this part of the Green Belt, given that it is already subject to built form and development. The fencing proposed intends to provide further screening.
- 10.4 The proposal is considered to comply with exception B) of paragraph 149 of the NPPF. The elements sought as part of this application would not further encroach into the Green Belt or erode the openness of this part of the Green Belt, which is already subject to built form and development. Therefore, the proposal would not be inappropriate development and there would be no need to demonstrate that Very Special Circumstances exist in order that development can be approved.
- 10.5 The elements sought as part of this application are located within the wider Site and are positioned away from nearby residential properties (approximately 40 metres). These are not considered to adversely impact the neighbouring amenity enjoyed at nearby residential properties, given the separation distances that exist between the wider Site and surrounding residential houses.
- 10.6 Officers recommend approval of the application.

**11 Recommendation**

- 11.1 Approve, subject to Conditions

**Condition(s):**

1.The development hereby permitted shall be carried out in accordance with the following approved plans and documents:

188/0.011 Rev 03 – Location Plan – dated November 2021

188/3.011 Rev 02 – Proposed Fence/Gas Holder Site Plan – dated November 2021

LPG Storage Tank Details document

Boundary Fence document

**Reason:** For the avoidance of doubt and to ensure that the development is carried out in accordance with the approved plans to comply with Policy CS5 of the Core Strategy (2007)

2.The development hereby permitted shall be constructed entirely of the materials as detailed on the schedule of materials on the Application Form.

Reason: To secure a satisfactory appearance in the interests of the visual amenities and character of the locality in accordance with Policy CS5 of the Core Strategy (2007) and Policies DM9 and DM10 of the Development Management Policies 2015.

**Informative(s):**

1. In dealing with the application the Council has implemented the requirement in the National Planning Policy Framework to work with the applicant in a positive and proactive way. We have made available detailed advice in the form of our statutory policies in the Core Strategy, Supplementary Planning Documents, Planning Briefs and other informal written guidance, as well as offering a full pre-application advice service, in order to ensure that the applicant has been given every opportunity to submit an application which is likely to be considered favourably

2. Your attention is drawn to the need to comply with the relevant provisions of the Building Regulations, the Building Acts and other related legislation. These cover such works as - the demolition of existing buildings, the erection of a new building or structure, the extension or alteration to a building, change of use of buildings, installation of services, underpinning works, and fire safety/means of escape works. Notice of intention to demolish existing buildings must be given to the Council's Building Control Service at least 6 weeks before work starts. A completed application form together with detailed plans must be submitted for approval before any building work is commenced.

If you need any advice regarding Building Regulations please do not hesitate to contact Epsom & Ewell Borough Council Building Control on 01372 732000 or [contactus@epsom-ewell.gov.uk](mailto:contactus@epsom-ewell.gov.uk).