

**Application No:** W 10 / 0034

**Town/Parish Council:** Rowington

**Registration Date:** 02/03/10

**Case Officer:** Penny Butler

**Expiry Date:** 27/04/10

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**Sandall House Farm, Narrow Lane, Lowsonford, Solihull**

Construction of horse exercise pen FOR Ms Saber

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This application and W10/0035 (also on this agenda) were withdrawn from the agenda in April 2010 by the Chairman, in order that a planning enforcement investigation into whether an alleged material change of use of the site has occurred. The Council instructed a consultant to carry out this investigation and their report is summarised below under the assessment, and a meeting has been held with the Parish Council and Lowsonford Conservation Society to discuss the findings of the investigation.

This application is being presented to Committee due to the number of objections and an objection from the Parish Council having been received.

**SUMMARY OF REPRESENTATIONS**

**Rowington Parish Council:** (Original comments): Object. "Detailed reasons for rejection have already been submitted on behalf of residents by Lowsonford Conservation Society and this letter must be read in conjunction with their comments.

The over development of Sandall House Farm has been raised on a number of previous occasions due to its obtrusive nature and rather ugly development adjacent to surrounding housing, particularly when located in Warwickshire Green Belt and the designated 'Arden Special Landscape Area'. RPC feel that the proposal is totally unsympathetic in nature and design.

The latest applications are an attempt to develop further unsympathetic uses of the land and to over rule previous specific conditions of use imposed when the gallop horse exercise track, in particular, was first requested. The previous conditions of use which the current owners of Sandall House Farm are seeking to overturn were specifically imposed in order to limit use of the gallop track to its very specific and specialist use for racehorse training.

The current development is already obtrusive and the further developments requested simply make this even more unsatisfactory and are furthermore potentially damaging to the entire character and vista of the village.

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RPC feel that the proposed pen is a hideous intrusion to local residents as it fully impacts on the privacy of their houses and gardens. Walkers of the adjacent public footpath may also feel intimidated by the close proximity and height of the pen in what is a very scenic landscape. The prospect of large horses

exercising close to this footpath is a potential and could be, serious, hazard to children, adults and dogs. In wet weather this footpath will become untidy i.e. muddy and unwalkable as has happened to other footpaths in the area. RPC request that until the footpath running alongside Sandall House Farm is fully reinstated to its correct location, as detailed and requested by Mr Paul Williams, Countryside Access Team then all planning considerations should be halted.

Once the footpath has been reinstated in its correct location any decisions relating to the requested pen and the current accompanying horse walker, can then be considered by all parties concerned.

Familiarity with horses will reveal that the proposed pen is in fact not an essential requirement of the business and in fact, could be sited anywhere on the land – essentially not close to domestic landowners where the noise and mess might also cause a problem. For this reason alone this application should be rejected.

The Parish Council firmly believe that two facilities should in fact be located closer to the existing premises known as Sandall House Farm (which now has ample space for their re-siting) and screened from the road such that the vista of local houses and walkers is not damaged as would be the case with its current proposed location.

No proposals have been made for landscaping the site on all sides with mature trees and no requests were made from WDC for such attention to detail re the last development requests made in 2009.

Any further changes MUST take the provision of landscaping of the premises with mature trees into account in any event.

We strongly urge you for all of the reasons given to date, to refuse both of these application numbers No W/ 10/ 0034 and Application No W/ 10/ 0035."

**Rowington Parish Council and Lawsonford Conservation Society have submitted a further joint objection (dated 18 January 2012):** Please take this objection as a formal response to consultation on behalf of Rowington Parish Council and Lawsonford Conservation Society for the above application.

### **Stansgate's Planning Statement and Flood Risk Assessment**

All of the points raised in Stansgate's Planning Statement which accompanied the application are contested. In particular:

*2.1 "A horse exercise pen provides a focussed environment for learning and exercise and offers a safe place for nervous and novice riders."*

An outdoor manège can equally provide this facility. Club Equus does not have a manège, which is commonly provided in equestrian establishments and leaves a lighter and more flexible footprint on the landscape.

*2.2 "The proposed pen has a round shape, so that the horse can be loosed and unrestrained and still close enough to be influenced by the trainer. The environment is ideal to manage horses that:*

- Have never been ridden before. The pen is a safe place to become accustomed to the saddle, a rider, steering and stopping.*
- Resist being ridden or managed in the usual way.*

- *Cannot be worked in company."*

An outdoor manège can replicate this facility, and if required also be circular in shape.

