



**Report Reference Number:** 2019/0564/FUL

**To:** Planning Committee  
**Date:** 5<sup>th</sup> February 2020  
**Author:** Mandy Cooper, Principal Planning Officer  
**Lead Officer:** Ruth Hardingham, Planning Development Manager

|                     |   |                             |                                     |
|---------------------|---|-----------------------------|-------------------------------------|
| APPLICATION NUMBER: | 2019/0564/FUL   | PARISH:                     | Church Fenton Parish Council        |
| APPLICANT:          | Mr S Hudson & Ms R Harrison   | VALID DATE:<br>EXPIRY DATE: | 6th June 2019<br>5th September 2019 |
| PROPOSAL:           | Section 73 application to vary condition 11 (to increase the maximum number of horses from 21 to 27) of permission 2009/0565/FUL (allowed on appeal 01 April 2011) for the erection of 3 blocks of 7 No. stables with tack room, erection of indoor riding area, construction of outdoor riding area and vehicle park and siting of a mobile home |                             |                                     |
| LOCATION:           | Hall Lane Stables<br>Hall Lane<br>Church Fenton<br>Tadcaster<br>North Yorkshire<br>LS24 9RN   |                             |                                     |
| RECOMMENDATION:     | GRANT   |                             |                                     |

## 1. Introduction and Background

- 1.1 This application has been brought back before Planning Committee due to deferral of the application at the 15th January 2020 Planning Committee. Members resolved to defer the application due to intermittent availability of Public Access, whereby objectors were unable to access relevant documents was given due consideration.
- 1.2 A copy of the officer report presented to Planning Committee on 15<sup>th</sup> January 2020 is attached in Appendix 1.

## **2.0 Further Representations Received**

2.1 On the date of the January Planning Committee a letter was received from an objector's solicitor, comments of which are as follows:

- Substantive medical evidence provided from General Practitioner (GP) to support threat to health of clients, neighbours and their children with no Enforcement action taken despite the breach of original planning condition in regards to manure bund (midden)
- Increase in activity would consequently exacerbate current nuisance and threat to health
- Local Authority needs to have proper regard to the suitability of the current facility in reaching their conclusion
- Our client has recently contacted the Environment Agency and investigations will follow. The Local Authority should defer their decision pending conclusion of the investigation
- Manure bund is currently positioned as close as it could be to our client's dwelling
- Application site equates to at least 25 acres, therefore the manure bund could easily be re-positioned a good distance from its current location
- It is considered that the Local Authority should impose a suitable condition regarding the location of the manure bund prior to allowing increased activity
- No justification included within current application for continued use of the manure bund in current location and the Local Authority would be fully justified in imposing a suitable condition
- Our clients have repeatedly tried to impress the extent of the impact of the manure bund on their daily lives due to the odour, presence of vermin and insect activity which would increase should the current application be approved and note that they would rely on this and earlier correspondence in the event that they commence with proceedings previously threatened but have withheld from taking

2.2 These matters have previously been discussed and addressed in the body of the previous Agenda which is appended to this report in Appendix 1. The applicant has stated that there has never been vermin on the application site. Furthermore, the Officer who has visited a number of livery stables noted on both site visits that the stables are immaculately kept as are the adjacent paddocks. In order to address the potential for any nuisance, as a result of the increase in horses, a condition has been included which would require details of the midden to be submitted, which is considered to address the new and existing objections raised, relative to this aspect of the proposal.

## **3.0 Recommendation:**

- i. It is recommended that this planning application is APPROVED subject to conditions detailed below:**

### **Reasons for Recommendation:**

3.1 The conditions have however changed from the previous report due to the introduction of an additional condition which requires a Manure Management Scheme to be submitted (condition No. 02) and which negates the need for condition 03. on the previous Agenda. The amended conditions are as follows:

01. The development hereby permitted shall be retained in accordance with the following plans/drawings listed below:

SH01A – Location plan

SH01 – Site Layout

SH02 A – Indoor Arena

SH03 - Stable block floor plans and elevations

SH04 – Typical section through stable block / proposed site plan

SH05 – Typical section of outdoor arena

UKS6693 – External floodlighting for manege

Reason: For the avoidance of doubt

02. A Manure Management Plan shall be submitted to and approved in writing by the Local Planning Authority within three months of the granting of this permission. The submitted information shall include the following details:

- Size, height, materials & design of the storage facility
- Frequency of disposal to storage facility and removal off site of manure and soiled bedding
- Maximum volume of manure and soiled bedding to be stored within the facility at any time
- Control of odour and flies

The works for such storage and disposal shall be completed and subsequently maintained in accordance with the approved details. No storage of manure and soiled bedding shall take place outside of the storage area approved under this condition.

