

Part I

Executive Member: Councillor Perkins

WELWYN HATFIELD BOROUGH COUNCIL  
DEVELOPMENT MANAGEMENT COMMITTEE – 18 AUGUST 2016  
REPORT OF THE DIRECTOR (GOVERNANCE)

S6/2015/1106/FP

WARRENWOOD MANOR, HORNBEAM LANE, BROOKMANS PARK, HATFIELD,  
AL9 6JF

RETENTION OF PARKING AREA FOR CARS AND HORSEBOXES, HORSE  
HOLDING AREA AND MANÈGE AREA WITH ASSOCIATED FENCING AND  
LIGHTING

APPLICANT: Mr Nigel Brunt

(Hatfield East)

**1 Background**

- 1.1 This application was deferred from Development Management Committee on 21 July 2016 for a site visit. This took place on 14 August 2016.
- 1.2 This report has been updated in paragraphs 5.8, 11.2, 11.21, 11.22, 11.23, 11.24, 11.25, 11.26, 11.27 and Sections 13 and 14 and 11.32 and 11.39 to take account of late representations previously reported.

**2. Site Description**

- 2.1 The application site is located approximately 2km to the south of the village of Essendon. It forms part of the wider Warrenwood site which extends to 24.05ha. The wider site comprises of a dwellinghouse and associated garaging which are to the south of Kentish Lane and a stable block and associated buildings to the north. The land surrounding the application site is predominantly arable and equestrian.
- 2.2 Access to the site is via Kentish Lane (B158) onto Hornbeam Lane, which serves the application site, a number of cottages and also forms a public bridleway. The application site is located to the north of this lane and comprises of a parking area, a manège and associated fencing and lighting, the subject of this application.
- 2.3 The site lies within land owned by Warrenwood Manor and is bounded to the north by a 16 box stable building with associated horse rider and storage barn, the subject of application S6/2015/1105/FP. The remaining land is predominately arable and equestrian, although to the south is an area of land to be remodelled that is subject of application S6/2015/1107/MA.

### **3. The Proposal**

- 3.1 This application seeks planning permission for the retention of a parking area for cars and horseboxes. It is accessed from Hornbeam Lane and is finished in block paving and measures approximately 47m x 42m and encloses the area between manège and existing stable building, which is outside the red line of the application site. It provides 6 car parking spaces and 5 horse box parking spaces with a 12m radius turning zone.
- 3.2 The proposed manège covers an area of 80m x 40m and is enclosed by a 1.1m high post and rail fencing with access gates at both ends.
- 3.3 Flood lighting is proposed on 12 steel piles at a height of 4.5m around the manège. Each light contains a 150 watt yellow metal halide lamp and the heads have been angled downwards. The lighting is switched on as and when required.

### **4. Reason for Committee Consideration**

- 4.1 This application is presented to the Development Management Committee because Councillor Sarson has called the application in on the following reasons;
- *“Building on Green Belt without permission;*
  - *To be used as a commercial venture;*
  - *Have the highway authorities made any comments; and*
  - *The buildings are detrimental to the surrounding residents.”*

### **5. Relevant Planning History**

Previously called Meadow Cottage, and also known locally as ‘Spike Island’. Spike Island and the adjacent land were purchased by Andrew Perryment (Rose Limited) in 1998.

- 5.1 S6/1998/129/AG Barn for general storage purposes in connection with the agricultural use of the land – Determined no objection and no further details required 09 Mar 1998.
- 5.2 S6/1999/372/FP Change of use of land to equestrian with associated ménage, rides and landscaping – approved 09 Aug 1999.
- 5.3 ENF/99/253 – November 1999. 3 x concrete strips laid in west corner of field opposite Spike Island. PCN served leading to:-
- 5.4 S6/1999/993/FP 24 timber loose boxes on concrete bases for equestrian use – refused 04 Jan 2000. Reported to PCC 06 Apr 2000 when enforcement authorised.

- 5.5 S6/2009/2556/MA - Change of use to equestrian with associated manège, rides and landscaping – Granted conditionally on 21 January 2010.
- 5.6 S6/2012/2655/S73B - Time extension of planning permission S6/2009/2556/MA (Change of use to equestrian with associated manège, rides and landscaping) –Approved February 2013.
- 5.7 S6/2012/2658/S73B - Variations of condition 10 of planning permission S6/2009/2556/MA (Prior to the commencement of the development hereby permitted, details shall be submitted to the local planning authority for approval in writing, showing easement details that give legal rights for vehicular traffic to travel along the Public Bridleway (Hornbeam Lane). REASON: To ensure that there is a legal right of access for vehicular traffic in accordance with Countryside and Rights of Way Act 2000 – Approved March 2013.
- 5.8 ENF/2015/0004 – Operational development/MCOU – Open enforcement investigations relating to erection of 24 floodlights on 8 poles around menage, use of site for commercial livery, use of stables for residential purposes and importation of waste.
- 5.9 S6/2015/1105/FP - Retention of single storey storage barn, open horse walker and associated fencing. Pending consideration.
- 5.10 S6/2015/1107/FP- Retention of modified land levels and further land remodelling to agreed contours. Pending Consideration.

