

**Site Address: Swalcliffe Park Equestrian
Grange Lane Swalcliffe**

14/01762/F

Ward: Sibford

District Councillor: Cllr. George Reynolds

Case Officer: Bob Neville

Recommendation: Approval subject to the receipt of an approved Noise Management Plan and conditions.

Applicant: Swalcliffe Park Equestrian - Mr Richard Taylor

Application Description: Use of land at Grange Farm for mixed use comprising part agricultural, part equestrian training and competitions (Use Class D2); retention of 1no. access and relocation of 1no. access on to the road leading from the B4035 to Sibford Ferris; retention of, and extension to, existing parking area and retention of equestrian jumps and obstacles; as detailed in agent's letter dated 22 December 2014

Committee Referral: Major application

Committee Date: 19/03/2015

1. Site Description and Proposed Development

- 1.1 The site is an area of land of approximately 39 hectares, which forms part of Swalcliffe Grange Farm, located just south-west of the village of Swalcliffe, east of Sibford Ferris and some 6 miles from Banbury. It is an area of undulating landscape in predominantly agricultural use and is accessed by narrow rural lanes (in some places only single-track). The site is largely bounded by existing mature agricultural hedgerows, although stock-proof fencing and a relatively new hedgerow has been planted along Grange Lane to the west. The site has an existing area of hardstanding for parking, although this does not appear to benefit from planning permission, and due to the passage of time it may be that it is now immune from enforcement action. Both permanent and moveable jumps/structures are present on site and include a water complex and jumps created within the landscape and hedgerows/fences. Some of these jumps are considered to be operational development and have also been constructed without the necessary consent.
- 1.2 The site is not within a conservation area and there are no listed buildings within close proximity; the site is however within an area designated as being of high landscape value (AHLV) and there are Public Rights of Way located to the south and east of the site.
- 1.3 The application seeks permission for a change of use of the site for a mixed use of equestrian and agricultural use and the retention of, and extension to, an existing parking area currently used for vehicle parking in association with the business. The equestrian use would include training and competitions whilst the agricultural use would occur in the event of the land not being required in conjunction with the equestrian use. The application also seeks the regularisation of unauthorised development associated with the equestrian activities taking place at the site including: the installation of permanent jumps/obstacles (as detailed in agent's letter dated 22 December 2014); the relocation of an existing vehicular access into the site from the road leading from the B4035 to Sibford Ferris, some 30m west of Elm Farm, and the retention of a further access on to the same road; some 34m west of Partway House.
- 1.4 The application was originally presented at the planning committee on the 19th of February 2015; however following comments made by Shoosmiths, solicitors acting on behalf of several key objectors to the proposal, the application was deferred to allow officers the opportunity to seek further legal advice on the points raised; i.e. any permission would not be lawful because:

- The use of the land for equestrian activities for 28 days pursuant to Permitted Development Rights (PD) is not a lawful fall-back position to consider because of the continued presence of unauthorised structures on the land;
- The development is EIA development because of the car park.

Further advice has been received confirming officers opinion that the fall-back position should be a material consideration and that the development does not constitute EIA development (discussed later in this report). Officers are now content that the position taken and ultimate recommendation is legally sound.

- 1.5 The site is currently being used for day-to-day equestrian training (although no previous planning consent has been applied for or granted for this use) and Swalcliffe Park Equestrian (SPE) also host equestrian competitions/events that attract a large number of competitors; such as the British Eventing Horse Trials which have seen some 500 riders taking part in the event over two days.
- 1.6 The applicant has indicated the use of the site for day-to-day training is pre-booked with most people schooling for 60 to 90 minutes per horse; utilising wooden cross-country fences and riding in large open spaces and suggest that a limit of 50 horses on site day-to-day is appropriate.
- 1.7 The applicant's contend that the larger events are being, and have been carried out under permitted development rights, afforded to them for temporary uses on the site; under Schedule 2 Part 4 of The Town and Country Planning (General Permitted Development) Order 1995 (as amended) (GPDO), which allows for temporary buildings/moveable structures and the use of land for any purpose for not more than 28 days in any one calendar year; although looking at the calendar events submitted for 2014, usage of the site for competitions appears to be significantly above the 28 allowance. It is officer's opinion that the 28 days allowed under the GPDO would include days required to erect associated structures before the event and also days required to clear the site post event; as it is considered that as soon as activities are undertaken, that are associated with the temporary use, that the use is considered to have started and that the use would continue until the site has been returned to its original state. The calendar shows 15 events taking place over 22 days; however if set-up and take-down days are included, as would be required, the number of days that the site is in use rises to 54. Whilst there is a breach of the 28 day rule, this would be the applicant's fall-back position in terms of use of the site and unlimited events could be held on site, without the need for planning permission for 28 days in any one calendar year.
- 1.8 The Council's Planning Enforcement Team are monitoring the situation and are aware of activities taking place on the site and the unauthorised development that has also taken place. No action has been taken to date, given the previous and pending applications, other than the issuing of a Planning Contravention Notice (PCN) (to gain information to give a better understanding of activities taking place on site). This was fully complied with on 29/10/2014. Details of the applicant's response have been submitted as supporting information for the current application and are available to view on the Council's website. Further comments in relation to enforcement issues are discussed later in this report.
- 1.9 The applicants have stated that they have used the site for equestrian activities since 1997, They also state that the business has continued to be successful and expand; its core operations now include equestrian training, competitions and horse trials. The statement regarding the use of the site has been disputed by some of those objecting to the scheme; referring to aerial photographs showing the land to be in crop. The information received back from the applicant in response to the PCN sets out the history of the use of the site in relation to equestrian and agricultural activities that have taken place on site over the past 10 years; the layouts that have been used for some of the larger equestrian events that have taken place on site; details of