Reason: To ensure that appropriate facilities are provided for the storage and removal of waste at the site in the interests of the amenity of surrounding occupiers and to preserve the character and appearance of the area in accordance with the requirements of policy ENV1 of the Selby District Local Plan.

03. The arena shall not be illuminated except in accordance with the details shown in the lighting scheme received by the Local Planning Authority on 24.10.2019

Reason: In the interests of neighbour amenity, to prevent light spillage into the open countryside and in accordance with Policy ENV1 of the Local Plan.

04. At no time shall the number of horses stabled at the development exceed 27. Other than a maximum of six horses at any one time, the stabled horses shall be kept on a full livery or part livery basis only; the term livery being

taken as meaning the provision of facilities for, and the supervision and care of horses that are not the property of the proprietor, in return for remuneration or reward. Horses shall at no time be offered for hire at the development hereby permitted for supervised or unsupervised riding on or off the site.

Reason: In the interests of residential amenity in accordance with Policy ENV1 of the Local Plan.

05. No competitive equestrian events, including shows or gymkhanas shall be held at the site, or on the adjoining land in the same ownership and any training of riders undertaken shall be restricted solely to riders who are owners of horses kept at the livery and training centre hereby permitted.

Such training shall only take place between the hours of:

9.00am and 7.00pm Monday to Friday  
and between the hours of 10.00am to 6.00pm on Saturdays, Sundays and Public and Bank Holidays.

Within the outside arena no more than two riders shall be trained at any one time.

Reason: In the interests of residential amenity in accordance with Policy ENV1 of the Local Plan.

### **Background Documents**

Planning Application file reference 2019/00564/FUL and associated documents.

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**Appendices:** Appendix 1 - Report to Planning Committee, January 2020



**Report Reference Number:** 2019/0564/FUL

**To:** Planning Committee  
**Date:** 15<sup>th</sup> January 2020  
**Author:** Mandy Cooper (Principal Planning Officer)  
**Lead Officer:** Ruth Hardingham (Planning Development Manager)

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| LOCATION:           | Hall Lane Stables<br>Hall Lane<br>Church Fenton<br>Tadcaster<br>North Yorkshire<br>LS24 9RN   |                             |                                     |
| RECOMMENDATION:     | APPROVE   |                             |                                     |

This application has been brought before Planning Committee as more than 10 letters of representation have been received which raise material planning considerations and officers would otherwise determine the application contrary to these recommendations.

The application was initially on the November 29019 Agenda but was deferred in order for officers to consider further representations received.

## 1. INTRODUCTION AND BACKGROUND

### Site and Context

- 1.1 The proposal site is accessed off Hall Lane and located to the south east of the settlement of Church Fenton, beyond the Development Limits. For the purposes of the Development Plan, the site is situated in the open countryside.
- 1.2 To the northwest of the stables is Hall Farm (100m) and a number of residential properties; to the northeast is Kennel Garth Farm (50m) and to the west at an approximate distance of 150m (minimum) are a number of residential properties.
- 1.3 The site comprises of a modern, purpose built yard which offers full and part livery, set within a 30 acre site and includes an indoor arena and outdoor manege, both with sand and fibre surfaces. There are 21 masonry built stables with separate tack, feed and rug rooms and built in a courtyard arrangement. To the immediate east of the stables is the indoor arena, beyond which is an outdoor manege. Paddocks extend around the site to the south east, southwest and south and are all separated with timber post and rail fencing.
- 1.4 Beyond the stables to the west at a distance of 90m is a midden (which is a manure storage area) surrounded by a low (1m high) earth bund. This is used for soiled bedding and waste from the horses.
- 1.5 Planning permission was granted for the livery yard and associated development in 2011 (2009/0565/FUL) on Appeal along with the temporary siting of a residential caravan. A later permission was also given for a permanent dwelling to house the owners of the livery (and replace the temporary caravan) in 2016 (2015/0908/FUL).