## **6. Planning Policy**

- 6.1 National Planning Policy Framework (NPPF) March 2012
- 6.2 Welwyn Hatfield District Plan 2005
- 6.3 Supplementary Design Guidance, February 2005
- 6.4 Supplementary Planning Guidance, Parking Standards, January 2004

## **7. Site Designation**

- 7.1 The site lies within the Metropolitan Green Belt, Brickendon Wooded Slopes Landscape Character Area and Wildlife Site as designated in the Welwyn Hatfield District Plan 2005.

## **8. Representations Received**

- 8.1 The application has been advertised by means of neighbour notification letters and site notice. One comment has been received from Follyfoot Farm, Woodfield Lane which can be summarised as;

- Objects to the application;

- The landfilling is a disgrace;
- The land is many meters above the lay of the land and in some places 20m higher
- The size of the manège is bigger than is acceptable especially as it has been built of Green Belt land;
- The block paving has total disregard for the Green Belt and is not in keeping with anything in the area; and
- The lighting is unacceptable and floods nearby woodland which disturbs wildlife.

## **9. Consultations Received**

9.1 No objections have been received from **Hertfordshire County Council Transport, Programmes and Strategy** or **Hertfordshire Ecology**.

9.2 **Welwyn Hatfield Borough Council Environmental Health** recommends that the planning application is permitted.

9.3 No comments have been received from **Herts & Middlesex Wildlife Trust**, **Herts & Middlesex Bat Group** and consultation expired 8 December 2015.

## **10. Parish Council Representations**

10.1 Essendon Parish Council has concerns to the proposed development stating:

*'We are very concerned about a number of aspects of this development, not the least of which is the apparent lack of the necessary public consultation. Our clerk has no record of Essendon Parish Council being consulted on previous related applications, our awareness of the development stemming from observing the many hundreds of lorries that went into and tipped on to the site over very many months.*

*When we expressed our concern at this, WHBC LPA simply assured us it had received permission. We gather that the end result does not accord with that planning permission.*

*Of more concern is that local residents along Hornbeam Lane, who suffered much of the mud and disruption to their amenity with the hundreds of tipper lorries passing through, many dozens a day, were also not consulted. When they queried this with the LPA, they inform us they were told that there was a field between them and the development, so they were not neighbours and there was no need for the LPA to consult with them. Given what they have endured, this seems to us to be an unreasonably restricted interpretation of the LPA's statutory duty in this regard, contrary to natural justice and, together with the apparent failure to consult with the Parish Council, displaying a distressing regard for the democratic and community basis for the planning system. This will not do. Further to this, we are now informed that the said intervening field is owned by the applicant. There was, therefore, no legitimate basis for the LPA to refuse to consult with these neighbouring properties.*

*Now that the above applications are before us, we assume to legitimise the landfill and the change of use from domestic to commercial use, we have received a number of plans printed on A4. We find these difficult to read in view of which we must leave it to the LPA to arrive at a determination on the contouring, horse walker and storage building. What is of concern to us is the change of use for these equestrian facilities from a domestic to a commercial use. Local residents inform us that commercial use is already being carried out, with gymkhanas, noisy PA systems and the everyday impact of the commercial letting of stabling facilities with attendant noise, disruption and heavy traffic along Hornbeam Lane. The Parish Council would not be concerned if the facilities were for domestic use attached to the main residence. Now this new commercial use is causing demonstrable harm to the quality of life and amenity of the residents along Hornbeam Lane. As such we strongly object to the change of use of the facilities to a commercial use. We have been e-mailed by our Borough Councillor, Bernard Sarson, who has called these applications in such they will be considered by the Planning Committee. We understand that affected residents want to address that committee and, given the above circumstances, we would hope that they will receive every assistance from the LPA's offices.'*

## **11 Analysis**

11.1 The main planning issues with this application are:

- 1. Principle of development in Green Belt (GBSP1, RA21, R20, National Planning Policy Framework (NPPF))**
- 2. The quality of the design (D1, RA21, SDG & NPPF)**
- 3. Other Material Planning Considerations**
  - i) Highway and Parking (M14, RA21, and SPG)**
  - ii) The potential impact on the residential amenity of adjoining neighbours (D1, R19, R20, RA21, SDG and NPPF)**

### **1. Principle of development in Green Belt**

11.2 The site is within the Green Belt wherein only specified developments will be permitted. Planning permission has previously been granted for a change of use of land at Warrenwood Manor to equestrian with associated manège, rides and landscaping under planning reference S6/2009/2556/MA. That application was a resubmission of an application from 1999 (372/99), which was granted planning permission, but never implemented. The permitted manège under S6/2009/2556/MA, however has not been built in accordance with the approved plans and has reduced in size. The permitted manège was located outside the current application site and to the south, although in close proximity to it, and was larger with an area of approximately 100m x 50m. A condition was placed on that permission restricting the erection of flood lights as this could have a detrimental impact on the visual amenities of the Green Belt and wildlife. Additionally an area for parking was provided to the front of the stable building.