numbers of day-to-day equestrian users and a calendar of larger equestrian events that were held during 2014. The information provided would appear to demonstrate that equestrian uses on site have expanded, which would in turn, appear to corroborate the applicant's statement that the equestrian business has become more successful and therefore there has been less of a reliance on use of the site for agricultural crops.

- 1.10 This is the third application that has been made on the site for development of a similar nature and has been made following the withdrawal of previous application 14/00801/F; for the use of land for mixed use comprising equestrian training (use class D2) and agriculture, together with extension of existing vehicle parking area, in 2014. This application was withdrawn prior to being presented at Planning Committee in September 2014 at the request of the applicant; due to concerns relating to the proposed conditions, that had been attached to the recommendation for approval set out in the Case Officer's report to committee; in that the applicants considered that restrictions imposed by the conditions would impact on their ability to host larger events over 50 riders which would in turn detrimentally impact on the viability of the business. Further relevant planning history is detailed later in the report.
- 1.11 A continuous dialogue has been maintained with the applicant's agent throughout the course of the application and has resulted in further information being submitted to provide further clarity to the application and a revision to the development description. Further information was received attached to agent's email dated 22nd December 2014 and again on the 5th March 2015. The development description was amended to expand upon what 'associated development' referred to in the original description; and therefore provide clarity as to that for which permission is sought.

2. Application Publicity

- 2.1 The application has been advertised by way of a press notice, site notices and neighbour letters. The initial final date for comment on this application was 11.12.2014; however, following the submission of revised and additional information received at Christmas and again in March further consultation exercises were undertaken and a final deadline for comments has been set at the 15th March 2015. As the deadline for further comments extends beyond the date when this report has been prepared, any further consultee responses or comments received will be conveyed to committee members as a written update prior to the meeting on the 19th of March. At the time of writing ninety nine items of correspondence have been received as a result of the process; both supporting and objecting to the application; details of all the representations received are viewable on the Council's web-site.
- 2.2 Forty three letters of support were received from local residents/businesses and also users of the site, on the following grounds:
- Activities at Swalcliffe Park Equestrian support local rural businesses (including local public house and farriers)
 - The business generates employment opportunities
 - Valuable community facility
 - The business supports equestrian training and development at all levels (from young children to international competitors)
 - The site is well run and maintained
- 2.3 Letters/emails of objection have been received from sixteen individual households and local residents, citing some or all of the following reasons:
- Landscape impact (due to the extension of the parking area and jumps within the fields)
 - Impact on the conservation areas of Sibford Ferris and Swalcliffe.

- Noise impact (use of public address systems)
- Unacceptable increase in levels of traffic generation causing detrimental levels of noise, congestion and pollution; and in general causing damage to highways.
- Detrimental impact on neighbour amenity and an infringement on Human Rights
- Impact on the environment and biodiversity
- Impact on archaeology
- Unacceptable intensification of activities on site
- Impact on Health and Safety
- Cumulative impact on the environment of this application and previously approved anaerobic digester development.