### **The Proposal**

- 1.6 This application is a Section 73 application to vary condition 11 (number of horses) of permission 2009/0565/FUL (allowed on appeal 01 April 2011) for the erection of 3 blocks of 7 No. stables with tack room, erection of indoor riding area, construction of outdoor riding area and vehicle park and siting of a mobile home.
- 1.7 The application under S73 relates to allowing for additional horses as condition 11 provides that at no time shall the number of horses stabled exceed 21, and other than a maximum of three horses at any one time the stabled horses shall be on full or part-livery only. The applicant wishes to increase the numbers respectively to a maximum of 27 of which up to six may be the owner's horses, instead of the permitted three.
- 1.8 The Applicants have submitted that the livery has successfully retained its customers, some of whom now have two horses rather than one on livery and as such an increase is being sought as it would be impractical to place an additional horse at another livery. Also, the applicants now breed their own horses, which may at times result in more horses than permitted under the extant permission.
- 1.9 In addition the applicants have a total of five horses of their own – three of which are foals to be sold at age four, so they are currently in breach of condition 11.

Once sold however and if breeding is successful, they will be replaced by other foals, which is another reason for the applicants seeking to change condition 11.

### **Relevant Planning History**

- 1.10 The following historical application is considered to be relevant to the determination of this application:

2009/0565/FUL,AltRef: 8/62/232/PA,Description: Erection of 3 blocks of 7No. stables with tack room, erection of indoor riding area, construction of outdoor riding area and vehicle park and siting of a mobile home, Land To Rear Fennel Farm,Hall Lane, Church Fenton, Tadcaster, North Yorkshire, LS24 9RN, Decision: REF: 26-MAY-10 ALLOWED ON APPEAL: 01.04.2011

2011/0590/DPC,AltRef: 8/62/232A/PA,Description: Discharge of conditions 3(materials), 4(surface drainage), 5(landscaping), 6(boundary treatments), 7(lightning) & 8(fouled bedding) of appeal approval APP/N2739/A/2134309 (2009/0565/FUL) for the erection of 3 blocks of 7No. stables with tack room, erection of indoor riding area, construction of outdoor riding area and vehicle park and siting of a mobile home,Address: Land To Rear Fennel Farm,Hall Lane,Church Fenton,Tadcaster, Decision: CONDP: 27-JUL-11

2015/0908/FUL,AltRef: 8/62/23B/PA,Description: Proposed erection of a dwelling and garage for essential rural worker,Address: Hall Lane Stables,Hall Lane,Church Fenton,Tadcaster, Decision: PER: 05-MAY-16

2016/0615/DOC,AltRef: 8/62/23C/PA,Description: Discharge of condition 04 (materials) of approval 2015/0908/FUL Erection of a dwelling,Address: Hall Lane Stables,Hall Lane,Church Fenton,Tadcaster,Decision: COND: 22-JUL-16

## **2. CONSULTATION AND PUBLICITY**

- 2.1 Selby Area Internal Drainage Board** – The applicant should ensure that any existing or proposed surface water discharge system has adequate capacity for any increase in surface water run-off to the area. A number of conditions/informatives recommended.
- 2.2 Environmental Health** – No objections.
- 2.3 Enforcement Team** – No response received.
- 2.4 NYCC Highways Canal Rd** - There are no local highway authority objections to the Section 73 as none of the Conditions are highway related.
- 2.5 Yorkshire Water Services Ltd** – No response received.
- 2.6 Church Fenton Parish Council** - Application was considered by the Parish Council at its meeting on 20th June 2019 when it was resolved to OBJECT on the following grounds:

- Intensification of use leading to an increase in activity and traffic to the detriment of local residential amenity. When this proposal was granted on Appeal the Inspector stated that "Provided the intensity of use of the proposed development were to be limited to that which, on the basis of the evidence before me, I would reasonably anticipate to be associated with the operation proposed, I do not consider that there would be significantly harmful conflict with the intentions of the relevant Local Plan Policy..."
- Consent was limited to 21 horses to support that reasoning. This proposal represents a substantial increase which fails to recognise the impact on local amenity.
- Paragraph 6.6 of the supporting statement confirms that an expansion has already taken place without planning consent. This provides little comfort that the operation is being operated in accordance with the current and any future consent and leads to concerns that control of this expanded proposal may require enforcement action which is time consuming and does little to protect local residents.
- It is impossible to understand the changes proposed to conditions 7 and 8 as there is no information available as part of the application regarding the "approved schemes" referred to. It should not be possible to determine this application without this information being publicly available.

