

Application No: 15/00916/VAR Variation / Removal of Condition

Site: Land Rear Of Primrose Cottage, Cuckoo Hill, South Gorley, Fordingbridge, SP6 2PP

Proposal: Application to vary conditions 1 and 2 (Named Operator) of Appeal Decision T/APP/B1740/A/89/131065/P7 relating to planning application 89/41215

Applicant: Mr J Barrell

Case Officer: Katie McIntyre

Parish: ELLINGHAM HARBRIDGE AND IBSLEY

1. REASON FOR COMMITTEE CONSIDERATION

Contrary to Parish Council view

2. DEVELOPMENT PLAN DESIGNATION

Conservation Area
Site of Special Scientific Interest

3. PRINCIPAL DEVELOPMENT PLAN POLICIES

DP1 General Development Principles
CP14 Business and Employment Development
CP15 Existing Employment Sites

4. SUPPLEMENTARY PLANNING GUIDANCE

Not applicable

5. NATIONAL PLANNING POLICY FRAMEWORK

Sec 11 - Conserving and enhancing the natural environment
Sec 12 - Conserving and enhancing the historic environment

6. MEMBER COMMENTS

None received

7. PARISH COUNCIL COMMENTS

Ellingham, Harbridge & Ibsley Parish Council: Recommend refusal:

- The current level of activity on the site is inappropriate intensification of

use of this rural, green belt site and grossly exceeds the very specific conditions listed in the appeal decision, which were intended to mitigate the impact of operations on the two (very close) neighbouring residential properties.

- There are serious concerns about: the size, location, smell and potential hazards associated with the mulch stack, together with the current purpose of this storage activity; the reported escalation of chainsaw and other tree cutting operations on site; the apparent waste management activities being carried out.
- The access track to the site is not registered as a BOAT (Byway Open to All Traffic) and it is considered inappropriate for such large vehicles to be using it up to 16 times a day.
- The site's activities were previously separated into two areas (red and blue), it would be a good opportunity to review all of the current activities and where they are carried out on site.

8. CONSULTEES

8.1 Land Drainage (NFDC): No comment

8.2 Environmental Protection (NFDC) No comment received

9. REPRESENTATIONS

- 9.1 Two representations of objection received:
- The conditions need to also apply to the land edged blue on the submitted block plan.
 - Increase in vehicle movements.
 - Access to the site is not suitable.
 - Mulch storage is greater than that envisioned by the Inspector.
 - Unsuitable site for the business.
 - Increase in noise.
 - Change in the use of the site.

RELEVANT HISTORY

10.

10.1 89/41215 - use of land for log cutting, storage and mulch storage - appeal allowed on 9 March 1990

11. ASSESSMENT

11.1 The application site consists of an area of land measuring approximately 0.3ha which was granted permission in 1990 by the Planning Inspectorate to be used for log cutting, log storage and mulch storage. The site is accessed via a single-width unmade track which serves two other residential properties and is also a bridleway. The permission granted in 1990 was subject to several conditions that limited / controlled aspects of the use including the following personal restrictions:

"The uses hereby permitted shall be carried on only by Mr J Barrell and should be used for a limited period being the period during

which the site is occupied by Mr J Barrell."

"When the site ceases to be occupied by Mr J Barrell the uses hereby permitted shall cease and all materials and equipment brought on to the site in connection with the uses shall be removed."

This application seeks consent to vary the above two conditions in order to allow another tree and landscaping contractor (Robert Heron) who leases the land from Mr Barrell to operate from the site.

- 11.2 By way of background, as stated the use of the application site for log storage, log cutting and mulch storage was granted consent in 1990 at appeal. At that time the site was owned and operated by Mr Barrell who also owned the adjacent land (edged blue on the submitted block plan) which was used as a nursery primarily for the growing of Christmas trees. It is important to note that the land edged in blue did not form part of the appeal as this land was being used in accordance with permitted development rights relating to forestry and as such did not require planning permission; this situation has not changed and this application does not relate to this parcel of land.
- 11.3 Mr Barrell employed between 5 to 12 people when his business was at its peak during the early 1990s. The Inspector concluded that the use of the application site for the cutting and storage of logs and mulch had no detrimental impact upon the character and appearance of the Green Belt and that subject to conditions to stop the use intensifying there would also be no unreasonable impact upon the amenities of the neighbouring properties. Since this decision the site has continued to be operated by Mr Barrell, however it is recognised by the applicant that the level of activity at the site over the past ten years has declined from its peak in the early 1990s as Mr Barrell was focusing more upon his tree consultancy business rather than his contracting business.
- 11.4 Since early 2015 the site has been leased by another landscaping contractor (Robert Heron) who employs 3-4 people. During the week they generally arrive at the site around 7.30am to collect equipment required for the day and return to the site by 6pm. This application has been submitted to regularise the occupation of the site by Mr Heron following a recent enforcement investigation. The agent has confirmed within the supporting statement that all other conditions (use of the site, restriction on hours of use for machinery, no retail sales and a restriction relating to the hours of burning) are still being complied with and seeks no changes to these. The agent contends that the current level of activity at the site is less than that when Mr Barrell was operating at his peak.
- 11.5 The relevant issues to consider are whether the proposed variation of the conditions to allow Robert Heron to operate from