2.3 *"The pen is surfaced with a porous sand and rubber compound."*

The agent for the application does not state that a concrete base underlies this compound either in this statement, nor the Flood Risk Assessment submitted as part of the application, nor in the plans.

Indeed, Point 6 of the Flood Risk Assessment submitted by the applicant's agent states:

*"Likewise, the surface of the pen is porous, allowing water to soak through to the ground."*

It is unclear whether the Environment Agency responded to consultation in the full knowledge of the materials proposed, which include a concrete base.

Their response to consultation stated:

The proposed development will only be acceptable if the following planning condition is imposed:

**Condition**

1. Ensure no raising of ground levels within the development

**Reason**

1. To reduce the impact of flooding on the proposed development and future occupants.

A concrete base has been built, in anticipation of approval of the application by your Committee. This appears to include the raising of ground levels.

3.2 *"In case of problems at the pen, it is vital that communication between staff is easily possible."*

Modern technology allows the use of a mobile phone. An open manège would permit others to see potential problems developing and the individual in the pen to escape more easily.

3.4 I consider that the definition of a horse walker with a fixed base and sides as a piece of machinery by an inspector is a misinterpretation. The Oxford English Dictionary, used in law as an authoritative source for definitions, states:

"Machine"

- 1 An apparatus using or applying mechanical power, having several parts each with a definitive function and together performing certain kinds of work.
- 2 A vehicle, a piece of electrical or electronic apparatus

The plans for the Three Rivers DC / Rickmansworth application are not accessible online, but the inspector indicates that the horse walker was open in nature with sides in mesh. The material used for the base of the pen is unknown. WDC's application, W10/0034, for a horse exercise pen as opposed to

a horse walker, proposes to be fully clad with rubber to a height of between 6ft (1.83m) and 8ft 6ins (2.59m) and the concrete base is already in situ.

I therefore consider that the Rickmansworth appeal case cannot be taken either as a sound judgment or a comparable application.

### **Green Belt criteria for acceptable development**

#### ***Appropriate development***

An appropriate development is one which is an essential facility for outdoor sport or recreation, as defined by PPG2: Green Belts. I do not consider that the proposed development is appropriate because it is not essential. This conclusion is reached following research into the provision of built exercise facilities at this site compared to elsewhere in South Warwickshire.

1 Sandall House Farm has a horse walker and a very large indoor arena, both intended for training and exercise, plus the proposed horse exercise pen. It does not have a manège.

2 A commercial equestrian business in South Warwickshire which does not want to be named, where training includes young horses which are broken in, has facilities for 52 horses in stables and a dozen horses out to grass. That establishment has just two horse walkers and no indoor arena and considers the facility suitable for purpose. It has two outdoor manéges.

3 Nick Skelton's new facility for a National Hunt training yard in the Green Belt is the subject of a current application to Stratford-on-Avon District Council, ref no 11/01774/FUL. Development of a National Hunt Training Yard with stabling for 31 horses and extension to existing stables to provide rest room, toilets, office, injury room and tack room; all-weather cantering track (gallop), horse walking track and horse walking exercise unit. He is not proposing an indoor arena. It is not known whether he has an outdoor manège.

4 Swallowfields Equestrian Centre in Lapworth has capacity for 30 livery horses. The built facilities are the same as those existing and proposed for Sandall House Farm, with two significant differences:

- That the sides of the exercise pen are clad to about half-way up, the remainder being in mesh, which reinforces the safety issue for staff discussed against Stansgate's report at their Point 3.2 above
- That the site is open for use by day visitors for competition. It is a very successful centre with riders competing between 8am and 7pm in the summer months, with up to 30 horses from off-site. It has an outdoor arena, equivalent to a large manège.

5 A livery yard in South Warwickshire, which does not want to be named, has the following facilities which compare almost directly with Sandall House Farm:

40 horses at livery, with an approximate 50/50 mix of full and part livery. Indoor and outdoor school and horse walker with no exercise pen. Outdoor manéges. No gallops. The facilities are considered perfect for the yard and, as an indicator of the suitability of this level of facility, the yard is full.