- 2.4 A detailed objection has also been received from planning consultants Judith Norris Ltd on behalf of three neighbouring properties; these included reports on transport by Allen Davies, landscape impact by Portus & Whitton (however, it must be noted that although it does make reference to the fields within the current site area, it was produced in support to the previous objection submitted against application 13/01295/F and does not appear to have been updated with respect to the current application) and noise impact by Walker Beak Mason.
- 2.5 Further objections on behalf of two of the same three neighbours have been received from Shoosmiths LLP citing issues with the clarity of the supporting information of the application and the need for an Environmental Impact Assessment to be undertaken. These issues will be discussed further later in this report.
- 2.6 The issues raised in the objections will be addressed within the relevant sections of the main body of this report. As noted earlier the full contents of all the representations received are viewable on the Council's web-site.

3. Consultations

- 3.1 **Swalcliffe Parish Council** - Swalcliffe Parish Council does not object in principle to change of use to include equestrian training and to the extension of the vehicle parking. However we do have concerns regarding the scale, detail and clarity of the current application that we believe should be considered by the Planning Officer. And we would also refer to our comments made in relation to the previous planning application by SPE, reference 14/00801/F, some of which still apply.
- The car / lorry park – we are pleased that the proposed extension has been reduced in size. Nevertheless any extension will affect the immediate landscape. Appropriate screening by planting would help minimise this.
 - The number and length of major events – it is not clear whether the 28 days for major events being requested includes set-up and take down time for the major events. In terms of actual event days the current number of days used by SPE for such events is well below the 28 days. But if the number of days of actual events (i.e. excluding set-up and take-down days) were to increase towards 28 days this would represent a significant expansion of the operation, with implications for traffic etc. (see below).
 - It therefore needs to be clarified whether or not set-up and take-down days are included in the 28 days. If not, it might be appropriate for the number of days allowed for major events to be adjusted to a total nearer the current or planned usage by SPE.
 - Sensitivity to close neighbours would be appreciated i.e. by leaving a good margin from their homes, and clearing event structures promptly.

- Road traffic – the application proposes that traffic from the east for the events should be diverted so as to go along the B4035 through the villages of Tadmarton and Swalcliffe. Oxfordshire Highways and Cherwell District Council should consider the effects of any increase in traffic on the main road through these two villages, in the light of current road management issues (e.g. the lack of pavements and speeding).
- Day to day use of the facilities will still require access via Grange Lane and any increase may put further strain on this road which is currently poorly maintained. Oxfordshire Highways and Cherwell District Council should also consider this.

Further comments following revised/additional information being received:

The further documents do not change our view, set out in our original submission.

We assume that CDC Planning have asked OCC Highways for its response to the many points made on traffic (for events) in the documents posted since the initial OCC Highways response to this application. We look forward to seeing the CDC and OCC Highways analysis and conclusion for traffic and road management.

We suggest that, if possible, any entry / exit gates are sited away from immediate neighbour's houses.

- 3.2 **Sibford Ferris Parish Council** - Raised no objections but commented that they believed that the increase in the cross-country business up to 50 horses per day would put too much heavy traffic onto Grange Lane; it would like to see a condition of any permission put in place requiring the upgrading of the lane up to the entrance of the proposed new vehicle park.

No further comments made following revised/additional information being received.

- 3.3 **Tadmarton Parish Council** - Tadmarton Parish Council wishes to raise no objection but would like to make the following comments: Tadmarton Parish Council has serious concerns about all event traffic going through Tadmarton and Swalcliffe. They would like to see a reversal of the traffic flow along the Ushercombe Road between Lower Tadmarton and Wigginton Heath. This will mean that traffic will access SPE via the Gated Road South.

Cherwell District Council Internal Consultees:

- 3.4 **Anti-Social Behaviour Manager** - No objections subject to conditions. Further to your consultation regarding the above application as I have already indicated there are a number of issues raised through objections to this application. These include the impact of road traffic on local air quality; the effect of the use of the land on the hydrological environment; highway safety and surface water drainage. All these topics are beyond my scope of knowledge and require inputs from other specialists.

I have confined my appraisal to the noise impacts of the proposal and in so doing rely on two separate specialists reports that have emerged during the application process. The first document submitted by the applicants in support of their proposal has been prepared by id!BRi and the second which consists of a report prepared following the submission of an earlier, withdrawn, planning application and a noise technical note. Both documents were prepared by Walker Beak Mason (WBM) and were submitted on behalf of an objector.

Both consultants have carried out objective noise monitoring at an event that took place on 21/09/14 with the WBM work making reference to an earlier objective noise survey they had carried out on behalf of their clients. The base line data obtained by both noise surveys on 21/09/14 is comparable with no significant variations in the measured results obtained.