the site would have a greater impact upon the character and appearance of the area and the amenities of the nearby residential properties than if Mr Barrell were to be operating at the premises in accordance with the permission.

- 11.6 Two representations of objection have been received from the occupants of the neighbouring properties 'Chibdens' and 'Primrose Cottage' raising concerns in relation to the intensification of activity at the site since its occupation by Mr Heron with regards to noise, traffic movements and the amount of materials stored at the site. It has also been requested that all the conditions applied by the Inspector are reconsidered and that the conditions apply to both the application site and the adjacent land marked blue on the submitted block plan. The neighbours recognise that the change in user is a minor issue however it is their opinion that the site is unsuitable for such a business use and has a detrimental impact upon the village. The Parish Council have also objected to the application raising similar concerns to local residents.
- 11.7 The Inspector considered that the *"activities taking place at the site although not strictly forestry, by their nature are related to forestry and to a degree would be expected to be found in countryside areas"*. Furthermore, the site is *"well screened from view from the main road and it does not have a serious impact on the character and appearance of this part of the green belt"*. It is not considered that a change in the occupier of the site has had any greater impact upon the character and appearance of the conservation area than if Mr Barrell were operating from the site as there has been no change in the lawful use of the site. Similarly, providing the conditions controlling the use, such as restriction on hours of use for machinery and hours of burning are complied with, it is also not considered that a different occupier at the site would have a greater impact upon the amenities of the neighbouring properties. The Agent has confirmed in the supporting statement that conditions 3-7 of the consent are acceptable to Mr Heron and that no changes are sought to these. The enforcement investigation also found no evidence that these conditions were not being complied with. It is not therefore considered that a variation to the conditions requested to allow Mr Heron to operate from the site would have a greater impact than if Mr Barrell were to operate his tree contracting business from the land.
- 11.8 The Parish Council have requested that all the conditions of the consent are reviewed, however this application does not seek to vary these conditions and as such it would not be appropriate to review these conditions imposed by the Inspector given this application would not affect these or their implementation as has been requested by the Parish Council. Similarly, it would not be reasonable for this application to impose conditions on the land edged in blue as this parcel of land does not form part of the

application site. Furthermore, the operations which are being carried out on this land are permitted by virtue of the Town and Country Planning (General Permitted Development) (England) Order 2015 and do not therefore require planning permission and as such are outside the scope of planning control.

- 11.9 Concerns have also been raised by local residents in relation to the traffic associated with the site and the number of vehicle movements. The access to the site is via an un-made single width track and the vehicles using this track are by the nature of the lawful use larger than that associated with a residential use. There are however no restrictions relating to the permission with regards to the number of daily vehicle movements permitted or the size of vehicles and the Inspector considered the location of the site, including its access, to be suitable for this use. Furthermore, similar sized vehicles would use this access track if Mr Barrell were to be operating from the site and as such it is not considered a refusal on this basis could be sustained.
- 11.10 To conclude, the use of the site for log cutting, log storage and mulch storage has been deemed acceptable by the Planning Inspectorate. On balance it is not thought that the variation of the conditions to allow Robert Heron to operate from the site would have a greater impact upon the character and appearance of the conservation area or the amenities of the nearby residential properties than if Mr Barrell were to be operating at the premises. It is therefore recommended permission is granted.

