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## CHANGE OF USE FROM EQUESTRIAN BUSINESS TO OPEN STORAGE

The application (the Application), made by Moortown Farms Limited (the Applicant) seeks planning permission for the change of use of an area of circa 413 square metres of land (the Site) from the lawful commercial equestrian use approved by the Council under reference 06/88791 (the Equestrian Permission) to use for open storage (the Development) as an extension to the lawful adjoining commercial yard areas (the Yards).

The following information accompanies this submission:

- Site Location Plan
- Block Plan
- Statutory Declaration of Richard Pierson
- Statutory Declaration of David Corsellis
- Draft s106 Undertaking
- Planning and Legal Opinion – D Corsellis (LLb) - Planning Consultant (Solicitor non-practising)

The Site is located within the Green Belt and is technically within the 'open countryside' but sits adjacent to the edge of Ringwood and in area characterised by built development and has been used lawfully for an equine business use.

The Planning and Compulsory Purchase Act 2004 (Section 38(6)) provides that planning decisions shall be taken in accordance with the Development Plan (DP) unless other material considerations indicate otherwise. The DP in this case comprises:-

- Local Plan 2016-2036 Part One: Planning Strategy (2020)
- Local Plan Part 2: Sites and Development Management (2014)
- Core Strategy (2009)
- New Forest District Local Plan First Alteration (2005)

Material considerations include amongst other matters the National Planning Policy Framework (the Framework).

### CHARTERED SURVEYORS | PROPERTY AGENTS | AUCTIONEERS

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Local Plan 2016-2036 Strategic policies SO6: *Economic opportunities* and SO8: *Rural areas and tourism* both support economic development whilst looking to manage environmental impacts. Policy SO9: *Climate change and environmental sustainability* specifically looks to “prioritise the beneficial reuse of previously developed land”.

Policy STR3: *The strategy for locating new development* states as follows:

“The strategy is to locate and direct new development to accessible locations that help to sustain the vitality and viability of the towns and villages of the Plan Area as the focal points of commercial activity and community life,....” (own underlining)

Policy STR4: *The settlement hierarchy* confirms that as a town Ringwood lies within the top of tier of the settlement hierarchy and states as follows with regard to development in such locations:

“They are the most sustainable locations for large-scale residential, retail, leisure, cultural and business development to improve their self-containment and to support and consolidate their local service offer...” (own underlining)

Policy STR6: *Sustainable economic growth* states as follows:

“The Council strategy for sustainable economic growth is to maintain and enable a vibrant and prosperous local economy offering a diverse range of local employment opportunities, where existing businesses continue to thrive and new businesses have sufficient and suitable opportunities to form and grow in appropriate locations.....”

With regard to locations outside of settlement limits Policy STR6 sets out support for

“...a sustainable rural economy including low environmental impact businesses and tourism”

Policy ECON1: *Employment land and development* states as follows:

“i. Proposals for the development, redevelopment or intensification of employment uses will be supported on existing employment sites, and on other suitable sites within defined town centre boundaries, provided that:

a. Safe and suitable access can be provided for pedestrians, cyclists and for the types of vehicles likely to visit the site; and

b. The proposal would not unacceptably impact on the environment, the landscape, or on the amenity of nearby residents; and

c. The proposal would not have a significant detrimental impact on the operation of other businesses in the locality; and

d. the use proposed is proportionate in scale for the location with regard to the settlement hierarchy”

The explanatory text to Policy ECON1 defines employment uses as being those within B1, B2 and B8 (now replaced in part by Use Class E) but also ‘*sui generis*’ uses of a similar character.

In this case the Site is ‘at’ Ringwood, a first tier settlement where growth is to be focused, it is also already within a business (employment generating) use and that it is not excluded from the definition of previously developed land and has previously been subject to physical change having been surfaced as a riding arena. On this basis and given the limited physical impacts of an outdoor container storage use the proposals are considered to be compliant with Development Plan policy.