The interpretation of these results is the key issue. There is no published standard means of assessing the noise impact of any sporting activity. Practitioners have to rely on the use of other standards not directly designed for that purpose. In the case of the id!BRi noise report the consultants make reference to the then British Standard BS 8233:1999 Sound insulation and noise reduction for buildings; the World Health Organisation document 'Guidelines for Community Noise' and the Noise Councils' Code of Practice on Environmental Noise Control at Concerts.

Using these three references they have derived an outdoor noise level and have used this as an assessment criteria. The level chosen is 55 dB LAeq (15 mins). Using this level as a bench mark id!BRi argue that their measured values for noise from all sources associated with the equestrian use is below this threshold and the use is therefore acceptable in noise terms.

I would be critical of this approach as it does not attempt to characterise the location where the noise is taking place; it does not relate the noise produced by the equestrian use to the background sound levels when the use is absent and no weight is given to the varying degree of annoyance caused by differing elements of the noise climate. It is also interesting to note that BS 8233:1990 was replaced by BS 8233:2014 in February 2014. In the revised version of the British Standard an LAeq sound level of 50 dB is recommended as being desirable with the 55 dB level remaining as an upper limit.

The WBM work does not present a conclusion in terms of relating objective noise measurements to a prescribed standard but their approach does compare LAeq levels with background noise levels measured in the absence of any activity on the application site and their commentary on the noise activity taking place during their measurement periods provides an insight in to what was audible at each measurement location. This information can in turn, be used to make some assessment of the 'annoyance' caused by individual activities. The measurement of the LA(max) criteria also gives an indication as to the level of the loudest sound heard at each measurement location during the measurement period.

What emerges from this assessment is that noise produced by certain parts of the equestrian activity were audible at the measurement locations i.e. the nearest dwellings to the site. From the descriptions given certain activities were described as clearly audible. These include the sounds of the PA system, the sound of car horns and the sound of whistles. All of these noise sources could be described as highly annoying as these are alien sounds in a rural environment. I would argue that the sounds produced by horses themselves and to a degree vehicle movements on the site should attract a lower annoyance rating.

There are a number of observations arising from the two reports in relation to the noise sources that are worthy of more detailed consideration. Firstly the PA system used on the 21/09/14 with two speakers and a third delay speaker is of particularly poor design relying on volume of sound to achieve the desired level of communication. By increasing the number of speakers the same level of communication can be achieved using lower volumes of sound thus reducing the impact of the activity. The use of portable radio equipment and suitable stewarding would negate the need to use the PA to summon competitors to a particular element of the competition. Car horns or portable air horns, mentioned in the description of sounds heard, are often used to alert competitors to the start and finish of various elements of equine competition. In my view these could readily be replaced with visual signals. Whistles are also mentioned. During the cross country element of competition whistles are used by course stewards to alert spectators to competitors approaching course crossing points. There are obvious and sound safety reasons for this practice but the level of use could be reduced by the careful design and

reduction in numbers of crossing points.

On balance I am not satisfied that the noise impact of the equestrian use is so significant that it would provide a reason to recommend the refusal of this planning application. I am however satisfied that the levels of impact from noise can be reduced by the mitigation and management techniques. In planning terms this will require the imposition of planning conditions. In order to protect the amenity of those residents closest to the site a combination of measures will be needed. A performance standard for community noise will be needed set at noise sensitive locations using an LAeq noise measurement related to the background noise level when no activity is taking place. Under pinning this there will need to be a prior approval condition requiring the preparation of the Noise Management Plan (NMP) for the site. The two elements need to be linked in such a manner that if an exceedance of the community noise level is detected then the NMP will be reviewed and modified to introduce the appropriate level of mitigation.

It should be noted that the NMP should not be confined to the control of noise during competitive uses of the site but should also include clauses that relate, for example, to the hours of working for the build phase of any temporary infra-structure, the use of portable generation equipment, the routing of vehicles with the site and the use of audible reverse alarms on contractors vehicles etc.

In terms of a level for the community noise target the 50 dB suggested by BS 8233:2014 can be considered as a starting point and whilst it is tempting to specify this as a level consideration has to be given to the background sound levels in the area when the activity is absent. From the WBM work these can be shown to be lower than average and it is therefore appropriate to consider a lower community noise target. In this instance, in my view the community noise target should be set at 45 dB LA eq (15mins) when measured free field at noise sensitive locations.