**2.7 Publicity/Neighbour Summary** – All immediate neighbours were informed directly by letter, a site notice was posted outside the site

**21 letters of objection have been received from 15 objectors. Comments are summarised below:**

- Does not represent a minor amendment given number of horses to be stabled
- Impact on residential amenity due to noise and increase in traffic
- Special regard to be given to existing condition 8 regarding waste disposal – increase should see amendments to location, scale and removal of manure bund which would adversely impact on residential amenity
- Information provided is insufficient
- Neighbour consultation is inadequate
- Applicant already in breach of the conditions relating to original planning permission
- Location of existing (manure) bund has a negative impact on me and my family which would worsen if more manure disposed of as odour from manure is so strong we are unable to use our garden and it triggers migraines; breathing and mental wellbeing problems
- Windows in my home are taped up to prevent smells; children unable to play in garden; washing not hung out and dried indoors – environmental impact due to tumble dryer use
- Location and scale of manure heap does not comply with condition 8 of permission as the size was increased in 2017



- Midden is not in position specified and has been extended (2017) so instead of being 10m by 10m it is 32m by 9m and having a larger surface area
- Heavy traffic from more horse boxes in Church Fenton which is already subjected to many lorries through centre of village and roads are not suitable
- Would like confirmation that other conditions are being met
- Business operation starts (circa 7am); reference to quad moving manure to midden; traffic to and from site
- Existing planning allows for a maximum of 21 horses on site and there are currently 27 –
- Lighting shines continuously into neighbours garden on Nanny Lane  
This is a residential area and should be kept as such
- Relocate the manure bund as it is impacting on residential amenity of locals

**and 1 letter of support stating the following:**

- Planning and environmental issues raised in regard to the midden have been thoroughly investigated by Selby District Council (SDC) following persistent and repeated complaints which were ultimately found to be baseless
- Dimensions deemed to be acceptable and located in the position as a requirement of the planning approval
- Residential properties allowed despite SDC being aware of midden and each and every resident of new properties purchased were aware of its presence
- Environmental Health Officers have fully investigated the alleged hazards including flies and concluded there is no hazard
- Lucky to live in a rural environment which as a consequence there will be livestock and crops and agricultural traffic
- Any increase in traffic would be minimal and less so than traffic generated by multi-car households and other agricultural and commercial traffic in the locality
- Hall Lane Stables is a small local business providing a valuable local commodity
- Myself and others benefit from keeping our horses here and the unit is ranked as one of the highest livery yards in the country as assessed by the British Horse Society on an annual basis
- Supporting local businesses is a key part of the local and strategic plans as communities cannot thrive without them
- Provides employment to local residents and trade to shops and pubs
- Ensures considerable open, green space remains well maintained and thereby enhancing the character of the countryside

### **3 SITE CONSTRAINTS**

- 3.1 The application site is located outside but adjoins the Development Limits of Church Fenton, within Flood Zone 2 and on potentially contaminated land.

3.2 The site is not situated within a Conservation Area nor is it close to a Listed Building.

#### **4 POLICY CONSIDERATIONS**

4.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 states "if regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise". This is recognised in paragraph 11 of the NPPF, with paragraph 12 stating that the framework does not change the statutory status of the development plan as the starting point for decision making.

4.2 The development plan for the Selby District comprises the Selby District Core Strategy Local Plan (adopted 22nd October 2013) and those policies in the Selby District Local Plan (adopted on 8 February 2005) which were saved by the direction of the Secretary of State and which have not been superseded by the Core Strategy. On 17 September 2019 the Council agreed to prepare a new Local Plan. The timetable set out in the updated Local Development Scheme envisages adoption of a new Local Plan in 2023. Consultation on issues and options would take place early in 2020. There are therefore no emerging policies at this stage so no weight can be attached to emerging local plan policies.

4.3 The National Planning Policy Framework (February 2019) (NPPF) replaced the July 2018 NPPF, first published in March 2012. The NPPF does not change the status of an up to date development plan and where a planning application conflicts with such a plan, permission should not usually be granted unless material considerations indicate otherwise (paragraph 12). This application has been considered against the 2019 NPPF.

