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PLANNING STATEMENT

**IN RESPECT OF TWO PLANNING
APPLICATIONS FOR THE VARIATION AND
DELETION OF CONDITIONS RELATING TO
PLANNING PERMISSIONS 3/2006/0514 AND
3/2011/0963 FOR DEVELOPMENTS OF A
STABLES BUILDING AND A SAND PADDOCK**

AT

**LOWER FOLD STABLES, NORTHCOTE ROAD,
LANGHO, BB6 8BE**

Prepared by: Colin Sharpe
Our Ref: Mat/342/2725/CS
Our Client: Mrs P Mathias
Date: September 2019



Chartered Surveyors ■■■ Planning & Development ■■■ Land Agents
Valuers ■■■ Property Agency ■■■ Property Management



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1. INTRODUCTION AND BACKGROUND INFORMATION

- 1.1 Gary Hoerty Associates has been instructed by Mrs P. Mathias to submit two planning applications on her behalf for the variation and deletion of conditions relating to Planning Permissions 3/2006/0514 and 3/2011/0963 for developments of a stables building and a sand paddock at Lower Fold Stables, Northcote Road, Langho BB6 8BE. This Statement relates to both applications. We were requested by Mrs. Mathias to act for her in this matter following her receipt of letters dated 10 January 2019 and 29 January 2019 from the Council's Enforcement Officer, Mr. A Glover (see Appendix 1).
- 1.2 In the second of the two letters, Mr. Glover stated that, having discussed the matter with senior colleagues in the Council's Planning Section, "the Council's view is that it could not condone any continuing breach of the planning consents arising from use of the stables by non-family members". However, later in the letter, Mr. Glover advised Mrs. Mathias that she "may wish to vary the existing planning consents in order to permit use of the facilities by non-family members". Whilst we consider this advice to be inconsistent with the previous comment that we have quoted, we also consider it reasonable to assume that Mr Glover would not have given this advice unless he was confident that the Council would look favourably upon an application to vary the conditions in those terms. However, if the Council would look favourably upon such an application, this would be an acceptance by the Council that there was no expediency for enforcement action in this case. As such, the advice to submit such an application, would seem to be a desire by the Council to regularise the situation. Whilst we maintain that the Council should not request planning applications in these circumstances, upon our client's instructions, we have submitted the applications that seek to vary/delete conditions as detailed later in this Statement.
- 1.3 In this Statement we will explain why, in our opinion, each of the conditions concerned do not meet the six tests specified in NPPF Paragraph 55 and why their deletion or variation as requested in the applications would therefore not result in any harm with respect to any legitimate planning considerations.

2. THE SITE AND SURROUNDINGS

- 2.1 The site is located on the west side of Northcote Road approximately 400m to the north of its junction with the A59. Although in an area of open countryside, the large commercial equine development of Northcote Stud is immediately on the opposite side of Northcote Road, and Northcote Manor Hotel is approximately 280m to the south of the site. To the immediate south, the site is adjoined by a football field with agricultural fields adjoining the site to the north and west.
- 2.2 Details of the site itself are given below through a description of its planning history.

3. PLANNING HISTORY OF THE SITE

- 3.1 On 16 August 2006 planning permission was granted for the erection of a building for the stabling of 12 horses, associated feed storage, outdoor manege and covered midden (3/2006/0514). The building is sited approximately 33m away from the road and has dimensions of approximately 29m x 15m. It has a pitched roof and its external materials are concrete blocks to the lower part of the walls with green corrugated sheets above and grey corrugated roof sheets. Access is in the form of a tarmacadam access road that runs from Northcote Road and down the northern side of the building to serve a parking area at the rear (west) of the building. The approved manege has dimensions of approximately 65m x 25m and is sited to the west of the parking area.

- 3.2 As approved and built the building contained 12 stables, an office and a tack room. The permission was subject to a total of 10 conditions, two of which (Nos 6 and 8) are relevant to this application, as follows:

6. The proposed stables shall be for private and domestic purposes only and no trade or business whatsoever shall be carried out from within the building.

REASON: In order to safeguard amenity as provided for within Policy G1 of the Ribble Valley Districtwide Local Plan.

8. This permission shall not inure for the benefit of the land but shall operate for the benefit of the applicant and his family only. The stables and ménage shall not be used other than by the named persons and shall in no case be used as separate DIY stabling.

REASON: In accordance with Policy G1 of the Ribble Valley Districtwide Local Plan in the interests of amenity and highway safety.