Further comments following revised/additional information being received:

Further to your consultation of 10/01/15 I can confirm that I have considered the revised planning statement submitted by the applicants in December. I refer to paragraph 10 of their document in which they describe the application and in particular mention that they are seeking permission for the use of 38.98 hectares of land for equestrian training purposes and includes additional land to be used 'transiently' for activities associated with large equestrian events on no more than 28 days per year. In the applicants response to a PCN they indicate that these large events currently operate for 13 days per year yet the total time that the land is in use i.e. when an event is being put together and dismantled totals 39 days giving an overall total use of 52 days per year.

I am assuming that the build-up and dismantle times would be included within the permitted 28 days if approval were to be given and as a consequence the level of large use activity would fall.

Moving on to the various site layout plans submitted these are extensive in number but lacking in detail as they are only indicative sketches. In the proposed noise management plan (NMP) mentioned in my earlier report the effective starting point for the noise management plan would be the site layout with the general premise being to locate those activities that have the greatest potential to generate noise away from noise sensitive locations. In this regard I believe more could be done to achieve this objective. It is my view that in order to be effective a NMP would contain an assessment and plan for each of the potential configurations with scaled plans setting out the optimum location for each area of activity with the plan drilling down into the detail of each of the event configurations.

I also understand from our conversation that the applicants agents have indicated that they would be resistant to my suggestion that visual rather than

audible alerts could be used at the start and finish of elements of competition but have not indicated that there are any over bearing reasons, beyond convention, that support this stance.

Moving on to the Walker Beak Mason comment on my consultation response a minor point of detail, I am employed by Cherwell District Council (CDC) and not (AVDC) Aylesbury Vale District Council ? as Mr Sweet seems to suggest.

I would accept Mr Sweets comments regarding the measurement positions used in the two noise surveys examined but would comment that access to the noise sensitive properties may not have been available to the applicants specialists at the time of their survey and the use of measurement points within the applicants control may of assistance if the requirement to measure noise formed part of a compliance monitoring strategy. Mr Sweet is correct in his submission that I have not had the opportunity to visit the site and carry out my own objective measurements. My concern that the applicants consultants had not considered the individual characteristics of the various sounds heard was reflected in my earlier response. The absence of a description of the activity taking place at the time of measurement is considered a flaw in the applicants consultants work.

With regard to Mr Sweets comments on the derived noise target I suggested he is correct his appreciation of the way I arrived at the figure I did. The approach I would take through the NMP probably requires some expansion as is offered as a counter to Mr Sweets' suggestion of a lower noise target. The level I suggested would be for use when the site is built and is operating under competition use conditions. The build and dismantle phases would be controlled to a more restrictive standard using British Standard BS 4142:2014 a standard I would argue would be more appropriate to this type of activity. The level provided by this approach would be close to the level indicated by Mr Sweet.

- 3.5 **Arboricultural Officer** - No objections. The proposals should have a limited impact on the tree to be retained to the north of the proposed car park. There is a slight incursion into the root protection zone of the tree. The tree should tolerate this incursion. The post and rail fencing should be installed prior to the car park work being undertaken to prevent any further incursion into the root protection zone of the tree.

No further comments made following revised/additional information being received.

- 3.6 **Conservation Officer** - The site of the proposed development is located to the SW of Swalcliffe Conservation Area.

It is my considered view, that whilst the proposal may result in some intensification of land use I am not of the opinion that this would necessarily result in harm to either the character, appearance or significance of Swalcliffe Conservation Area.

Comments made post revised/additional information being received.

- 3.7 **Ecologist** - No objections subject to conditions. The proposals are unlikely to have any significant impact on the ecology of the site which cannot be mitigated satisfactorily. The recommendations within the submitted ecological report are appropriate, namely not removing vegetation during the bird breeding season.

I found it difficult to ascertain if any hedgerow parts are to be removed for the new car park and access but if so given they are a BAP habitat then these should be replaced with additional planting elsewhere on site to ensure no net loss of habitat.

No further comments made following revised/additional information being

received.

3.8 **Environmental Protection Officer** - No objections.

Land Contamination:

My records don't indicate a source of potential contamination which is likely to significantly affect this development. Given the scope of the development and its low sensitivity to potential contamination, I don't recommend a condition relating to land contamination.

Air Quality:

This development isn't close to, or likely to significantly impact an existing air quality management area or an area identified as approaching a national air quality objective. Given the rural nature of the area, typical background concentrations of pollutants in Cherwell and the scope of the development, it's unlikely an air quality objective will be exceeded as a result of the development requiring an air quality management to be declared. As such, I don't recommend a condition relating to air quality.

Comments made post revised/additional information being received.

3.9 **Landscape Officer** - The proposals for car parking are not acceptable in their current state. However I think that an acceptable scheme can be produced but it will require a professional to detail this up. A small amount of planting will not be sufficient.