With regard to the Green Belt Policy ENV2: *The South West Hampshire Green Belt* confirms that development will be determined in accordance with national policy.

As such, the Applicant accepts that for the Council to approve the Application it must find “very special circumstances” exist.

The very special circumstances in this case are easy to identify. They may be summarised as:-

1. The Applicant will surrender an equivalent (or greater) area of land from the lawful extent of the Yards. In terms of the immediate physical impact on the Green Belt, therefore, the position is neutral.

For the Council to reach and accept this conclusion it must consider and determine the Applicant's application for a certificate of lawful use to determine the lawful physical extent of the Yards (the Yards Certificate Application). The Yards Certificate Application has been made at the same time as the Application. It is supported by a Planning and Legal Opinion and by Statutory Declarations. More Statutory Declarations could be obtained if necessary. That said, the evidence submitted appears more than sufficient to prove that on the balance of probability the lawful extent of the Yards is as claimed by the Applicant. (the Yards Certificate) Looked at on this basis, the determination of the Yard Certificate Application must be done before determining the Application. The resulting certificate, i.e. the Yards Certificate will be a significant material consideration and one the Council must consider and give significant weight to when determining the Application.

2. Whilst the Development will be neutral in terms of the Green Belt footprint (see above), having the Site used for open storage, as opposed to the area of the Yards the Applicant would surrender, delivers many advantages. These advantages, or together the "very special circumstances", are best understood by considering the planning obligations offered by the Applicant in a S.106 planning obligation (the 106 Planning Obligation). A draft of the proposed 106 Planning Obligation has been submitted with the Application. The Applicant will execute and delivery the 106 Planning Obligation when the Council resolve to grant planning permission for the Development. Indeed, the Applicant would expect the Council to want to satisfy itself the 106 Planning Obligation was legally enforceable and achieved what the Council thought necessary, i.e. the Applicant is amenable to considering drafting suggestions from the Council before executing and delivering the 106 Planning Obligation.

In summary, what the 106 Planning Obligation achieves is:

No net increase in the level of open storage in the Green Belt.

Open storage in the Green Belt on the Site restricted to containers. This should be given significant weight because container storage is relatively low impact. The containers, which the 106 Planning Obligation require to be painted dark green, are relatively unobtrusive. More general open storage or other lawful uses might not be so unobtrusive. These might include, for example, caravan storage, boat storage, scaffold storage, skips etc. as well as containers.

Open storage and other lawful uses kept away from New Road and the residential properties along New Road. Whilst the Green Belt is principally to do with openness, development in the Green Belt that is more obvious to the eye than development in the Green Belt that is not, does have a greater impact on the Green Belt. Keeping the Yards clear of storage etc. in the vicinity of New Road and behind the manege, as proposed by the 106 Planning Obligation, will deliver a significant positive benefit to the Green Belt.

The greater visual impact of storage etc. on the areas of the Yards the 106 Planning Obligation will surrender, when compared to the very limited visual impact of the containers where they are on the Site, will significantly benefit the residents of New Road. Put simply, in addition to the Green Belt benefit of less visual impact if the Applicant's proposal is accepted, there is also a significant benefit in terms of residential amenity. The open storage that could take place on the areas of the Yards the applicant is willing to surrender would not be limited to containers. It could include caravans, boats, scaffolding etc.

The visual benefit to the residents of New Road and the impact on the Green Belt of approving the Development is further strengthened by the 106 Planning Obligation's offer not to stack containers on the Site. That restriction would not apply if the Applicant was forced to move the containers from the Site and to relocate them on the areas where under the 106 Planning Obligation the Yards would otherwise be kept clear. This could include stacking containers on the area of land in the vicinity of New Road the Applicant is willing to keep clear.

