

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

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

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:

Application reference number	Description Of Development
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, 25th 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 382m². 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.

- 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:

Consultee	Original comment	Comment on updated documentation
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