4.4 Annex 1 of the National Planning Policy Framework (NPPF) outlines the implementation of the Framework -

*"213. ....existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of this Framework. Due weight should be given to them, according to their degree of consistency with this Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)."*

#### **Selby District Core Strategy Local Plan**

4.5 The relevant Core Strategy Policies are:

- SP1 Presumption in Favour of Sustainable Development
- SP2 Spatial Development Strategy
- SP13 Scale and Distribution of Economic Growth
- SP15 Sustainable Development and Climate Change
- SP18 Protecting and Enhancing the Environment
- SP19 Design Quality

## **Selby District Local Plan**

### **4.6 The relevant Selby District Local Plan Policies are:**

EMP9 Expansion of Existing Employment Uses in the Countryside  
ENV1 Control of Development  
T1 Development in Relation to the Highway Network  
T2 Access to Roads  
RT9 Horse Related Development

## **5 APPRAISAL**

5.1 The main issues to be taken into account when assessing this application are:

- **Principle of the Development**
- **Impact on Open Countryside**
- **Impact on Residential Amenity**
- **Impact on Highway Safety**
- **Flood Risk and Drainage**
- **Other Matters**

### **5.2 Principle of Development**

5.3 The Town and Country Planning Act 1990 Section 73 allows for applications to be made to undertake development without complying with conditions attached to such an approval. Paragraph (2) of Section 73 states "On such an application the local planning authority shall consider only the question of the conditions subject to which planning permission should be granted, and —

(a) if they decide that planning permission should be granted subject to conditions differing from those subject to which the previous permission was granted, or that it should be granted unconditionally, they shall grant planning permission accordingly, and

(b) if they decide that planning permission should be granted subject to the same conditions as those subject to which the previous permission was granted, they shall refuse the application."

5.4 As such the only consideration of this application is in relation to the conditions of the approval and the impact the proposed variation would have. Therefore key to the determination of this application is whether a new planning consent for the development with the proposed variation to Condition 11 of planning permission 2009/0565/FUL granted on Appeal on 12/01/2011 (APP/N2739/A/10/2134309) would be contrary to the provisions within the development plan or whether there are reasonable grounds for refusal if these conditions were retained in their present form.

5.5 A section 73 is an application for planning permission where the local authority's duty is to have regard to the development plan and any other material

considerations. In considering a section 73 application, if a variation to a condition is acceptable permission is granted and the effect is a new consent sitting alongside the original consent. The only consideration of this application is in relation to the impact the proposed variation would have on the character of the open countryside, highway safety and residential amenity. Therefore key to the determination of this application is whether a new planning consent for the development with the proposed variation to Condition 11 as detailed in paragraph 1 would be contrary to the provisions within the development plan; whether there are reasonable grounds for refusal if these conditions were retained in their present form; or whether permission can be granted unconditionally or subject to different conditions.

- 5.6 The principle of the development was determined on appeal and therefore was considered policy compliant at that time.
- 5.7 The Selby District Core Strategy (CS) was adopted on 22.10.2013 which replaced a number of 'saved' Selby District Local Plan (SDLP) policies. Additionally, the introduction and updates to the National Planning Policy Framework (NPPF) first published in 2012, and last updated in February 2019 which replaced Planning Policy Statements (PPS). The proposed variation to the condition will be assessed against the updated policies and guidance.
- 5.8 The proposal was assessed against policies ENV1, RT9 and EMP7 – Employment Development in the Countryside (SDLP) of which policy EMP7 has now been deleted. Policy ENV1 is however still of relevance and which states that proposals for new development shall be permitted providing a good quality of development is achieved and taking account of (amongst other reasons) 1) character of the area and amenity of adjoining residents and 2) the sites relationship to the highway network, including means of access and car parking. Policy RT9 is also relevant and specifically relates to stables and the keeping of horses and states that development will be permitted providing (amongst other things) buildings do not detract from the character and appearance of the rural environment; sited at a distance from the nearest dwelling in the interests of residential amenity; 3) adequate provision to be made for storage and disposal of soiled bedding material and 4) would not create conditions prejudicial to highway safety which can adversely affect local amenity.