We need a scheme that conceals the impact of the hard-standing from distant views to the south when it is not in use. Given the contours on the site some cut and fill may well be required to set the hard-standing into the landscape.

The current proposal on DWG 160_123 appears not to show any hedging on this boundary with horse-boxes adjacent to a post and rail fence. This is not acceptable. The parking will have to be adjusted to accommodate a wide hedge-line. Additionally I would suggest a line of hedging between the second and third rows of parking.

Further comments following revised/additional information being received:

The hedgerow onto Park Lane appears to be very narrow and immediately adjacent to the lane. This hedge needs to be a minimum of 3m wide set back behind a reinstated grass verge otherwise the screen won't be effective and the hedge has nowhere to spread and it will cause a nuisance to road users. The hedgerow needs to be a double staggered row.

The proposed parking which is in existence is a fairly flat area, this extends as far the backs of the western most box vans. From then on the ground rises slightly. I would like to see the car parking on the level and the additional area excavated into the slope with the planting on.

I would also like to see some planting on the opposite side of Park Lane to screen the access to the parking.

Oxfordshire County Council Consultees:

3.10 **Highways Officer** - No objections subject to conditions. The submitted transport assessment provides a fair assessment. On 'non event' days the number of riders is restricted to 50 and I consider associated traffic generation would not result in any significant harm to highway safety or convenience.

An event traffic management plan is proposed for event days and I consider this would provide reasonable mitigation of traffic impact albeit some inconvenience to other highway users is probable. The submitted event management plan is acceptable in principle but the signs proposed should be in general accordance with Department for Transport Traffic Signs Chapter 7.

Access, parking and turning provisions are appropriate as proposed and

should be constructed as such prior to first use.

Key issues:

Day to day activities would not have a significant impact upon the local highway network.

Event management plan would minimise traffic impact on event days.

Conditions:

Prior to first use an event traffic management plan shall be submitted to and approved by the Local Planning Authority and thereafter the approved plan shall be operated for any event including more than 50 riders.

D29 – Parking & Manoeuvring Areas as Plan

E3 – Surface Water Drainage

Informatives:

Any works in or adjacent the highway are subject to separate approval of the Local Highway Authority. Prior to any works the applicant should contact the Local Highway Authority on 08453 10 11 11.

Further comments following revised/additional information being received:

I have considered the submitted documents and the critique of the transport assessment. I do not consider there is any reason to vary my previous recommendation.

I reiterate, from a transport perspective, I do not consider the proposed development would cause severe harm as required to support a recommendation for refusal in accordance with the NPPF. Pertinent to this consideration is the fall-back position of the application site. The application site, under permitted development rights, may hold 'large' events for 28 days each year. The application proposes 'large' events for 28 days per year. The only difference being that setting up would be included in the 28 days allowable by the existing permitted development. I do not consider this difference to be sufficient grounds to demonstrate severe harm and justify the refusal of planning permission.

- 3.11 **Rights of Way Officer** - I do not consider that the application will have a significant direct impact on the public rights of way in the vicinity of this site and therefore have no objections to the proposals.

No further comments made following revised/additional information being received.

- 3.12 **Ecology Officer** - The District Council should be seeking the advice of their in-house ecologist who can advise them on this application.

In addition, the following guidance document on Biodiversity & Planning in Oxfordshire combines planning policy with information about wildlife sites, habitats and species to help identify where biodiversity should be protected. The guidance also gives advice on opportunities for enhancing biodiversity:

<https://www.oxfordshire.gov.uk/cms/content/planning-and-biodiversity>

No further comments made following revised/additional information being received.

- 3.13 **English Heritage** - Our specialist staff have considered the information received and we do not wish to offer any comments on this occasion.

Recommendation:

The application(s) should be determined in accordance with national and local policy guidance, and on the basis of your specialist conservation advice.

No further comments made following revised/additional information being received.

- 3.14 **Environment Agency** - No objections. The Flood Risk Assessment (FRA) submitted in support of this application has stated that there will be no increase in impermeable areas. As such, we have assessed this application as having a low environmental risk and we have no objection to the above proposal.
No further comments made following revised/additional information being received.