It is important to clarify that horse owners could bring novice or spoiled horses to any of the yards listed above.

### **Encroachment in the Green Belt**

The application is a substantial development in its' own right, measuring 15.24m (50 feet) across, and approximately 2.2m (7ft 3ins) high. The total surface area of the development equates to the footprint of 5 x 3-bedroomed average UK houses (excluding outdoor amenity areas) as researched by CABE's 'Dwelling Size Survey' of April 2010.

Larger buildings exist on site and Stansgate consider that these other buildings minimise the impact of this particular development. This is not sufficient reason to permit development in the Green Belt.

Indeed, the proposal represents continuing encroachment onto undeveloped land, is close to a public footpath and adjoins a residential property in separate ownership, and is therefore contrary to the provisions of PPG2's Green Belt policy which seeks to protect the openness of that land and enhance the landscape near to where people live. It also represents further visual detriment to the landscape, again contrary to adopted policy in both PPG2 and in the Structure and Local Plans. For these reasons any further development of the site requires very special justification to override policy provisions.

### **Local policy objections**

Relevant Structure and Local Plan policies which remain in force include ER.4 of the Warwickshire Structure Plan, relating to Special Landscape Areas, and RAP13 of Warwick District's Local Plan, which states:

*"Development of outdoor leisure and recreation facilities will only be permitted where small scale outdoor leisure and recreation developments within or adjacent to settlements meet the needs of local communities."*

And:

*"8.78 ....Where new buildings are required to enable the activity to take place, these must be the minimum required for the activity and essential for its operation."*

There is a significant supply of livery facilities in the surrounding area, with at least 13 livery yards within a 3 mile radius, some being very close to the application site. I am advised by representatives from the Parish Council that these livery yards are not full, indicating that supply exceeds demand in the immediate area. Likewise, Sandall House Farm is not at capacity despite being advertised as a commercial centre.

### **Further objections**

Objections relating to the commercialisation of the site have been addressed separately and will be presented to Committee in a separate report which I understand is being submitted to the same meeting.

### **Reasons for refusal of application**

I therefore recommend refusal as the proposal conflicts with policies contained in PPG2: Green Belts and with adopted policies in the Warwickshire Structure Plan and Warwick District Local Plan.

### **Request for site visit**

The Parish Council and Conservation Society would like to request that a site visit is undertaken prior to the application being considered at Committee, and that the prior notification of the date of the visit is given to both organisations in order to enable them to attend.

### **Enforcement action**

In determining this application, it is also appropriate to ask the Committee to authorise that officers commence enforcement action, as the base of this exercise pen has been installed on site, both in conflict with adopted policy and also, it would appear, in conflict with the applicant's own submitted plans and the Environment Agency's response to consultation.

**Lowsonford Conservation Society:** (Original comments) Object. "The use of Sandall House Farm has been restricted to live stock farming and equestrian use in connection with the residents owners' profession. Over the past two years residents have become increasingly concerned about the gradual build up of 'operational development' and infrastructure at the Farm, all purporting to be part of the established livestock farm use and equestrian use in connection with the residents owners' profession. Recent financial investment, the planning statement submitted with this application, their website and other information, reinforces residents fears that the owner is attempting to achieve an incremental change of use to a large scale commercial equestrian centre by building up 'operational' development consents under the existing non-commercial use. The existing use of the site does not justify need for an additional exercise pen. The proposal conflicts with Green Belt and Arden Special Landscape Area policies, and no very special circumstances exist to support this application. The proposal does affect openness. Operational development on the site in recent years is threatening the Green Belt and Special Landscape Area in this small village and this part of Lowsonford is starting to take on the appearance of 'sprawl', more akin to that associated with an urban industrial trading estate. When travelling from Shrewley direction the site is becoming a 'blot' on the landscape. It is clear the intention is to intensify the equestrian use of the site to that of a large scale commercial equestrian business and under the existing use the proposal exerciser amounts to over development. As there is so much at stake for Lowsonford residents the application should be refused outright and a full planning review carried out, since any further 'operational' development will make the situation worse/even more intractable."

