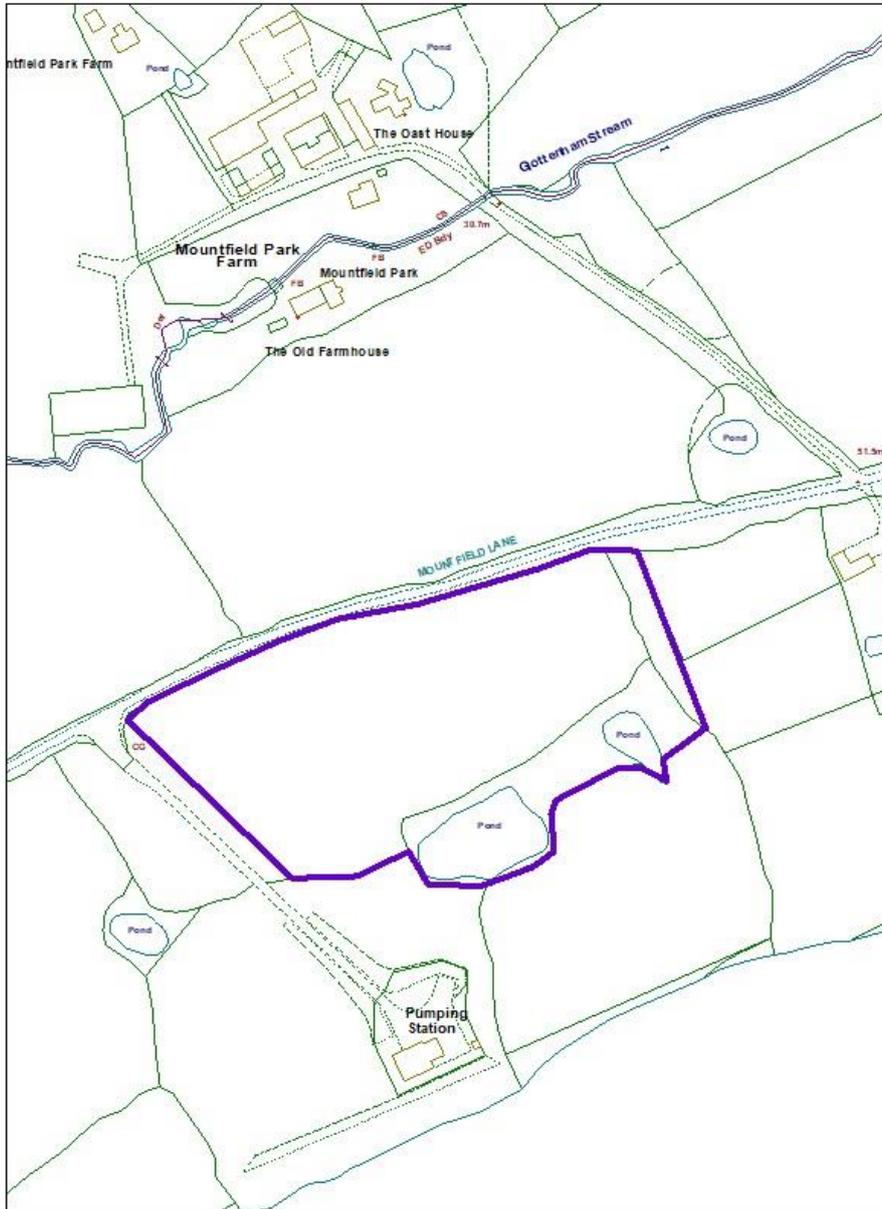


SITE PLAN

MOUNTFIELD

RR/2019/2525/P

Park Pale Meadow, Mountfield Lane.



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Not To Scale

Rother District Council

Report to - Planning Committee
Date - 13 February 2020
Report of the - Executive Director
Subject - Application RR/2019/2525/P
Address - Park Pale Meadow
Mountfield Lane,
MOUNTFIELD
Proposal - Removal of Conditions 6 and 7 imposed on planning permission RR/2019/1370/P

[View application/correspondence](#)

RECOMMENDATION: It be **RESOLVED** to **GRANT (FULL PLANNING)**

Head of Service: Tim Hickling

Applicant: Ms S. Swift
Agent: Mr C. Polito
Case Officer: Ms A. Ingram (Email: andrea.ingram@rother.gov.uk)
Parish: MOUNTFIELD
Ward Member(s): Councillors J. Barnes and Mrs E.M. Kirby-Green

Reason for Committee consideration: Member referral: Cllrs Barnes and Mrs Kirby-Green are both concerned about the impact of the development on the Area of Outstanding Natural Beauty and consider that the removal of Conditions 6 and 7 would undermine the balance previously struck in allowing development but retaining some control within this sensitive rural location.