- 11.3 The red line of the site in application S6/2009/2556/MA included the current application site. Therefore the land forming part of this application has been granted planning permission for use as equestrian land.
- 11.4 The proposed manège and parking area is an engineering operation. Paragraph 90 of the National Planning Policy Framework (NPPF) is applicable and advises in bullet point two, that an engineering operation is not inappropriate in Green Belt provided it preserves the openness of the Green Belt and does not conflict with the purposes of including land in Green Belt. The question to be addressed is whether the proposed manège and parking area would have a greater impact on the openness of the Green Belt and the purposes of including land within it.
- 11.5 Paragraph 79 of the NPPF identifies openness and their permanence as one of the two essential characteristics of Green Belt whilst Paragraph 80 lists the five purposes of including land in the Green Belt.
- 11.6 Policy RA21, Leisure and Tourism in the Countryside, of Welwyn Hatfield District Plan, is applicable. Criteria i) and iii) of that policy state that the proposed use is in accordance with Green Belt policies and that the proposed use would not have an adverse effect on the character and other environmental assets of the countryside echoes national policy listed above.
- 11.7 The adjoining land to the application site presently contains a stable building, open horse walker and associated fencing and single storey storage barn, although the latter three are the subject of applications S6/2015/1105/FP. The area around the site and surrounding paddocks and building is open rural countryside and undeveloped. There is dense woodland and hedgerows in the landscape.
- 11.8 The proposed manège covers an area of 80 x 40m and is straw/sand. Whilst this is larger than the manège permitted under S6/2009/2556/MA, it is considered that given its nature and that it has little visual impression in the landscape, it would not materially impact on the openness of the Green Belt or its purposes.
- 11.9 With regard to the proposed hardstanding this provides parking, turning and horse holding between the manège and the stable building. It measures approximately 47m x 42m and is finished in block paving. It is located to the north west of the manège. The hardstanding for car parking allowed under S6/2009/2556/MA was considerably smaller and located to the front of the stable building also located to the north west of the manège. The permitted Landscaping Plan associated with that application also included an area to the side of the permitted manège. However, materials of that previously allowed hardstanding for car parking and area to the side of the permitted manège were conditioned but that condition has not been complied with.
- 11.10 The proposed hardstanding, given its size and location, has introduced a more formal, urban appearance to the site compared to its former open and undeveloped appearance and character. Whilst this would not harmfully

effect the openness of the Green Belt as these changes would not introduce built development above ground level, this part of the proposal would add to the urbanising effects of the overall development in this rural location where it would not assist in safeguarding the countryside from encroachment, one of the five purposes of including land in the Green Belt. Subsequently it is inappropriate development in the Green Belt, contrary to the NPPF and Policy RA21 of the District Plan.

- 11.11 With regard to the proposed lighting columns these are provided on steel piles and allow the use of the facility during winter evenings. Additionally a 1.1m high post and rail fence with access gates at both ends surrounds the manège. These are buildings as defined by section 336 of the Town and Country Planning Act which states:

*“building” includes any structure or erection, and any part of a building, as so defined, but does not include plant or machinery comprised in a building;’*

- 11.12 The Framework provides that new buildings within the Green Belt are inappropriate development unless, amongst other things, they relate to the appropriate provision for outdoor sport and preserve the openness of the Green Belt and do not conflict with the purposes of including land within it. Given that the lighting columns and fencing would be directly related to the use of the manège it is considered they would satisfy the exception criteria in paragraph 89 of the NPPF in that they are appropriate facilities for outdoor sport and recreation. However, to be appropriate development they need to not materially impact on the openness of the Green Belt and the purposes of including land within it.
- 11.13 With regard to openness, this is about the physical presence of a structure on land. The post and rail fence and gates have little visual impression in the wider landscape due to their nature and scale they do not impact on the openness or purposes of the Green Belt.
- 11.14 With regard to the lighting structures, Local Plan Policy R20 of the District Plan is also applicable and outlines that external lighting schemes will only be approved where it can be demonstrated that there would be no adverse impact on the character or openness of the countryside and Green Belt. In addition, the NPPF, in paragraph 125, states that planning decisions should limit the impact of light pollution from artificial light on intrinsically dark landscapes.
- 11.15 The floodlighting for this manège would be illuminated during the use of this facility and would be used for a longer period of time during the winter months. The proposed floodlights create an overspill of artificial light and glare in an area located away from built form and that should be reasonably expected to be dark at night. The artificial light changes the character of the countryside at night by creating the impression that it is urbanised and thereby harms the character and openness of the Green Belt and the purposes of including land in the Green Belt. This is contrary to the NPPF and policies RA21 and R20 of the District Plan.