- 3.3 On 6 April 2011 planning permission was granted for the change of use of two of the approved stables into a dog grooming business (3/2010/0999). This permission was implemented.

- 3.4 On 13 March 2012 planning permission was granted for the change of use of agricultural land to create a winter turnout area/sand paddock for equine use (3/2011/0963). The land concerned has an area of approximately 940m² and is located to the south and east of the stables building adjoining the site boundary to Northcote Road. The permission, which has been implemented, was subject to a total of 4 conditions, one of which (No 3) is relevant to the applications, as follows:

3. The winter turn-out area/sand paddock hereby permitted shall only be used for private purposes by the applicant and her family ancillary to the use of the existing stables building at the site.

REASON: In order to comply with the terms of the application, in the interests of the amenities of the locality and highway safety, and to comply with Policy G1 of the Ribble Valley Districtwide Local Plan.

4. EXPLANATION AND JUSTIFICATION OF THE REQUESTED VARIATION/DELETION OF CONDITIONS

4.1 The applications seek the deletion of Conditions 6 and 8 of Planning Permission 3/2006/0514 dated 16 August 2006; and the variation of Condition 3 of Planning Permission 3/2011/0963 dated 13 March 2012.

4.2 When these permissions were granted, the guidance on the use of conditions in planning permissions was comprised in Circular 11/1995, paragraph 14 of which explains that conditions should only be imposed where they satisfy all of the tests described in paragraphs 14-42. In brief, these explain that conditions should be:

- i. necessary;
- ii. relevant to planning;
- iii. relevant to the development to be permitted;
- iv. enforceable;
- v. precise; and
- vi. reasonable in all other respects.

4.3 With reference to “personal permissions” paragraph 93 of Circular 11/95 states as follows:

“unless the permission otherwise provides, planning permission runs with the land and it is seldom desirable to provide otherwise. There are occasions, however, where it is proposed exceptionally to grant permission for the use of a building or land for some purpose which would not normally be allowed at the site, simply because there are strong compassionate or other personal grounds for doing so. In such a case the permission should normally be made subject to a condition that it shall enure only for the benefit of a named person – usually the applicant (model condition 35). This condition will scarcely ever be justified in the case of a permission for the erection of a permanent building.”

4.4 Model condition 35 is as follows:

“The use hereby permitted shall be carried on only by (name of person) and shall be for a limited period being the period of years from the date of this letter, or the period during which the premises are occupied by (name of person) whichever is the shorter.”

4.5 With the exception of Appendix A (model conditions) Circular 11/95 was cancelled and replaced by new planning practice guidance that was launched on 6 March 2014. The new guidance, however, refers to Paragraph 55 of NPPF which makes clear that planning conditions should be kept to a minimum, and only used where they satisfy the exact same 6 tests as those stated in Circular 11.95.

4.6 On the matter of whether it is appropriate to use conditions to limit the benefits of a planning permission to a particular person or group of people the new guidance states as follows:

“Planning permission usually runs with the land and it is rarely appropriate to provide otherwise. There may be exceptional occasions where development that would not normally be permitted may be justified on planning grounds because of who would benefit from the permission. For example, conditions limiting benefits to a particular class of people, such as new residential accommodation in the open countryside for agricultural or forestry workers, may be justified on the grounds that an applicant has successfully demonstrated an exceptional need.”

- 4.7 Therefore, insofar as these applications are concerned, it makes little difference whether the conditions are assessed under the relevant guidance at the time they were imposed (Circular 11/95) or under the current guidance within the NPPF and Planning Practice Guidance. We will now consider the relevant three conditions against the guidance.