The Applicant can use New Road for access to and from the Yards. The use of New Road is likely to increase in the future and, save for the limited restrictions that apply to existing Operating Licences, the use of New Road to service the Yards is unrestricted. The 106 Planning Obligation will prevent New Road from being used to access the Yards. This is of some benefit to the Green Belt and of significant benefit to the residents of New Road.

The 106 Planning Obligation contains an obligation to strengthen the hedge along Hampshire Hatches Lane, inside the ditch-line. If planted the visual impact of the Yards will be significantly improved both for the users of Hampshire Hatches Lane and the nearby residential dwellings.

The Site is already developed land. The reality is all the land to the west of the Site, as shown on the application for a certificate of lawful use for the equestrian business (the Equestrian Certificate), which the Applicant has submitted, can be used for a commercial equestrian business. There is no gap, therefore, between the Yards and the equestrian business. The relevance here is that in addition to the 106 Planning Obligation the Applicant is also offering, and has submitted in draft, a separate 106 planning obligation (the Equestrian 106) covering the Equestrian Certificate land. The Equestrian 106 will limit the number of containers used on the full extent of the Equestrian Certificate land for storage of feed, jumps etc., and prevent caravans being used for equestrian related purposes. Those purposes might include storage, rest room, office etc. With the existing lawful use of the Site being for an equestrian business, if an Enforcement Notice is served on the Site the containers on the Site would be moved to the Yards, presumably in the vicinity of New Road, but the Site would not be cleared. What will happen is that circa 3 or more containers would be left on the Site and used for storage in connection with the lawful equestrian use. Indeed, since the containers on the Site fulfil an important function in isolating the manege from activity in the Yards, that is a safety function, containers would be retained on the Site and reoriented to run parallel to the manege to provide an effective screen and the necessary storage. This was explained to the Council some two years ago or more.

3. Overall, it is difficult to see what possible planning benefit there could be in taking enforcement action against the containers currently on the Site. Indeed, the reverse is clearly true, and the position is not significantly different to the position in 2007 when costs were awarded against the Council, following a public inquiry, because the Council's behaviour in failing to consider the Applicant's fall-back position was found to be unreasonable. If enforcement action is taken, and if planning permission is refused for the requested change of use, the impact on the Green Belt and on the residents of New Road and Hampshire Hatches Lane will be significantly greater. This a reality. It is the Applicant's fall-back position. It is what will happen. Indeed, as the Council's records will show, not only have costs been awarded against the Council in the past in a not dissimilar scenario the Council will be aware it first showed an interest in the Site and the alleged breach over two years ago. Having not heard from the Council for nearly two years and having suggested to the Council circa 2 years ago that it might want to close its' file, the Applicant had come to the reasonable conclusion the Council had no significant issue with the containers on the Site and accepted their retention. Whilst it is for the Council to explain away its' inactivity if it now says there is an issue, in an appeal situation the Applicant will (1) refer to the two year delay, (2) refer to the Council's failure (again) to assess the fall-back position and (3) redraft the 106 Planning Obligation to include a clause that avoided the need to comply with any obligations the Inspector did not think were necessary to overcome what might otherwise be an objection to the grant of planning permission. Indeed, in that scenario it is reasonable to think the Inspector appointed to

determine the public inquiry might conclude an obligation to keep the net footprint impact on the Green Belt the same was sufficient. The other obligations might, therefore, fall by the wayside. What will be clear, however, is that if the containers must move from the Site the lawful extent of the Yards will be fully utilised going forward, as will the access from New Road. That is the fall-back position and that much is clear.

If the Application is assessed, as it must be, having regard to (1) the Applicant's fall-back position, (2) the Yards Certificate, (3) the 106 Planning Obligation, (4) the Equestrian 106, and (5) the Equestrian Certificate, there is no sustainable planning policy objection to the Development. Indeed, looked at fairly and objectively the Development should be welcomed because the impact on the Green Belt and on residential amenity, both visual and traffic, will be significantly less if the Application is approved than if planning permission is refused and enforcement action taken.

Yours sincerely



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