4. Relevant National and Local Policy and Guidance

4.1 Development Plan Policy

Adopted Cherwell Local Plan 1996 (Saved Policies)

TR7: Development attracting traffic on minor roads

AG5: Development involving horses

C2: Protected species

C7: Landscape conservation

C13: Areas of High Landscape Value (AHLV)

C28: Layout, design and external appearance of new development

ENV1: Development likely to cause detrimental levels of pollution

4.2 Other Material Policy and Guidance

National Planning Policy Framework (NPPF) - March 2012

Planning Practice Guidance (PPG)

Submission Local Plan (SLP) - October 2014

Submission Local Plan (October 2014) (SLP) has been through public consultation and was submitted to the Secretary of State for examination in January 2014, with the examination beginning in June 2014. The Examination was suspended by the Inspector to allow further work to be undertaken by the Council to propose modifications to the plan in light of the higher level of housing need identified through the Oxfordshire Strategic Housing Market Assessment (SHMA), which is an objective assessment of need. Proposed modifications (August 2014) to meet the Objectively Assessed Need were subject to public consultation, from 22nd August to 3rd October 2014. Although this plan does not have Development Plan status, it can be considered as a material planning consideration. The examination reconvened and closed in December 2014 and the Inspectors report is likely to be published in March 2015. The plan sets out the Council's strategy for the District to 2031. The policies listed below are considered to be material to this case:

ESD 10: Protection and Enhancement of Biodiversity and the Natural Environment

ESD 13: Local Landscape Protection and Enhancement

5. Appraisal

5.1 The key issues raised by this application are considered to be:

- Relevant planning history;
- Policy context;
- Principle;
- Permitted development;
- Highway safety and Rights of Way;
- Neighbour amenity;
- Landscape impact;
- Biodiversity and ecological impact.

5.2 Relevant planning history

14/00801/F - Use of land for mixed use comprising equestrian training (use class D2) and agriculture, together with extension of existing vehicle parking area. (Withdrawn at applicants request)

13/01295/F - Part retrospective change of use of land at Grange Farm for equestrian training and competition purposes and construction of two all-weather sand arenas, together with associated access improvements, vehicle parking and site landscaping. (Withdrawn due officer concerns relating to potential landscape impacts)

13/01128/F - Proposed steel portal building for stabling. (Permitted)

12/01588/F - Proposed on-farm anaerobic digestion facility. (Permitted)

01/02227/F - Conversion of part of barn to accommodation for groom working in adjoining stables. (Permitted)

01/00850/F - All weather outdoor horse riding arena with 4 floodlights along the north west side of the arena. (Permitted)

06/02343/F - Change of use from Agricultural to Equestrian use. (Permitted)

Application for a change of use of an existing agricultural barn to form stables made by Taylor Farms at The Old Grange Barn, Grange Lane, Swalcliffe; some 145m north of the current site.

00/00627/F - Alterations to livestock building, repairs to existing walls and roof to enable change of use to stables (Permitted)

Policy context

- 5.3 The National Planning Policy Framework (NPPF) explains that the purpose of the planning system is to contribute to the achievement of sustainable development. This is defined as meeting the needs of the present without compromising the ability of future generations to meet their own needs. There are three dimensions to sustainable development. These are environmental, social and economic. The NPPF places substantial weight on protecting and supporting a prosperous rural economy and advocates that planning should look to support sustainable rural tourism and leisure developments that benefit businesses in rural areas, communities and visitors, and which respect the character of the countryside
- 5.4 The Adopted Cherwell Local Plan 1996 is considered to be out of date with regards to the NPPF in some respects as it was adopted prior to 2004. However the NPPF also advises that due weight should be given to relevant policies within existing plans according to their degree of consistency with the NPPF. The Adopted Cherwell Local Plan does contain a number of saved policies which are relevant to the consideration of this proposal and those within the Submission Local Plan 2006-2031 are also considered to be consistent with the NPPF, but carry little weight at this time.
- 5.5 Saved Policy AG5 of the Adopted Cherwell Local Plan indicates that proposals for horse related development will normally be permitted provided:
- i. The proposal would not have an adverse effect on the character and appearance of the countryside;
 - ii. The proposal would not be detrimental to the amenity of neighbouring properties;
 - iii. The proposal complies with the other policies in the plan.