**Preston Bagot Parish Council:** "The proposal will affect the Parish as there are two potential access routes to the site, which if used by large vehicles, could severely impact on them. There is a history of such establishments in their Parish. Consent for a sizable horse training and riding establishment at Holly Bank Farm, Preston Road, was refused on the grounds of-

- 1) Commercial development in a sensitive Green Belt where there was no good reason to make an exception,
- 2) Highways issues where narrow roads were likely to be used by large vehicles for which they were totally unsuited,
- 3) Setting a precedent for further unacceptable application.

They believe the same issues apply to Sandall House Farm and object on the grounds of-

- 1) Access and vehicular movements. The narrowness of the roads and their bends makes it impossible for large vehicles involved to safely gain access. Increased traffic would cause problems in their village.
- 2) This private operation which was used by a very specific high profile equestrian competitor to a full and open commercial operation, which is detrimental to the Arden Special Landscape Area. The location and proposed operating hours will intrude on the sensitive Green Belt setting where otherwise

it will not be permitted. A more suitable location would be within easy access of (at least) a B road.

3) A precedent would be set by the removal of the conditions which would effectively produce a change of use. Other applications could legitimately follow as there are other "yards" along this narrow stretch of road, and such a change would be inordinately damaging. The Conservation Society may seek a judicial review of the decision as it would change the character not just of the village but of the whole area.

A more appropriate way to deal with the proposed changes of condition might be to require a full planning application for the changes so the whole issue can be fully aired and those who wish to contribute in support and opposition could be given opportunity."

**Public response:** 21 objections received. Most of the surrounding road network is single track which would lead to unacceptable congestion. The existing site is overdeveloped, and the proposed pen would be a further step along the way to securing a large scale commercial use of the site. The application makes it clear that this large structure is required for commercial use and therefore represents a material change of use of the site. Until now new development has been approved on the basis that it was for the private use of resident owners, but this is no longer the case.

The applicant already has a very large indoor riding arena which should be perfectly adequate for breaking and schooling horses, and many people break horses without the aid of an exercise pen. Is the applicant intending to put a roof over the pen so horses will not be frightened by birds?

The application should not be considered prior to an application being lodged for a change of use of the site from agriculture to commercial equestrian use, and determining this application prior to a complete investigation into the use would be prejudicial to the view of objectors, since it would add to an applicants case for such a change of use. If this application is approved it will set a precedent for the commercial use of the entire site with complete loss of control over the size and scope of the operation which has already created a large and ugly blot upon the Arden Special Landscape Area. Recent developments and the current applications form part of an incremental and piecemeal approach to turning the site into a major commercial equestrian enterprise with attendant disruption to local residents. The site makes the route into Shrewley look like an industrial estate. Any further lighting would be to the detriment of all. The neighbour at The Paddocks experiences water and debris run off from flash flooding of the brook so any run off from the pens riding surface would add to this. The pen would also obstruct the flood plain, impacting on downstream properties.

The neighbour at The Paddocks requests Members carry out a site visit to view the site from his property.

**WCC Ecology:** Recommend nesting bird, bat and badger notes.

**Environment Agency:** The proposal is within Flood Zone 3, however, after careful consideration they conclude this is water compatible development and as such would be allowed to flood in extreme events. No objection subject to a condition requiring no raising of ground levels within the development.

**Ramblers:** No objection since, while the red line includes the public footpath, the structure will not affect it.

**WCC Countryside Access:** Object as the proposal would obstruct the legal line of public footpath W31. The legal line of W31 is not immediately adjacent to the south-western boundary of this field but some distance away and is also obstructed by the hexagonal building immediately to the south of the proposal. Either exercise pen should be repositioned further to the north east or public footpath W31 should be diverted to correlate with its current line on the ground. If permitted, a condition is recommended preventing development commencing until a public path diversion order has been submitted to the District Council. Such an order could simultaneously regularise the current obstruction caused by the hexagonal building.

### **RELEVANT POLICIES**

- Planning Policy Guidance 2 : Green Belts
- Planning Policy Statement 25 : Development and Flood Risk
- RAP13 - Directing New Outdoor Leisure and Recreation Development (Warwick District Local Plan 1996 - 2011)
- RAP9 - Farm Diversification (Warwick District Local Plan 1996 - 2011)
- DP2 - Amenity (Warwick District Local Plan 1996 - 2011)
- DP1 - Layout and Design (Warwick District Local Plan 1996 - 2011)
- DP7 - Traffic Generation (Warwick District Local Plan 1996 - 2011)
- Warwickshire Landscape Guidelines SPG

### **PLANNING HISTORY**

Sandal House Farm has a long planning history, historically it was typically agricultural but at some time in the mid 80's the land became a mixed agricultural/equestrian use.