Statutory 8 week date: 2 January 2020
Extension of time agreed to: 17 February 2020

This application is included in the Committee site inspection list.

1.0 SUMMARY

1.1 On 16 August 2019, the Planning Committee approved the change of use of existing agricultural land to part equestrian and full retrospective planning permission for 2 No. stable buildings, 1 No. tack room, 1 No. store shed, an improved access and track at Park Pale Meadow (RR/2019/1370/P). In approving the application the Planning Committee added a further three conditions (5, 6 and 7) to the permission. It is now proposed to remove Conditions 6 and 7 as they are considered unreasonable by the applicant.

- 1.2 Having considered the arguments put forward it is agreed that the conditions do not pass the necessary tests and therefore Conditions 6 and 7 should be removed.
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2.0 SITE

- 2.1 The site is agricultural land located off Mountfield Lane which has been sold off separately from the farmhouse. The parcel of land is approximately 2.4 ha in size and is bordered by hedges. An access track runs along the eastern boundary. The site is outside of any development boundary and is within the High Weald Area of Outstanding Natural Beauty (AONB). The field and field boundaries are recognised as being of historic importance within the AONB. To the south is Darwell Reservoir and the Darwell Reservoir Complex Site of Nature Conservation Importance (SNCI). The access road encroaches into this area.
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3.0 PROPOSAL

- 3.1 It is proposed to remove planning Conditions 6 and 7 attached to Planning Permission Reference No. RR/2019/1370/P. Planning permission was granted on 16 August 2019 as described above. The application was considered by the Planning Committee at their meeting on 15 August 2019 and was recommended for approval. In approving the application the Planning Committee added a further three conditions (5, 6 and 7) to the permission. The conditions it is proposed to remove are as follows:

6. *The use hereby permitted shall be carried out only by Ms Sam Swift only.
Reason: To control further development and in the interests of the character and amenities of the area within the High Weald AONB, in accordance with Policies OSS4 (iii) Rother Local Plan Core Strategy.*
7. *When the use hereby approved ceases the buildings and hard standing also hereby approved shall be removed from the land and the land restored to its condition before the development took place.
Reason: In the interests of the character and amenities of the area within the High Weald AONB, in accordance with Policies OSS4 (iii) Rother Local Plan Core Strategy.*
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4.0 HISTORY

- 4.1 RR/2019/1370/P Change of use of land to part equestrian. Additional buildings to include stables, a tack room, a store shed, improved access and track, formation of new hard standing in front of stable block. (Retrospective) Approved. 16-08-19.
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5.0 POLICIES

- 5.1 The following policies of the [Rother Local Plan Core Strategy 2014](#) are relevant to the proposal:

- OSS4: General Development Considerations
- RA2: General Strategy for the Countryside
- RA3: Development in the Countryside
- EN1: Landscape Stewardship
- EN3: Design Quality

5.2 The following policies of the [Development and Site Allocations Local Plan](#) are relevant to the proposal:

- DCO2: Equestrian Developments
- DEN1: Maintaining Landscape Character
- DEN2: The High Weald AONB

5.3 The National Planning Policy Framework paragraph 55, High Weald AONB Management Plan 2019-2014 and Planning Policy Guidance are also material considerations.

6.0 CONSULTATIONS

6.1 Planning Notice: no comments received.

6.2 Mountfield Parish Council – **OBJECTION**

6.2.1 Conditions 6 and 7 are imposed for very good reasons. Among which are the protection of the AONB and unauthorised development.

6.3. Brightling Parish Council – **OBJECTION**

6.3.1 It is believed that in granting permission, the Rother District Council Planning Committee was seeking to strike a balance between the benefit of the use of the stables on the one hand and the detriment to the High Weald AONB on the other hand. If the use of the buildings were to change, this balance would also change and so it is reasonable to require their removal. In other words the granting of planning permission does not imply that the buildings are acceptable in the AONB under all circumstances, but rather only for the approved use.

6.3.2 Also the applicant argues in his letter that "a condition requiring the demolition after a stated period of a building that is clearly intended to be permanent is unlikely to pass the test of reasonableness". This is an irrelevant argument because Condition 7 does not require the buildings to be removed after a specified period of time, but rather if a specific situation were to occur, which is not the same thing at all.

