

PLANNING & LICENSING COMMITTEE

25 OCTOBER 2022

ADDENDUM REPORT

Report no.	Item no.	Application no.	Applicant	Parish
171/2022	1	2022/0124/FUL	MR ROGER SUGDEN	HAMBLETON

Consultee Comments:

Highway Authority state based on the fact that the existing building is currently used as a stable and could continue to be used without any planning consent, there cannot be any highway objection.

Public Rights of Way Officer: No objection.

Additional Comments:

Two objections on the following grounds:

- public safety as the access is already substandard for three properties, blind visibility and narrowness of highway, vehicles with trailer or horsebox will need to manoeuvre in and out of access
- loss of amenity to Hill Top Farm Cottage through intensified use of the access
- use of barn for stabling has lapsed and new stable cannot be considered to be a replacement, the stable had been used for animal husbandry
- inadequate land for grazing the horse and no additional grazing indicated
- no provision for storage and disposal of manure
- amount of office space proposed excessive and seems to allow for employees
- premises can only be accessed by motor vehicle
- parcel delivery vehicles already experience difficulties
- Hill Top Farm ceased to be a working farm in the 1950's, barns became redundant agricultural buildings and have been for over 60 years, stable has not been used
- There are two definitions on abandonment in relation to a lapse in established use, definition 1 relates to there being some intention to abandon, definition 2 where a use ceases and the land/buildings remain unused for that purpose for a considerable amount of time (generally over 40 years), both apply in this case. A recent judgement related to abandonment in Hughes v Secretary of State for the Environment where the test of intention to cease use was rejected in favour of an objective assessment related to the condition of the building. The appeal judges noted there had been prolonged neglect and lack of maintenance which was not overcome by the appellant's stated

intention to resume the former use. This is evidenced that the building had become dilapidated requiring works to bring it back to a functional use

-development is beyond the Planned Limits of Development

Three Statements of Truth from residents stating between 1987 to 2022, from between 2010 and 2020 and between 2009 and 2022 have never seen horses kept in the grounds or the continued use of the access for horse transportation.

One Statement of Truth recalling Helen Sugden riding her horse from Hill Top Farm House.

One representation in support stating as the previous owner confirm unequivocally that the existing stable was used on a regular basis during the period we owned horses. Both the stable and an adjacent field were used to home the horses, resulting in transporting one or two horses in a horse trailer from the premises on average six times a month. The horses were exercised on a regular basis directly from the premises. The application in question simply contains a request to replace the existing stable with another, within the grounds.

An initial objector has withdrawn the earlier objection contained in the committee report.

The Applicant has stated:

-there would be no increase in traffic

-neighbours have built outside the Planned Limits to Development under permitted development rights

-the proposed buildings would be subservient and have no visual impact on anyone

- the Hughes v Secretary of State for the Environment appeal dates back to 2000, so is hardly a recent judgement and does not establish any legal principle other than to reiterate the application of the 4 tests when considering the issue of abandonment. There are not therefore two potential definitions of abandonment as alleged, there is only one concept of abandonment which is always to be informed by the consideration of the 4 relevant tests which are the intention of the owner, the condition of the building, the period of non-use and whether there has been any intervening use of the land or premises. The claim of abandonment is fundamentally flawed for two reasons, firstly the fact that the horses are not kept in connection with an agricultural use doesn't mean that lawful use as stables for keeping horses automatically ceases, the use of a stable to keep horses is still a horse stable whether the horses are used for agricultural purposes or not, secondly it is a fact that the stables were used for the stabling of horses both currently by the present owner and before that by his father who lived at the property and kept horses in the stables at various times during the course of the last 20 years.

- the building was clearly constructed as a stable, has all the appearances as a stable and as a matter of fact is used as a stable., the building not undergone any repairs or rebuilding in order for it to be used for its current purpose. The applicant confirms that all that has happened is that the building was pressure washed inside and a coat of paint applied. It has never been intended to use the building for anything other than as a stable and the building has not been used for any alternative purpose from that for which it was originally constructed as a stable.

-Even if it could be argued that the use of the building for stabling horses has been abandoned (which is not accepted), its use for any purpose that is ancillary to the residential use of the house and its curtilage will be lawful and not require planning permission. Consequently, to stable a horse in this building is a lawful use being ancillary to the residential use of the property in any event, regardless of whether the building has a lawful use as a stable. Therefore, the assertion made that the proposed new stable will replace the existing stable and there is a neutral effect in highway terms, is both correct as a matter of fact and of law and is completely justified.

-A petition has been signed by 17 people stating no objection to the application.

Officer Comments: Issues of highway safety, the use of the stable and abandonment have been addressed in the committee report. A condition is recommended to limit the proposed offices to ancillary use to the dwelling only. Regarding the storage and disposal of manure, a suitably worded condition could be added:

Within one month of the date of this permission, a manure management plan shall be submitted to and be approved in writing by the Local Planning Authority. The use of the site shall thereafter take place in accordance with this agreed plan. The details submitted within the plan shall include how the manure will be stored, for example placed in a wagon and removed to agricultural land or if a fixed store is to be constructed details of this structure and its use.

Reason: In the interests of residential amenity and in accordance with Policy CS19 of the Core Strategy and Policy SP15 of the Site Allocations and Policies DPD.