Between 1985 to 2007 the land and buildings were used as a show jumping training facility along with the training of race horses, and the keeping of livestock. Several applications were submitted during this time to improve the equestrian facilities on site. The land stabled around 34 horses; however by virtue of planning permission for an additional stable block in 2005, the capacity of the yard for stabling of horses grew to 48. In 2007 the land was sold to Denise Saber, current owner and occupier who runs the farm for the schooling, training and starting yard for sport horses. No livestock have been kept on the land since 2007 and possibly since 2005.

Currently there are 27 horses stabled at the farm, with a lawful capacity to stable up to 44 horses, reduced from 48 following the planning permission in April 2009 (W08/1679 – referred to below)

For the purposes of this report the key relevant planning decisions between 1985 to 2010 are cited below with specific reference made in each planning decision of agricultural and or equestrian use and relevant conditions relating to those uses.



15<sup>th</sup> October 1985 – W85/0908

Planning permission refused for an agricultural building for reasons detrimental to the visual amenities of this rural locality

28<sup>th</sup> January 1986 – W85/1229

Planning permission granted for an agricultural building for storage of hay, straw, farm implements and the housing of cows and calves

29<sup>th</sup> April 1986 – W86/0234

Time limited permission for the siting of a residential caravan for on-site worker. Planning condition restricted the occupation to persons employed in association with equestrian/and or agricultural activities at the farm. It should be noted that this is the first mention of equestrian use in a planning decision at Sandal House Farm.

The renewal of permission for the caravan was granted in December 1988, January 1992 and March 1997. The limited permission expired in March 1998, and the caravan removed.

12<sup>th</sup> December 1990 – W90/1390

Planning permission granted without conditions for the retention of an agricultural building for storage and housing of cows and calves

7<sup>th</sup> April 1993 – W93/0189

Planning permission granted for the conversion of a barn to provide staff accommodation. This was conditional upon occupation solely by persons employed in equestrian/agricultural use.

19<sup>th</sup> December 1996 – W96/1267

Unconditional retrospective permission granted for cantering track.

19<sup>th</sup> January 1999 – W98/1384

Planning permission granted for a wood fibre exercise track. This was subject to conditions limiting its use to:

- Personal use by occupants of Sandall House Farm only ( Condition 2)
- The use of the track for private purposes only and not related to any commercial activity (Condition 3)
- Restricted hours (Condition 4)

Condition 2 was appealed and allowed (15<sup>th</sup> August 2000) taking away the personal use restriction only.

14<sup>th</sup> December 1999 – W99/1405

Planning permission granted for outdoor ménage and 1.2m perimeter fence conditional upon the ménage not to be used for commercial purposes.

10<sup>th</sup> February 2000 – W99/1562

Planning permission granted for change of use of outbuildings to form grooms accommodation, to be used in association with existing equestrian yard.

This was conditional, restricted to occupation only by persons working at the equestrian enterprise.

2<sup>nd</sup> March 2004 – W04/0098

Permission granted for the construction of a 270m x 3m extension to an existing gallop. This was conditional upon usage only for private equestrian use and not for commercial purposes, use by owners of SHF, and restricted hours.

24<sup>th</sup> June 2005 – W05/0831

Planning permission granted for 10 stables. By virtue of the granting of this permission for an additional stable block the capacity of the yard grew to the stabling of 48 horses. There were no restrictions on the use of the stables. This permission was not implemented.

2<sup>nd</sup> April 2009 – W08/1679

Planning permission granted for a new stable block, new access, farm drive and bridge (retrospective), construction of external staircase to grooms accommodation and enlargement of domestic curtilage. This permission allowed for the reduction of the lawful capacity of horses stabled at the farm to 44. There were no conditions on usage of the stables; however conditions were placed on the old access being closed within 1 month of new access being brought into use. This decision is currently being implemented.

14<sup>th</sup> July 2011 - W08/1678

Certificate of Lawfulness refused for the existing part use of the stable for groom's accommodation.