- 11.16 Accordingly the proposed hardstanding and lighting columns are inappropriate development in the Green Belt. Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 88 of the NPPF outlines that *‘when considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. Very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations’*. It is therefore necessary to consider whether the development causes any other harm and whether there are any other considerations relevant to the overall balance.
- 11.17 It is accepted in case law that there is no prescribed list of what might constitute Very Special Circumstances. It may be that a single aspect of a proposal may itself be a Very Special Circumstance (VSC) sufficient to justify development or it may be that a number of circumstances may cumulatively amount to Very Special Circumstances. As Lord Justice Pill said in *South Bucks District Council v Secretary of State for Transport, Local Government and the Regions* [2003] EWCA Civ 687, [2003] All ER (D) 250 (May): *“It is of the essence of very special circumstances that the applicant establishing them is in a very special category.”*
- 11.18 In addition to the harm identified above, paragraph 81 of the NPPF draws attention to the importance of retaining and enhancing the landscapes, visual amenity and biodiversity of Green Belts. In addition, Chapter 7 of the NPPF emphasises the importance of good design in context and, in particular, paragraph 64 states permission should be refused for development of poor design that fails to improve the character and quality of an area and the way it functions. Furthermore, as the site is located within Brickendon Wooded Slopes Landscape Character Area, Policy RA10 (Landscape Regions and Character Areas) is applicable which outlines that proposals for development in the rural area will be expected to contribute, as appropriate, to the conservation, maintenance and enhancement of the local landscape character of the area. Policy D2 (Character and Context) outlines that the Council will require all new development to respect and relate to the character and context of the area in which it is proposed.
- 11.19 The Welwyn Hatfield Landscape Character Assessment outlines that within Brickendon Wooded Slopes Landscape Character Area there are extensive views out over wooded valleys and the Lea Valley to the north, where views out are frequently screened by small blocks of woodland or hedges. The site is located within a rural landscape which is predominately agricultural, albeit the site is within an equestrian use. The proposed hardstanding and lighting columns when illuminated are prominent from surrounding views and provide no opportunity to retain and enhance this rural landscape, its visual amenity or biodiversity. It would not add to the character and context of the area in which it is proposed. Subsequently this adds further harm to that identified above.



- 11.20 Those matters cited in support of the application, namely that the parking area is required to provide adequate space for parking and manoeuvring of five horse boxes and to allow loading/unloading of horses in safety, together with space for refuse vehicles and intensity of activity during weekends when horses are taken to shows/events when loading/unloading or several horseboxes can be in progress simultaneously, is given limited weight.
- 11.21 The applicant within the late representation outlines that the approved landscape plan for the 2009 consent (S5/2009/2556/MA) shows the wide vehicular access, barn and manège encroaching a far greater distance into the open countryside than the proposal currently under consideration. As outlined above, the landscaping plan submitted with that application did include an area to the side of the manège that was separated from the permitted stable building. However its purpose was not stated on the approved Landscape Plan nor were its surfacing materials identified – nor indeed was the car parking area. Officer's report for that application outlined that it was appropriate to request details of proposed materials/surfaces for these areas. No application to comply with that condition has been submitted, or indeed with the landscape conditions on application reference S6/2012/2655/S73B which was to extend the time limit of S6/2009/2556/MA or S6/2012/2658/S73B to vary condition 10 (easement details) of S6/2009/2556/MA.
- 11.22 In addition, application S6/2011/2492/S73B; *Variation of condition 2 to substitute drawing number B09018.04B in place of B09018.04A in respect to landscaping plan. Removal of condition 10 (Easement Rights over Hornbeam Way) of planning permission S6/2009/2556/MA* was submitted and refused planning permission. The substituted landscaping plan, amongst other things, also included within the management key 'Proposed Access Road'. That application was refused as it was considered that amongst other things, that the landscape and diversity proposals did not satisfactorily relate to the approved scheme of development and included proposals that were unnecessary and inappropriate in an area designated as an Area of Landscape Importance. The officer's report for that application outlined that the access was inappropriate development and its visual impact would be increased through removal of a length of roadside hedgerow and it would spoil the open field pattern that is a feature locally and would be incongruous with the local landscape form.
- 11.23 It is therefore considered that limited weight can be given to this approved landscaping plan, originally submitted with application S6/2009/2556/MA, which did not show the materials of the area to the side of the manege.
- 11.24 In addition to the above, the applicant has also submitted an aerial photograph of the site which is said to have been taken prior to the applicant purchasing the site. The applicant outlines in his late representation that the site is not of open and undeveloped appearance, but contains partial completed structures, access tracks, hardstandings and accumulated spoil and rubble associated with the demolition of the former Meadow Cottage and construction of the basement of the replacement dwelling to the other side of

Hornbeam Lane by the previous owner. It is therefore submitted that the current appearance has improved the character and appearance of the area.