## **5.9 Impact on Open Countryside**

- 5.10 The proposed change to condition 11 for six additional horses in itself would not result in any additional visual impact on the character of the open countryside as the changes would be confined to within the extent of the existing site, with no further encroachment into the open countryside.
- 5.11 Part C of policy SP13 of the Core Strategy replaces policy EMP7 (SDLP) and states that sustainable development in rural areas which brings economic growth through local employment should be supported which (amongst other things) includes: 1) re-use of existing buildings; 2) redevelopment of existing and former employment sites/commercial premises; 3) diversification of...and other land based rural businesses; 4) ...other small scale rural development; 5)

...supporting development and expansion of local facilities in accordance with policy SP14. Section D of policy SP13 adds that development should be sustainable and appropriate in scale and type to its location; not harm the character of the area and seek a good standard of amenity. The proposal seeks to vary condition 11 in order to provide for a small expansion to what is an established and successful business. The change would be minimal and would not encroach or impact on the open countryside as the changes would be confined to within the existing site, nor would there be any detrimental or adverse impacts on neighbour amenity or highway safety. Policy EMP9 (SDLP) however has been retained and therefore still applies to the development in regards to the expansion of existing businesses outside development limits; subject to matters relating to highway safety; impact on character and appearance of the area; design and no loss of the best agricultural land being acceptable.

- 5.12 The above considerations comply with the NPPF at paragraph 83 a), which advises (amongst other things) that policies should “*enable the expansion of all types of business in rural areas.*” Paragraph 84 expands on this advising that existing sites which meet local and business needs in rural areas are often beyond or adjacent to existing settlements but which are well related to existing settlements should be encouraged where suitable opportunities exist. Therefore in regards to re-visiting updated policy, the proposal is still very much compliant.

### **5.13 Impact on Residential Amenity**

- 5.14 Policy ENV1 (1) requires development to ensure there is no detrimental impact on existing residents with policy RT9 (1) requiring stable blocks to be sited at a reasonable distance from the nearest dwelling to ensure that no detrimental impact results, in respect of noise and odour. The stables are located to the south side of the indoor arena, facing away from adjacent neighbors who are also located at a significant distance from (minimum of 75m) the site of the stables to be retained.
- 5.15 This application does not involve operational development but would increase the manure produced. However, arrangements are already in place for its disposal and the submitted Planning Statement advises that despite the increase in horses, the midden would simply be emptied as soon as current levels of the agreed volume are reached, which would be likely, given the increase in horses.
- 5.16 Part of paragraph 182 (NPPF) advises that “*existing businesses and facilities should not have unreasonable restrictions placed on them as a result of development permitted after they were established.*” An objector has referred to movements on site taking place as early as 7am. This is not a consideration in regards to this application as there are no time limits in regards to running of the livery. Restrictions are applied only in respect of the training of owners who have their horses on livery at the premises, which is also limited to up to two people being trained at any time between the following hours:

- Monday to Friday: 9.00 and 19.00
- Saturdays, Sundays & Bank Holidays: 10.00 and 18.00

Whilst there would be additional horses and movements to the midden, it would be unfair to restrict movements and the operations of the livery, particularly when it has been running for approximately nine years. Furthermore, it is debatable as to whether imposing such a condition would meet the six tests in accordance with paragraph 55 of the NPPF in terms of being necessary, relevant, enforceable, precise and reasonable in all other respects.

- 5.17 The Council's Environmental Health Officer (EHO) has been consulted on the proposals and initially was under the misconception that all conditions were to be changed. However the only condition this application directly affects is condition 11. However, as a substantial period of time has passed since the proposal was allowed on appeal, all but one (condition 7 – lighting scheme) of the conditions have now been discharged and complied with. With regards to condition 7, this was not formally approved on the original Discharge of Conditions application (2011/0590/DPC) as the EHO at that time sought additional information. The EHO informally agreed the scheme at a later date but this was never officially discharged.
- 5.18 The existing lighting scheme has been in force for some eight to nine years and therefore gone beyond the point of being subject to Enforcement action. If the scheme were submitted under a discharge of condition application, it would be approved and therefore discharged as there have been no complaints in regards to it. The agent has however submitted details in order to formalise the scheme. The EHO has advised he has nothing to add to his previous comments (no objection) on the basis that there have been no complaints. In conclusion, the existing lighting scheme which has been in place for a significant period and for which there have been no complaints and it is therefore considered to be acceptable.
- 5.19 There are also slight changes to the wording of condition 8 (manure disposal) in order to retain the scheme as approved.
- 5.20 Objectors have referred to the existing manure storage area permitted under the extant consent. A scheme for the conversion of existing farm buildings to residential properties to the north west of the site was approved (2011/0767/COU) in addition to the construction of a housing development of five properties at a later date (2012/0903/OUT and 2014/0629/REM). This does not however form part of the proposal but it is reasonable to respond and address along with other objections as follows. Furthermore, the impact on the residential amenities for occupants of the new dwellings would have been considered at the time when the stables were already established.
- 5.21 The position of the midden for the storage of manure was approved under the extant permission. However the dimensions of the midden do not strictly accord with the scheme as discharged under 2011/0590/DPC (being 10m by 10m by 1.5m high with a volume of 150 cubic metres) as the dimensions are 20m by 7m by 1m high. However, the storage is below the approved volume of 150 cubic metres at 140 cubic metres as the midden has not been used to its full capacity under the extant permission. In addition, the capacity of 150 cubic metres was considered to be reasonable at the time the condition was discharged.