The reason for refusal was based on insufficient detail being submitted, and unclear as to the precise development the certificate was being sought. In particular it was unclear as to whether the lawful development certificate application was for a separate dwelling or for groom's accommodation ancillary to the wider use of the land as an equestrian centre.

## **KEY ISSUES**

### **The Site and its Location**

Sandall House Farm is sited midway along a narrow country lane, between Santan Farm and Sanbrook Farm, within the Green Belt and Arden Ancient Landscape Area. It is a substantial equestrian establishment with a range of buildings of various ages and designs. The main complex lies adjacent to the lane, with paddocks lying behind on rising land. The proposed horse exercise pen would be located in a small paddock outside the existing built up complex of buildings, behind an existing smaller enclosed horse walker.

## **Details of the Development**

The proposed pen is sited 6m from the site boundary along which the public footpath runs, which is separated from the paddock by an electric fence. The pen is circular with a diameter of 15.3m, and surfaced with a porous sand and rubber compound. The side walls are clad with rubber panels to a height of 1.83m, with a wire mesh panel above, and slightly higher doors to a total height of 2.6m. The application site lies within a Flood Zone 3b (the functional flood plain). Part of the base of the pen has already been installed, consisting of a sand and gravel base enclosed by a blockwork rim. The proposed sand and rubber surface would be laid on top of this.

The applicant considers that the proposal does not constitute inappropriate development within the Green Belt, as it has no volume and no roof, and therefore maintains openness and does not conflict with the purposes of including land in the Green Belt. They state the pen is sited as close as possible to the stables for safety reasons, to minimise stress to the horses, give them comfort of being in close proximity to others and enable easy communication with other staff members in case of problems. Siting the pen near the road would not be acceptable as noises could agitate the horses. The applicant has submitted a letter from the British Horse Society which supports the application and have suggested they would accept a condition limiting use of the pen to horses stabled at Sandall House Farm only.

## **Assessment**

### Investigation into whether an alleged material change of use of the site has occurred

The assessment of the lawful use of the site and whether there has been a material change of use has been the subject of extensive investigations.

Whether there has been a material change of use of land at Sandall House Farm is dependant on whether there has been as a matter of fact and degree a change in the character of the use such that a "material change of use" of the land has occurred and secondly whether the effects of the change are significant upon neighbouring uses and the locality.

The planning history and representations from the applicant, Parish Council and Conservation Society set out above, clearly demonstrates that the use of this land has been as a mixed agricultural and equestrian use (at least since 1986). In terms of the agricultural use of the land, evidence submitted to the Council confirms that prior to 2007 at least 100 sheep were kept on the land in addition to the equestrian use. Since 2007, no livestock have been kept on the land, however the applicants argue that despite this, over 50% of the land is used for the production of hay and that this is an agricultural use. Having taken legal advice on this argument, there is doubt whether the production of hay on the land for consumption of horses stabled on the land does fall within the definition of 'agriculture' as defined by the Town and Country Planning Act 1990. Furthermore it is solely supportive of the equestrian activity on site therefore the agricultural use of the land has arguably ceased, resulting in a sole equestrian use of the land.

Whether there has been a material change of use of the land from mixed agriculture and equestrian use, to a sole equestrian use is a matter of debate. Moreover, the Council must consider whether or not the change in use of the land is so harmful to the amenity of the area, nearby residents, etc. that it would be regarded as contrary to policies of the Local Plan and were an application to be made it would not be granted unconditional planning permission.

Currently the character of the equestrian use remains unchanged from that prior to the occupation of the current owners since 2007. Traffic movements are slight with 27 horses stabled on the land, 23 of which are owned by Sandall House Farm, and 4 as full livery. It is understood that prior to 2007 approx 34 horses were stabled on the land, and that all these horses were owned by the farm. The current equestrian activity in terms of appearance, activity and traffic movements is not significantly different to that equestrian activity that preceded it. The equestrian use of the land therefore remains unchanged and is not considered by officers to be so harmful as to warrant enforcement action. An equestrian use is an appropriate use of land within the rural area and the Green Belt, and the scale of the impacts associated with the current use of the land, i.e. in terms of vehicle movements and associated disturbance is not considered so harmful as to be contrary to policy DP2 of the Local Plan and thereby warrant enforcement action. Furthermore, it needs to be acknowledged that the Council has previously granted planning permission for the stabling of 44 horses (17 more than exist on site at present) with no conditions controlling the use of the land, and therefore has by inference accepted that the use of the land for this number of horses is appropriate and in accordance with the Local Plan.