- 11.25 That aerial photograph shows the application site being a predominately green and undeveloped site. It would appear from the photograph that there is some form of rubble on the site and a partially demolished structure which would have been the former barn. The applicant has outlined that the rubble was associated with the former buildings on the wider Warrenwood site, therefore the conditions associated with those permissions for the replacement dwelling, required the removal of all materials from the site associated with the demolition of those buildings. With regard to the former partially demolished barn, this was originally permitted under agricultural permitted development rights. Planning permission S6/2009/2574/FP outlined that the need for this barn for agricultural purposes is no longer justified as permission has been granted to change the use of the land to equestrian and for these reasons it is proposed to remove the structure. The applicant was agreeable to a mechanism that ensured the removal of this structure and reinstatement of the land. Additionally, the applicant outlines that there are access tracks shown on the photograph. Those tracks would appear to be formed from compacted earth and are not reflective of the hardstanding currently proposed. It is therefore considered that no weight can be attached to the above.
- 11.26 In any event, the former rubble and partially demolished barn were removed, which the applicant says was on the site prior to the applicant purchasing the site, and at some stage the unlawful hardstanding constructed. This hardstanding would therefore not be a replacement of that rubble or partially demolished barn or compacted earth to form access tracks. In any event, the proposed hardstanding introduces substantive development in this location. As such it materially impacts on the purposes of including land in the Green Belt and weight must be attached to this harm.
- 11.27 Therefore the considerations put forward by the applicant, would not individually or cumulatively clearly outweigh the harm that the scheme would cause.
- 11.28 Accordingly having considered those factors that weigh against the proposal, and that there are no considerations that appear to weigh in favour of the development, in this instance, there do not appear to be any very special circumstances that exist that are necessary to justify this development in the Green Belt. Accordingly the proposal is considered to be inappropriate development in the Green Belt and impact on the openness of the Green Belt, contrary to the NPPF and Policies RA10, RA21, R20 and D2 of the District Plan.

## **2. The quality of the design**

- 11.29 Local Plan Policies D1 (Quality of Design) aim to ensure a high quality of design. This policy is expanded upon in the Council's Supplementary Design Guidance (SDG) which requires the impact of a development to be assessed

giving regard to the bulk, scale and design of the proposal. In addition, Chapter 7 of the National Planning Policy Framework (NPPF) emphasises the importance of good design in context.

11.30 The proposed manège would form part of an existing equestrian use. Its overall appearance reflects the rural locality and is of an appearance that would be expected to be found in such a location complying with Policy D1 and the NPPF.

11.31 Whilst there are no concerns with the actual detailed design of the hardstanding or lighting columns, these elements of the proposal do not respect or relate to the rural character of the area and provide no opportunity of maintaining and where possible enhancing the character of the existing area, as outlined in section 1 above.

### **3. The potential impact on the residential amenity of adjoining neighbours**

11.32 Policies D1, R19 and criteria (iii) of R20 and the Supplementary Design Guidance aim to preserve neighbouring amenity. In addition, guidance in paragraph 17 of the NPPF is to always seek to secure high quality design and good standard of amenity for all existing and future occupiers of land and buildings.

11.33 The site is located in a relatively secluded location some distance from other residential properties. Taking the distance of the manège to nearby residential properties and the general usage of the manège it is not considered that the noise associated with this would have a detrimental impact on the residential amenity of nearby residential properties found in the vicinity of the site.

11.34 Details of the flood lighting are limited, however, taking into account the distance to the nearest residential dwelling together with the lighting being angled downwards it appears unlikely that the lighting would cause a loss of amenity to nearby residential properties. Furthermore, being a retrospective application, the Council has not received any complaints about alleged light nuisance. In the event of an approval it is considered that a condition could be placed on any permission outlining that to minimise light disturbance, the applicant should ensure that the development meets the guideline levels set within the Institution of Lighting Engineers guidance notes for the reduction of obtrusive lighting.

11.35 Welwyn Hatfield Borough Council Environmental Health raises no objections to the development and their views are reflected in the above comments. Whilst they recommend informatives to any permission that is granted, those informatives are associated with the construction of the development. Given the development is retrospective, those informatives are not considered necessary. Accordingly no objections are raised with regard to Policies D1, R19 and criteria (iii) of R20 of the Local Plan, the NPPF or the SDG.

#### 4. Other Material Planning Considerations

11.36 *i) Highway and Parking (M14, RA21 and SPG)*

The proposed parking serves the manège and allows larger vehicles to turn on site and leave the site in a forward gear, maintaining safety for users of the Right of Way network. The proposals are unlikely to result in any material change to trips associated with the enjoyment of the site, although an informative is recommended to be attached to any grant of consent to ensure that the applicant is aware of the impact of any construction activity on the public right of way network.