- 5.22 The variation to allow six more horses and resulting in additional manure/soiled bedding is a material consideration. The applicants have clearly stated that this would not result in an increase in capacity to the existing midden. The midden would be emptied more often in order to maintain the current levels and not go beyond that currently permitted.
- 5.23 A letter has been received from a General Practitioner on behalf of an objector, claiming that the position of the midden is impacting on the health of this person and their family. It states that the current manure pile is having a negative impact on the health of local residents and that intensification of its use would exacerbate the *“current health issue.”* The letter adds that the manure pile should be re-located if an increase in horse numbers should be approved. This is considered to be an unreasonable request given the comments below and would be very expensive for the applicants to relocate, with no guarantee of them not being requested to move it again in the future.
- 5.24 It should be noted that the EHO investigated a complaint regarding odour associated with the manure pile following allegations that it was “prejudicial to health” under the Environmental Protection Act 1990. The complainant has previously sought advice from a solicitor and acquired letters from their GP stating that the manure pile “could” be causing health effects to the family. Environmental Health where of the view that formal action could not be taken on this basis, but did not want to discount this without consulting other professionals and Public Health England. In response the following statement was provided by Public Health England to describe the difference between the stress response in relation to odours and what can be defined as specific harms to health from direct exposure to a chemical or pollutant: *“The human nose is very sensitive to odours, and many substances that are perceived as odorous or smelly are usually present at levels below which there is a direct harmful effect. Odours can however cause annoyance and can lead to stress and anxiety. Some people may experience symptoms such as nausea, headaches or dizziness as a reaction to odour, even when the substances that cause those smells are themselves not harmful to health.”*
- 5.26 Numerous studies of and visits (seven - collectively) to the midden have been undertaken by Environmental Health Officers (EHO) and Planning Enforcement Officers where it has been concluded that it is not causing a statutory nuisance and therefore not prejudicial to health. Furthermore, whilst it is acknowledged that there was a minor breach in regards to the dimensions of the midden, Planning Enforcement Officers (PEO) concluded that there was no justification for action to be taken. Despite the numerous claims by the neighbour as discussed above, it is clear that there is insufficient justification and evidence to support the complaints as proven by the EHO and PEO.
- 5.27 The scheme for foul bedding was discharged in 2011 and therefore acceptable for its purpose. Furthermore, the applicants chose to limit its capacity to 140cubic metres, although the scheme allows for 150cubic metres.

5.28 On the basis of the above, it is considered that the amenities of the adjacent residents would be preserved in accordance with Policies ENV1(1) and RT9 (1) of the Selby District Local Plan and the advice contained within the NPPF.

### **5.29 Impact on Highway Safety**

5.30 Local Plan policy RT9 expects horse related development to not “*create conditions prejudicial to highway safety.*” Paragraph 108 b) aims to achieve safe and suitable access for all users to a site and paragraph 109 states that applications should only be refused on highway grounds if the impact on highway safety would be severe. Objections received state that there would be an increase in heavy traffic from additional horse boxes, for which the roads are unsuitable. Whilst the application may intensify the use of the site to a minimal degree, no changes are proposed to the existing access and low levels of additional traffic associated with the proposal are anticipated, even if this resulted in more people using the livery. The additional vehicular traffic to and from the stables would not increase significantly and therefore would not impact on existing highway safety.

5.31 This view is endorsed by NYCC Highways in their response, who has advised that they have no objections to the proposed development as the condition is not highway related.

5.32 On this basis, the proposal is acceptable in regards to highway safety in accordance with Policies ENV1, RT9, T1 and T2 of the Selby District Local Plan and paragraph 108 b) and paragraph 109 of the NPPF.