Concerns have been expressed as to the potential for the use to intensify in the future through a change from where horses currently stabled are owned solely by the owners of the land and/or where the owners offer a full Livery service, to an equestrian yard offering a DIY (Do-it-Yourself) service, i.e. where owners offer a place for stabling only, and provide no other service i.e. feeding, turning out, hacking, exercising etc, which remains the full responsibility of the horse owner. A DIY yard would inherently generate a notably higher volume of traffic and activity than a yard where all horses stabled were owned by the yard, or even a livery yard, due to the regular daily visits by horse owners. However enforcement action cannot be taken against the potential for a possible future use of the land to be harmful, as for the reasons set out above no planning breach has actually occurred on the land. Notwithstanding this, officers will monitor the use of the land for any significant changes in the character of the land and the general locality associated with any intensification of its use.

Since the alleged change of use has now been extensively investigated, there is no justification to delay the determination of this application.

#### Impact on Green Belt and rural area

Proposals within the Green Belt must comply with one of the criteria within PPG2, otherwise they are inappropriate development for which very special circumstance must be demonstrated (the previous report referred to Policy DAP1 of the Local Plan but this is not a saved policy so is no longer relevant). It is considered that the proposal does affect openness, as it clearly encloses an area, despite not having a roof. However, it is considered that the proposal is an essential facility for outdoor sport and the high specification training of horses that occurs at the site, as the pen would provide an enclosed safe area for

exercise and rehabilitation which can be essential for novice or spoiled horses. PPG2 includes essential facilities for outdoor sport in the list of development that is not inappropriate in the Green Belt.

The Parish Council and Conservation Society dispute this as they do not consider that the facility is 'essential', so it is therefore inappropriate development within the Green Belt, for which very special circumstances must be demonstrated. They draw comparisons with other equestrian establishments in Warwickshire, however, not all of these will have a need for this type of facility due to the different services and activities they offer. Upon examination, these other sites all have horse walkers plus two other enclosed areas for training, of some form. SHF currently has one large training area capable of multiple uses within an indoor arena in addition to their walker, so the proposed pen would bring their number of enclosed training areas to two which would be similar to these other establishments. I do not consider that it is unusual for an equestrian establishment of this size, which has consent to stable up to 44 horses, to require two enclosed training areas, and for one to be a small pen providing a safe environment specifically used for rehabilitation and training. On this basis, I do not consider that the applicant is required to demonstrate very special circumstances as the development is not considered to be inappropriate in a Green Belt context.

Policy RAP13 directs major new outdoor leisure and recreation uses to locations which promote social inclusion and reduce reliance on the private car, to ensure that such proposals are appropriate in their layout, design and scale to their rural location. This site is not expected to attract significant numbers of visitors and is not therefore regarded as a major leisure use. Small scale developments are permitted under RAP13 where they are adjacent to settlements, and meet the needs of local communities. The proposal is of a small scale appropriate to its location within an established equestrian use in the rural area, is adjacent to a settlement and would be able to serve the needs of local communities. I am therefore satisfied that the proposal can be considered in compliance with the aims of policy RAP13.

#### Impact on visual amenity

The visual impact of the proposal on the nearest property is considered not so significant that refusal could be justified, since it is set several metres away from their boundary which is at least 80m from their house on the other side of the public footpath, further away than the adjacent existing horse walker and behind some boundary screening. On this basis the proposal is considered to comply with policy DP2. I do not consider that additional landscaping is required, since there is already boundary screening to the south-west along the neighbours boundary. The visual impact on the surrounding countryside is considered acceptable as the location is close to the developed part of the site, on the level part before the land starts rising to the north. The proximity of the pen to the footpath would not, in my opinion, have such an overbearing visual impact on walkers that refusal could be justified. I am satisfied that the impact of the proposed pen, and the cumulative impact of the equestrian use on this site, can be satisfactorily integrated into the countryside without compromising its rural character in accordance with policy DP1 of the Local Plan.