12. RECOMMENDATION

Grant Subject to Conditions

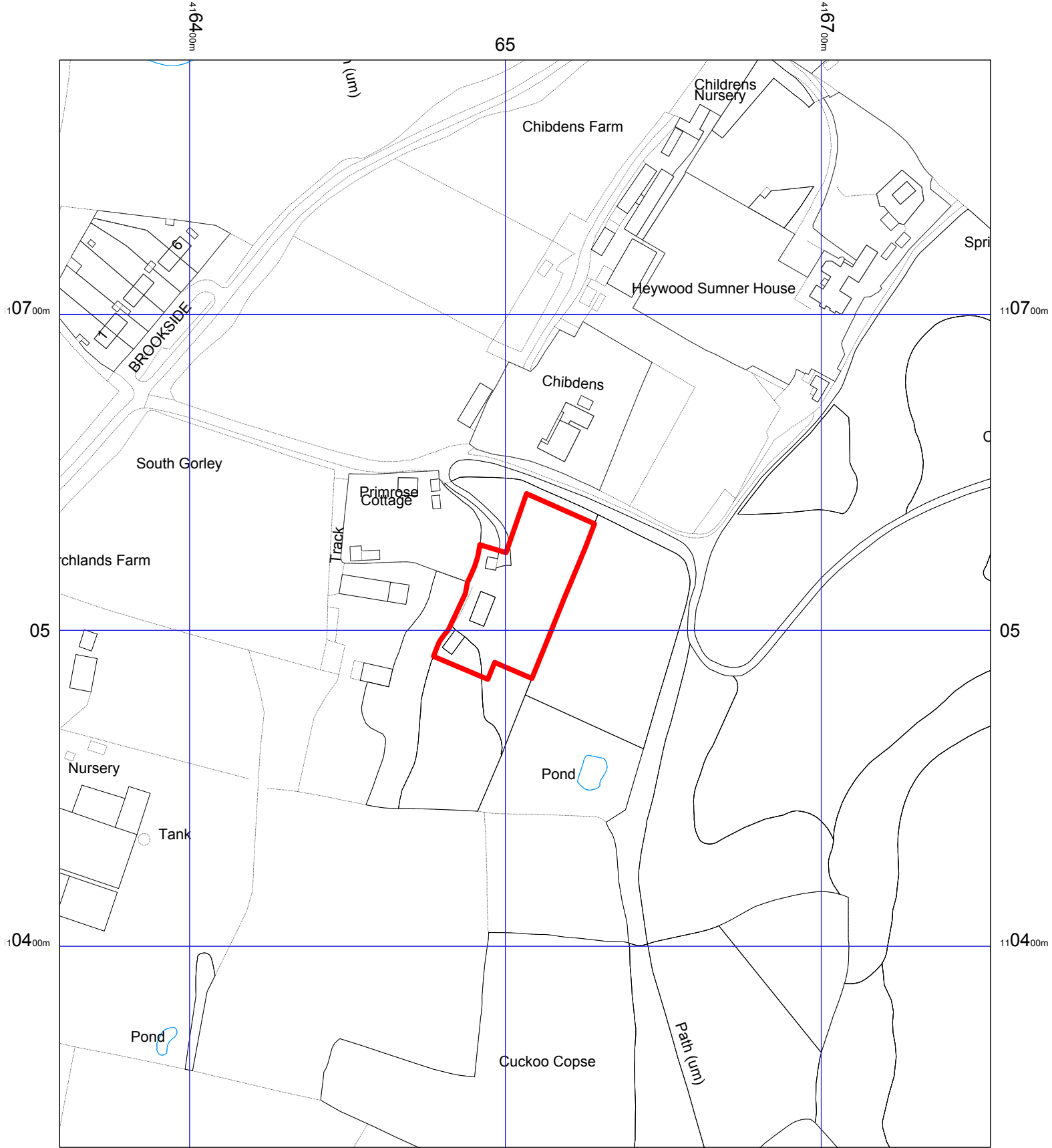
Condition(s)

- 1 The uses hereby permitted shall be carried on only by Mr J Barrell and/or Mr R Heron and should be for a limited period being the period during which the site is occupied by Mr J Barrell and/or Mr R Heron.

Reason: To ensure an acceptable impact upon the special qualities of the New Forest National Park and the amenities of the neighbouring properties in accordance with policy DP1 of the Core Strategy and Development Management Policies DPD.

- 2 When the site ceases to be occupied by Mr J Barrell and/or Mr R Heron the uses hereby permitted shall cease and all materials and equipment brought on to the site in connection with the uses shall be removed.

Reason: To ensure an acceptable impact upon the special qualities of the New Forest National Park and the amenities of the neighbouring properties in accordance with policy DP1 of the



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