### **5.33 Flood Risk and Drainage**

5.34 The Internal Drainage Board (IDB) has included a number of recommendations, conditions and informatives in the response. The proposal is however for the variation of the relevant conditions and does not include any operational development, therefore it is considered unnecessary to incorporate such conditions as part of this proposal. A separate submission for the stables has been received by the LPA which is currently being validated and such conditions would be included with any permission, should that be the case.

### **5.35 Response to Outstanding Objections**

5.36 Consultations have been undertaken in accordance with the regulations, including the placing of a site notice on Hall Lane.

5.37 There are a number of general objections which are not material considerations haven't been addressed in the above sections and responses of which are provided below:

- The Notice of Decision for the application to which this is linked (2009/0565/FUL) has been made available on Public Access



- Objectors have raised planning enforcement matters relating to the original approval (midden) which do not form part of the application for consideration
- Landscaping in regards to condition 5 involved a mixed species hedge to the south east boundary of the stable/arena areas; cherry tree to the central area of the stable block; in addition to a 1.8m acoustic timber fence to the boundary which separates the site from Fennel Garth Farm to the north; all of which were discharged under 2011/0590/DPC.

## 6 CONCLUSION

- 6.1 Having had regard to the development plan, all other relevant local and national policy, consultation responses and all other material planning considerations, it is considered that the variation of condition 11 to increase the number of horses kept at Hall Lane livery Stables from 21 to 27 is acceptable and would not have a detrimental impact on the character and appearance of the area, the residential amenity of the occupants of neighbouring properties and highway safety and would not therefore result in a development which is substantially different to that already approved.

## 7 RECOMMENDATION

This application is recommended to be **GRANTED** in accordance with the following conditions:

01. The development hereby permitted shall be retained in accordance with the following plans/drawings listed below:

SH01A – Location plan  
 SH01 – Site Layout  
 SH02 A – Indoor Arena  
 SH03 - Stable block floor plans and elevations  
 SH04 – Typical section through stable block / proposed site plan  
 SH05 – Typical section of outdoor arena  
 UKS6693 – External floodlighting for manege

Reason: For the avoidance of doubt

02. The arena shall not be illuminated except in accordance with the details shown in the lighting scheme received by the Local Planning Authority on 24.10.2019.

Reason: In the interests of neighbour amenity, to prevent light spillage into the open countryside and in accordance with Policy ENV1 of the Local Plan.

03. The approved scheme (under Discharge of Condition (No.8) application ref: 2011/0590/DPC) for the disposal of foul bedding and manure and for the control of odour and flies shall be operated for the duration of the approved use.

Reason: In the interests of residential amenity and to minimise the risk of pollution in accordance with Policy ENV1 of the Local Plan.

04. At no time shall the number of horses stabled at the development exceed 27. Other than a maximum of six horses at any one time, the stabled horses shall be kept on a full livery or part livery basis only; the term livery being taken as meaning the provision of facilities for, and the supervision and care of horses that are not the property of the proprietor, in return for remuneration or reward. Horses shall at no time be offered for hire at the development hereby permitted for supervised or unsupervised riding on or off the site.

Reason: In the interests of residential amenity in accordance with Policy ENV1 of the Local Plan.

05. No competitive equestrian events, including shows or gymkhanas shall be held at the site, or on the adjoining land in the same ownership and any training of riders undertaken shall be restricted solely to riders who are owners of horses kept at the livery and training centre hereby permitted.

Such training shall only take place between the hours of:

9.00am and 7.00pm Monday to Friday  
and between the hours of 10.00am to 6.00pm on Saturdays, Sundays and Public and Bank Holidays.

Within the outside arena no more than two riders shall be trained at any one time.

Reason: In the interests of residential amenity in accordance with Policy ENV1 of the Local Plan.

## **8 Legal Issues**

### **8.1 Planning Acts**

This application has been determined in accordance with the relevant planning acts.

### **8.2 Human Rights Act 1998**

It is considered that a decision made in accordance with this recommendation would not result in any breach of convention rights.

### **8.3 Equality Act 2010**

This application has been determined with regard to the Council's duties and obligations under the Equality Act 2010. However it is considered that the recommendation made in this report is proportionate taking into account the

conflicting matters of the public and private interest so that there is no violation of those rights.

**9. Financial Issues**

Financial issues are not material to the determination of this application.

**10. Background Documents**

Planning Application file reference 2019/0564/FUL and associated documents.

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**Appendices:** None