It should also be noted that the main screened part of the pen, at 1.83m high, is below 2m, which is the height of fencing or any other means of enclosure that can be erected under the normal permitted development rights which apply at this site. The upper section of the pen consists of wire mesh with the doors 2.6m

high, so these would require permission due to their height above 2m although these do not form the main visual bulk of the structure. The surfacing within the pen would require consent but has no impact upon openness at all. Taking these points into consideration, the main visual impact that will arise will be similar to any other means of enclosure that could be erected under permitted rights and this reinforces my opinion that the harm caused will not be unacceptable, especially in this area of the site adjacent to other buildings.

#### Other matters

The site is within Flood Risk Zone 3b, the functional floodplain, and the applicant has submitted a flood risk assessment on this basis. The proposed use is water compatible development which is appropriate within Zone 3b. It has a footprint of 15.24sq.m so would constitute minor development under PPS25. The structure would not result in a loss of storage, impede water flows or result in increased flood risk elsewhere as water can flow through the structure and the surface is porous. (A condition is recommended to prevent any raising of ground levels, since the base for the surface which has already been installed would result in some increase, which would be contrary to the Environment Agency's recommendations.) The applicant did consider relocating the pen to an area with a lower flood risk but was advised by the Council that this would not be preferred due to an increased visual impact either immediately adjacent to the road or being some distance from existing facilities in the open fields to the north. They also prefer a site close to the stables for safety reasons as horses take comfort from the proximity of others, so that transfer time between stables and the pen are minimised, in case of the need for communication between staff and to minimise passing road noise. It is accepted that there are no other more suitable sites outside Zone 3b where the pen could relocate, and on this basis the proposal is considered compliant with PPS25, subject to the condition required by the Environment Agency.

The existing physical line of the footpath adjacent to the proposal is not the legal line, therefore, a note is recommended advising of the need to legally divert the footpath. A condition cannot be imposed requiring the applicant to seek an order under other legislation.

I consider the suggested condition limiting use to horses stabled at Sandall House Farm to be reasonable and necessary, since allowing use by horses from off site may significantly increase large vehicle movements to the site contrary to policies seeking to maintain highway safety. I do not consider that the granting of this pen would lead to any weakening of the potential for enforcement action to be taken, should a material change of use of the site that is harmful occur in the future. As an additional facility, the pen would make the site more attractive to users, and I am satisfied that the pen is an essential facility which would be operated in conjunction with the existing facilities on the site. However, I do not consider that the pen in itself would directly lead to a material increase in activity on the site, given the number of horses that can lawfully be stabled would not change, or a material change in the character of the current use of the site.

#### **RECOMMENDATION**

GRANT, subject to the conditions listed below.

#### **CONDITIONS**

- 1 The development hereby permitted must be begun not later than the expiration of three years from the date of this permission. **REASON** : To comply with Section 91 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.
- 2 The development hereby permitted shall be carried out strictly in accordance with the details shown on the approved drawing(s) (5407-103; 5407-205B; 5407-403), and specification contained therein, submitted on 2 March 2010 unless first agreed otherwise in writing by the District Planning Authority. **REASON** : For the avoidance of doubt and to secure a satisfactory form of development in accordance with Policies DP1 and DP2 of the Warwick District Local Plan 1996-2011.
- 3 There shall be no raising of existing ground levels within the development. **REASON**: To reduce the impact of flooding on the proposed development and future occupants, in accordance with Policy DP10 of the Warwick District Local Plan 1996-2011.
- 4 The use of the exercise pen shall be carried on only by the owners of Sandall House Farm and shall be restricted to horses permanently stabled at the premises. **REASON**: To ensure there is no increase in vehicle movements to the site in this rural location, in accordance with Policy DP7 of the Warwick District Local Plan 1996-2011.
- 5 There shall be no outside lighting of the horse exercise pen hereby approved at any time without the written consent of the District Planning Authority. **REASON** : To ensure that the visual amenities of the area are protected, and to satisfy the requirements of Policies DP1 and DP2 of the Warwick District Local Plan 1996-2011.

## **INFORMATIVES**

For the purposes of Article 31 of the Town and Country Planning (Development Management Procedure) (England) Order 2010, the following reason(s) for the Council's decision are summarised below:

In the opinion of the District Planning Authority, the development does not prejudice the openness and rural character of this green belt area, constitutes development that is not inappropriate, would not cause serious harm to the amenity of nearby residents or cause increased flood risk, and is considered to comply with the policies listed.

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