11.37 *ii) Biodiversity (R15, RA21 and NPPF)*

The site lies adjacent to Hornbeam Lane, which is a Local Wildlife Site designated for its ancient green lane interest. Whilst there are records of bats and birds nearby there are no biological species or habitat data for the application site. There is a lack of information provided for the lighting. It would be preferable if the lamps were sodium lamps which are regarded as bat friendly although this should not be regarded as a reason for refusal. Light should be directed downwards to minimise light spill, in particular directing light away from the boundary vegetation to ensure dark corridors remain for use by wildlife as well as directing lighting away from potential roost/nesting site. This could be conditioned in the event of an approval complying with policies R15, RA21 and the NPPF, which seek to protect the adverse effect of development on Wildlife Sites and environmental assets of the countryside.

11.38 *iii) Rights of Way (RA26 and NPPF)*

The proposed development is sited to the north of the bridleway running along Hornbeam Lane and in this regard would not have an impact. Hertfordshire County Council Transport Programs and Strategy have outlined that Rights of Way have been involved in discussions in the impacts of the development of the bridleway and have agreed materials for a resurfaced bridleway at the time of considering the earlier application.

11.39 *iii) Representations*

Essendon Parish Council's representation refers to some matters which are under consideration under application S6/2015/1107/MA. Therefore, whilst their comments are not associated with the proposed development under this application, they are dealt with in that application, which is also being presented to Members at this Development Management Committee meeting. The Parish Council however make reference to the stable building being used as a commercial use. That building is not within the red line of the application site and does not form part of the proposed development. In any event, the stable block was conditioned to be used for a non commercial use and only in conjunction with the residential development to the south of the site. The applicant has confirmed to officers that the stables are used for stabling the applicant's horses together with those of some friends and is not in use as a commercial livery. The Council have no evidence to dispute this. If however, as outlined in *Welwyn Hatfield Council v. SoSCLG & Beesley (2011)* in an appropriate case the principle of public policy is that a person should not

benefit from their own wrong. It [the wrong doing] can therefore be relied upon to defeat [i.e. refuse] an application for a certificate of lawful use. Therefore, in the event that it is found that the stable building is being used as a commercial livery or riding school, officers would have been deliberately misinformed and therefore enforcement action would be able to be taken if appropriate.

## **12. Conclusion**

- 12.1 The proposed hardstanding, and lighting when illuminated, would be inappropriate development in the Green Belt and thus harmful to it. As required by paragraph 87 of the NPPF, this is given substantial harm. Additionally there would be harm to the openness and purposes of the Green Belt together with the beneficial use of the Green Belt. The proposal is therefore contrary to the NPPF and policies GBSP1, RA10, RA21, R20 and D2.
- 12.2 With regard to the proposed manège this is considered appropriate development in the Green Belt which does not materially harm the openness or the purposes of including land within the Green Belt.
- 12.3 The impacts of the proposal have been considered on the amenity of neighbouring dwellings and on other relevant material considerations including highway and parking, biodiversity and rights of way. It has been concluded that the proposal is acceptable in terms of the above. In those respects, the development is in accordance with relevant policies within the adopted Welwyn Hatfield District Plan 2005, the adopted Supplementary Design Guide and with relevant provisions of the NPPF.

## **13. Recommendation**

- 13.1 It is recommended that planning permission be refused for the following reason:
1. The site is designated as Green Belt in the Welwyn Hatfield District Plan. The proposed hardstanding conflicts with the purposes of including land in the Green Belt and the lighting columns when illuminated have a materially greater impact on the openness of the Green Belt and conflict with the purposes of including land in the Green Belt. Accordingly the development is inappropriate in the Green Belt. Furthermore, the hardstanding, and lighting columns when illuminated, do not retain and enhance the rural landscape and visual amenity of this part of the Green Belt and subsequently do not enhance the beneficial use of the Green Belt. No very special circumstances appear to exist which outweigh the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations. Accordingly the proposal is contrary to The National Planning Policy Framework and Policies RA10, RA21, R20 and D2 of the Welwyn Hatfield District Plan, 2005 and the Council's Supplementary Design Guidance.

## **Refused Drawing Numbers:**

Site Location Plan (703/LP1) & 703/301 & Land Survey & Land Survey 2 & Land Survey 3 received and dated 26 May 2015

## **Positive and Proactive Statement**

The decision has been made taking into account, where practicable and appropriate the requirements of paragraphs 186-187 of the National Planning Policy Framework and material planning considerations do not justify a decision contrary to the development plan (see Officer's report which can be viewed on the Council's website or inspected at these offices).

## **14. Enforcement Recommendation**

- 14.1 Should the Development Management Committee, agree with officer's recommendation to refuse this planning application it is recommended that enforcement action is authorised. This recommendation should not prejudice the Development Management Committee from making a different planning decision.
- 14.2 That the Head of Planning authorises the service of a planning enforcement notice under Section 172 of the Town and Country Planning Act 1990 requiring the recipient(s) to take the following steps, and to take any other further action, including prosecution proceedings if necessary, to rectify the breach of planning control.