Condition 6 of Permission 3/2006/0514

- 4.8 This condition restricts the use of the stables to private domestic purposes only and prevents their use for any trade or business purposes. The reason given for the condition is to safeguard amenity as provided for in Policy G1 of the former Local Plan. This Policy states that *“All development proposals will be expected to provide a high standard of building design and landscape quality. Development which does so will be permitted, unless it adversely affects the amenities of the surrounding area.”* The Council must have considered the design of the building itself to be acceptable otherwise the permission would not have been granted. This particular consideration is not in any way affected by whether the building is used for domestic or business purposes. The Policy then lists thirteen matters that should be taken into consideration in the determination of applications. The first of those considerations is that the *“development should be sympathetic to existing and proposed land uses in terms of its size, intensity and nature.”* As we have stated, the large commercial equine development of Northcote Stud is immediately on the opposite side of the road to the application site; and Northcote Manor Hotel is approximately 280m away from the site. With regards to Northcote Stud, permission was originally granted for a development comprising a riding centre, manager’s dwelling, new access and car park in 1994 (3/1994/0107). That permission was for a commercial equine development. Following the renewal of that original permission on two occasions, permission was granted in 2004 for a revised scheme, but still for a riding centre, manager’s dwelling, new access and car park for commercial purposes (3/2004/0750). Our client’s application 3/2006/0514 was therefore considered by the Council when the principle of a large commercial equine development in the immediate vicinity had already been accepted. We therefore contend that the development proposed in application 3/2004/0750 would have remained *“sympathetic to existing and proposed land uses”*, even without the imposition of Condition 6. The use of this relatively small building for commercial equine purposes would therefore have no detrimental effects upon the amenities of the locality. None of the other twelve criteria within Policy G1 are affected by the matter of whether the site is used for commercial or domestic purposes.

- 4.9 We would also comment that we are aware of numerous other examples of equine proposals (of varying sizes) that have been approved in Ribble Valley for commercial use.
- 4.10 We would finally comment that the Council has approved the commercial use of part of this building as a dog grooming business under planning permission 3/2010/0999.
- 4.11 With regards to the six tests we therefore contend that this condition was unnecessary and unreasonable. As such we request that this Condition is deleted.

Condition 8 of Permission 3/2006/0514

- 4.12 This condition states that the permission does not inure for the benefit of the land, but for the applicant and his family only; and that the development shall not be used as separate DIY stabling. The reason given for the condition refers to amenity and highway safety aspects of Policy G1.
- 4.13 This is therefore a personal permission for a proposal that involves a permanent building. As there are no legitimate planning reasons to restrict this permission to the applicant (as opposed to the land) this condition is entirely contrary to the guidance in Circular 11/95, Paragraph 55 of NPPF and Planning Practice Guidance (see paragraphs 4.3 to 4.6 above).
- 4.14 With regards to the reference to “highway safety” in the reason for the condition we would comment that the building as presently authorised by the Local Planning Authority comprises ten stables, a tack room, an office and a dog grooming room. We contend that the amount of traffic generated by the use of the building by persons other than the applicant would differ little from that generated by the applicant and her family making full use of the ten available stables. We can therefore see no reasoned justification for the imposition of this condition on highway safety grounds.
- 4.15 For these reasons, with respect to the six tests, we consider this condition to be unnecessary and unreasonable. It is also in direct conflict with all the relevant guidance relating to personal planning permissions. As such, we request that this condition is deleted.

Condition 3 of Permission 3/2011/0963

- 4.16 This condition restricts the use of the winter turn-out area/sand paddock to the applicant and her family ancillary to the use of the existing stables building at the site. Again, this condition effectively makes the permission personal to the applicant which, as stated above, is contrary to all relevant guidance. The reason for the condition again refers to “*the amenities of the locality and highway safety.*” We accept that the independent use of the sand paddock by persons and horses not associated with the stables at the site might have highway safety implications (though not necessarily detrimental effects). Given the context set by the Northcote Stud on the opposite side of the road,

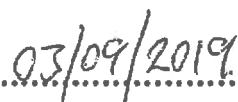
however, we cannot see how any use of this small sand paddock (whether by the applicant and her family or by other persons) could be detrimental to the amenities of the locality.

- 4.17 Whilst we therefore see a legitimate reason for the sand paddock to only be used ancillary to the on-site stables, we can see no justification for such use being restricted to the applicant and her family only. In this case, we therefore request the variation of the condition to the following:

"The winter turn-out area/sand paddock shall only be used ancillary to the use of the existing stables building at the site."

5 SUMMARY & CONCLUSION

- 5.1 We consider that we have demonstrated above that the three conditions, to which the applications relate, do not satisfy the six tests and are contrary to the applicable national planning guidance relating to the use of personal conditions. We have also demonstrated that the conditions do not serve any legitimate planning purpose such that the deletion of two of the conditions and variation of the third, as applied for in the applications, would not result in any detriment to highway safety, the amenities of the locality or any other relevant planning considerations. We therefore respectfully suggest that the conditions should be deleted and varied as applied for in the applications.

Signed..........Date..........
Colin Sharpe
(For and behalf of Gary Hoerty Associates)