7.0 APPRAISAL

7.1 Paragraph 55 of the National Planning Policy Framework makes clear that planning conditions should be kept to a minimum, and only used where they satisfy the following tests:

- necessary;

- relevant to planning;
- relevant to the development to be permitted;
- enforceable;
- precise; and
- reasonable in all other respects.

7.2 Condition 6:

The Government guidance relating to the use of conditions to limit the benefits of the planning permission to a particular person as in Condition 6 states that unless the permission otherwise provides, planning permission runs with the land and it is rarely appropriate to provide otherwise. There may be exceptional occasions where granting planning permission for development that would not normally be permitted on the site could 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.

7.2.1 It has not been demonstrated that the applicant has any exceptional needs that would set them apart from anyone else that would justify the granting of planning permission for them alone such as in Condition 6. As such the use of this condition should not be used to make this application acceptable.

7.2.2 Clear and precise reasons must be given by the Local Planning Authority for the imposition of every condition. The reason for the Condition 6: *To control further development and in the interests of the character and amenities of the area within the High Weald AONB, in accordance with Policies OSS4 (iii) Rother Local Plan Core Strategy*. It has not been justified that the granting of planning permission for the applicant alone would have any different impact on the character and appearance of the locality and AONB compared to anyone else. The reason does not justify the use of this condition.

7.3 Condition 7:

Condition 7 requires the removal of the stable buildings and hard standing from the land once the use of the land ceases.

7.3.1 The Government Guidance Paragraph: 014 Reference ID: 21a-014-20140306 states:

A condition requiring the demolition after a stated period of a building that is clearly intended to be permanent is unlikely to pass the test of reasonableness. Conditions requiring demolition of buildings which are imposed on planning permissions for change of use are unlikely to relate fairly and reasonably to the development permitted.

7.3.2 The stated period of time in this case would be the time when the applicant no longer requires the equestrian use. If Condition 6 was removed and Condition 7 remained then the use of the land could go on until the equestrian use no longer is carried out; which could not be determined.

7.3.3 As with Condition 6 it has to be determined why the requirement to demolish has been applied to the application and what special characteristics that would justify that this was necessary. There are circumstances where a

temporary permission may be appropriate include where a trial run is needed in order to assess the effect of the development on the area or where it is expected that the planning circumstances will change in a particular way at the end of that period. However, it is expected that there would be no unusual impact as a result of the development, only those associated with an equestrian use, which are normally found in a countryside location. It has been established in determining the planning application that the development is low key and does not harm the landscape of the High Weald AONB.

- 7.3.4 As such it is considered that the Condition 7 would not be considered reasonable.

8.0 PLANNING BALANCE AND CONCLUSION

- 8.1 The application to remove Conditions 6 and 7 follows planning permission RR/2019/1370/P. In approving the application, Planning Committee added the two conditions.
- 8.2 Application RR/2019/1370/P was part retrospective and sought a change of use of land to part equestrian. Along with permission for additional buildings to include stables, a tack room, a store shed, improved access and a track, and formation of a new hard standing in front of the stable block.
- 8.3 Mountfield and Brightling Parish Council and local residents objected to the application, mainly concerned about the potential for future development and the welfare of the horse as the owner did not live on the site.
- 8.4 As set out in the officer's committee report for the previous application it was considered that the development would have an acceptable impact on the character and appearance of the landscape and would not harm the amenities of neighbouring properties. This was regardless of who used the land and on the implicit assumption that the buildings remained indefinitely. Therefore, without the imposed conditions, it is considered that the proposal still complies with the Council's policies and is acceptable.
- 8.5 Notwithstanding the above the application was approved but the additional Conditions 6 and 7 are not considered to meet the six tests of reasonableness as set out in paragraph 55 of the National Planning Policy Framework.

RECOMMENDATION: GRANT (FULL PLANNING)

CONDITION:

1. The development shall not proceed other than in accordance with Conditions 1, 2, 3, 4 and 5 inclusive, imposed on planning permission RR/2019/1370/P, dated 16 August 2019 which remain in full force and effect.
Reason: This permission is granted pursuant to planning permission [RR/2019/1370/P, dated 16 August 2019. Under Section 73 of the Town and Country Planning Act 1990 the Council has considered the conditions subject to which that previous planning permission was granted and confirms that the

conditions and associated reasons remain pertinent and are re-imposed, apart from as varied by this permission.

NATIONAL PLANNING POLICY FRAMEWORK: In accordance with the requirements of the Framework (paragraphs 38) and with the Town and Country Planning (Development Management Procedure) (England) Order 2015, the Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern within the application (as originally submitted) and negotiating, with the applicant, acceptable amendments to the proposal to address those concerns. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal, in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.