## **Reasons why it is expedient to commence prosecution proceedings:**

1. The site lies within the Green Belt as defined in the Welwyn Hatfield District Plan 2005 wherein there is a presumption against inappropriate development other than where very special circumstances that outweigh the harm to the Green Belt can be demonstrated. The hardstanding, and floodlights when illuminated, erode the openness of the Green Belt and therefore does not accord with the fundamental aim of Green Belt Policy as defined within paragraph 79 of the National Planning Policy Framework nor is it covered by any of the exceptions listed within paragraphs 89 or 90. As a consequence, they are inappropriate development and therefore harmful to the Green Belt. Furthermore, it is considered that there are no very special circumstances that exist to justify this inappropriate development, and the resultant harm caused to the Green Belt. The development is therefore contrary to the National Planning Policy Framework's policies on development within the Green Belt.
2. The hardstanding, and floodlights when illuminated, have an adverse effect on the character of the surrounding countryside and introduce a more formal, urban appearance to the site compared to its former appearance and character. The development is therefore contrary to

policies RA21, R20, D2, RA10 of the Welwyn Hatfield District Plan 2005 and the National Planning Policy Framework.

**15. Requirements**

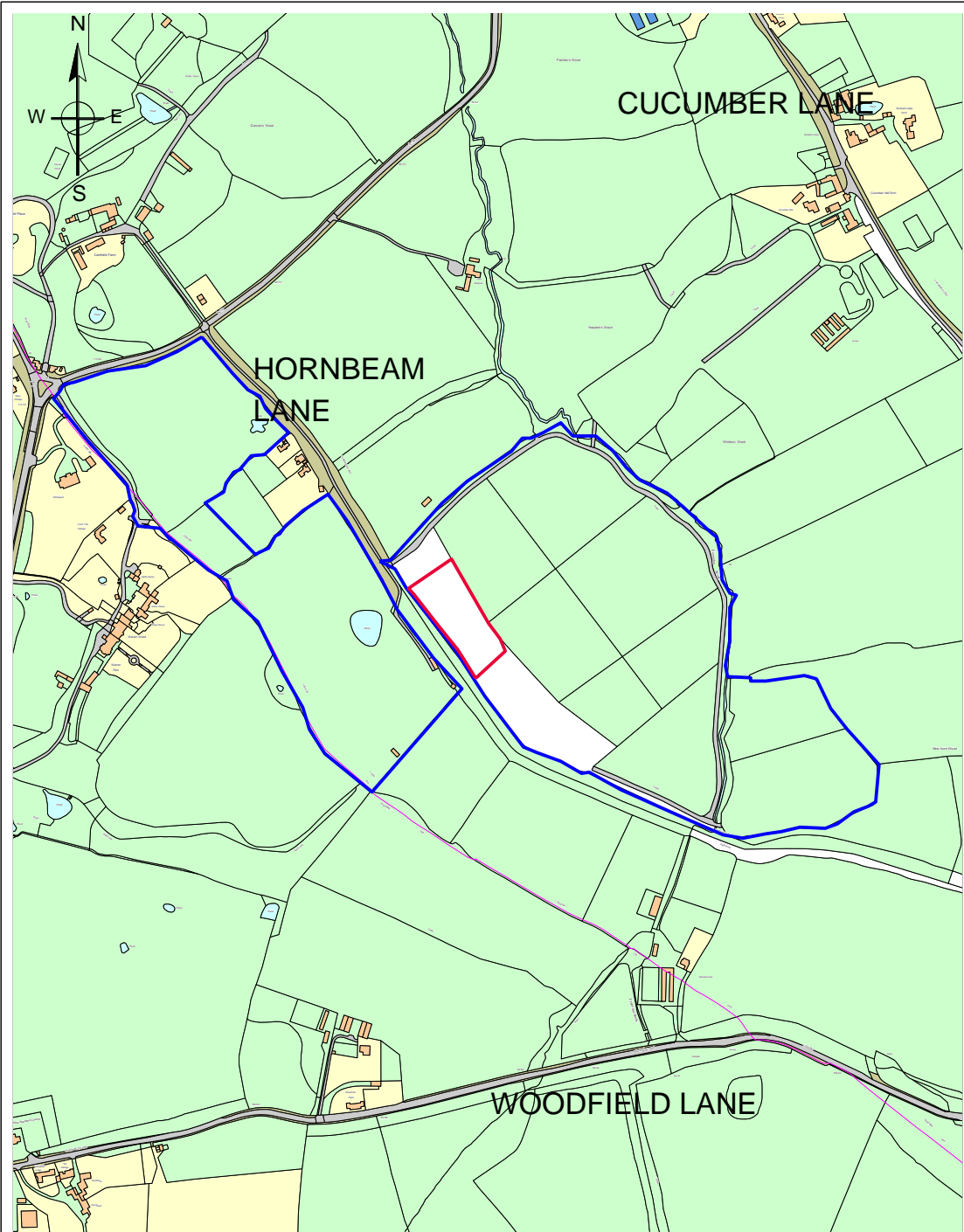
- (a) Completely remove the hardstanding, including any foundations.
- (b) Completely remove the lighting, including any foundations.
- (c) Remove all resultant materials and debris from the land caused by complying with steps (a) & (b) and restore the land back to its previously undeveloped state.

**Time Limit**

Officers consider that the following period is appropriate to enable the above steps to be taken: 6 Months

*Sarah Smith*, (Strategy and Development)  
Date 28/07/2016

Expiry Date: 22/07/2016



Council Offices, The Campus,  
Welwyn Garden City, Herts. AL8 6AE

Title:

Warrenwood Manor, Hornbeam Lane, Essendon

Scale: DNS

Date: 2016

Project:

DMC Meeting

Drawing Number:

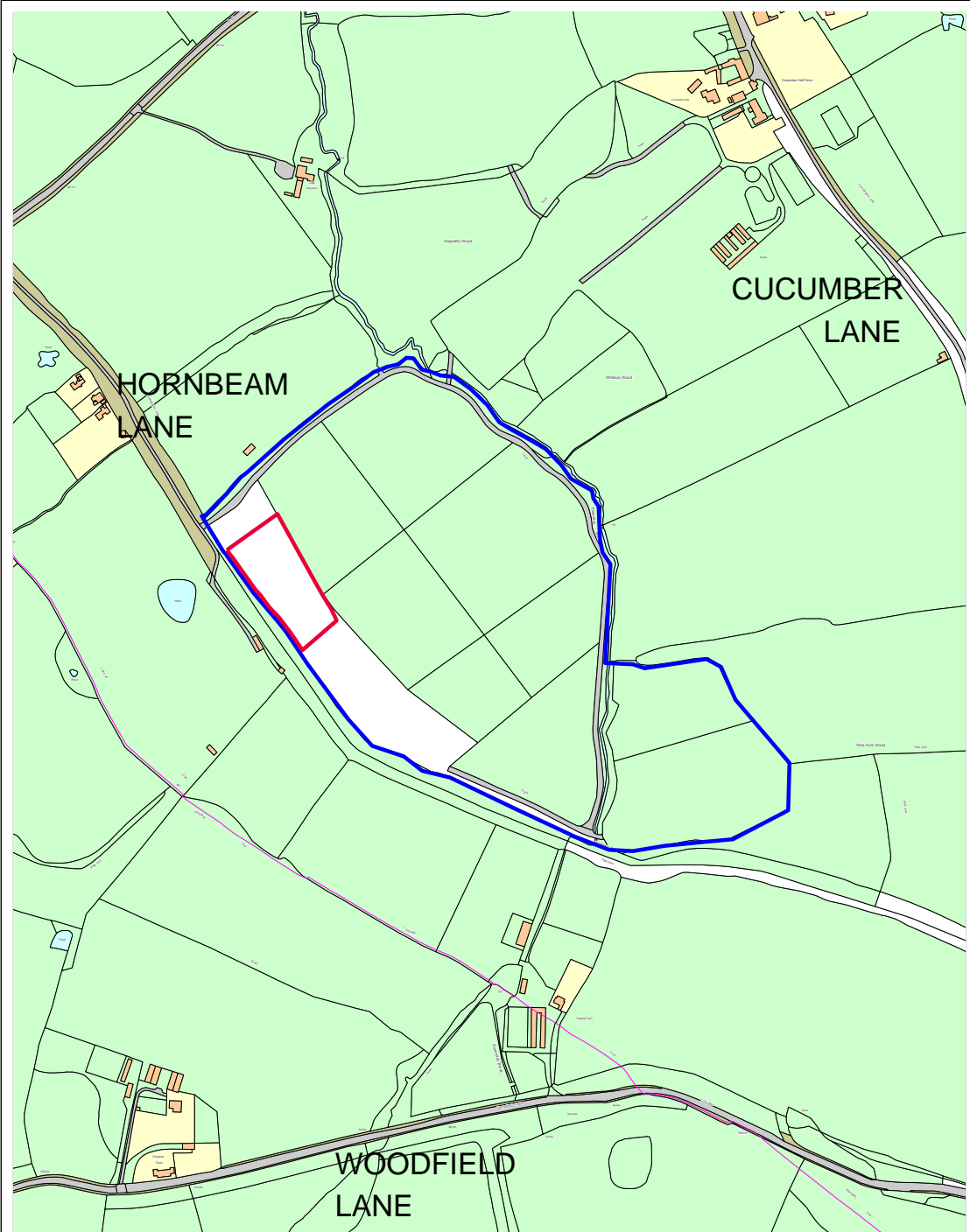
S6/2015/1106/FP


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Andrew Windscheffel

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	Project: DMC Meeting	Drawing Number: S6/2015/1106/FP	Date: 2016 Drawn: Andrew Windscheffel
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