- 5.6 Saved Policy C2 of the Adopted Cherwell Local Plan 1996 seeks to resist development which would adversely affect any species protected by Schedule 1, Schedule 5 and Schedule 8 of the 1981 Wildlife and Countryside Act, and by the E.C. Habitats Directive 1992.
- 5.7 Saved Policy C7 of the Adopted Cherwell Local Plan 1996 seeks to resist development that would harm the character of the countryside whilst Policy C13 only permits development which will conserve or enhance the Area of High Landscape Value.
- 5.8 Saved Policy C28 of the Adopted Cherwell Local Plan also seeks standards of layout, design and external appearance, including the choice of external finish materials, which are sympathetic to the character of the context of the development.
- 5.9 Saved Policy ENV1 of the Adopted Cherwell Local Plan 1996 states that developments that are likely to cause material detrimental levels of noise, vibration, smell, smoke, fumes or other type of environmental pollution will not normally be permitted. The policy states further at paragraph 10.4 that, 'The Council will seek to ensure...in particular the amenities of residential properties, are not unduly affected by development proposals which may cause environmental pollution.
- 5.10 Policy ESD 13 within the Submission Plan seeks to secure the enhancement of the character and appearance of the landscape, through the restoration, management or enhancement of existing landscapes, features or habitats. At the same time, the Policy requires development to respect and enhance local landscape character, stating that proposals will not be permitted if they would cause undue visual intrusion into the open countryside.
- 5.11 Policy ESD16 relates to the character of the built and historic environment, requiring new development to respect conservation areas and their settings and preserve, sustain and enhance designated and non-designated heritage assets.

Principle

- 5.12 Equestrianism is a popular and healthy activity for people of all ages typically carried out in rural locations. It attracts participants at all levels from amateur and community participation to international standard. The site at SPE caters for all ages and levels and it has been demonstrated, through figures showing use of the site, that the business has expanded and is successful.
- 5.13 Officers consider that the use of the land for equestrian activities also offers the opportunity for diversification away from the historical farming activities previously carried out at Grange Farm. Representations from individuals and local businesses also state that activities carried out at Grange Farm are well managed and help support local business such as veterinary practices, farriers and the local public house; although officers consider that the latter is more likely to be used at the time of larger events.
- 5.14 Although there is no direct reference to equestrian uses within the NPPF, it does give substantial weight to protecting and supporting a prosperous rural economy. Saved Policy AG5 of the ACLP is a permissive policy, with regards to horse related development, subject to considerations regarding impact on the character and appearance of the countryside and neighbouring property amenity (discussed later in this report). Given that equestrianism is a typically rural pastime/activity in a rural location and that the mixed use of the land allows for a diverse use of the agricultural land, it is officer's opinion that the principle of use of the site for both equestrian and agricultural use is considered an acceptable use of the site, subject to further considerations discussed below.

Permitted Development (PD) Rights

- 5.15 The applicant's contend that the use of the site for larger events has been carried out by utilising permitted development rights, afforded to them for temporary uses on the site; under Schedule 2 Part 4 of The Town and Country Planning (General Permitted Development) Order 1995 (as amended) (GPDO), which allows for temporary buildings/moveable structures and the use of land for any purpose for not more than 28 days in any one calendar year; although looking at the calendar of events submitted for 2014. Whilst there is a breach of the 28 day rule, this would be the applicant's fall-back position and unlimited events could be held on site, without the need for planning permission for 28 days in any one calendar year.
- 5.16 Article 3(4) of the GPDO states "nothing in this Order permits development contrary to any condition imposed by any planning permission granted". PD rights "yield" to a condition on an express planning permission. It is therefore your planning and legal officer's opinion that any conditions imposed on any subsequent permission will override PD rights should permission be granted and conditions attached. However, any proposed conditions would need to meet the tests set out within the NPPF in relation to the use of conditions i.e. Planning conditions should only be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects (NPPF para. 206).

Highway Safety and Rights of Way

- 5.17 Impact on highway safety has been assessed in relation the use of the land for equestrian competitions and training; the development of an associated parking area; the relocation of an existing vehicular access into the site from the road leading from the B4035 to Sibford Ferris, some 30m west of Elm Farm (Access 1), and the retention of a further access on to the same road; some 34m west of Partway House (Access 2). A further access has been created onto Grange Lane, however given that the lane is not a classified road, it is considered that this access does not require planning permission. Again, the impacts of day-to-day use are considered to be significantly less than those of the larger events.
- 5.18 The Local Highways Authority have assessed the application, including the submitted Transport Assessment by DTTC and the critique of the assessment by Alan Davies (submitted in objection), and raises no objections to the proposals, subject to conditions being applied in relation to the parking and manoeuvring area and surface water drainage details being submitted and approved. These conditions are considered necessary in the interests of highway safety and flood prevention and to comply with Government guidance contained within the National Planning Policy Framework.
- 5.19 The applicant has indicated the use of the site is pre-booked and that the course can only safely accommodate 15 horses at any one time. Most people will school for 1-1.5 hours per horse. Users/visitors to the site travel to the site by motor vehicles and bring their own horses. This could mean that horses arrive in individual horse boxes towed by suitable vehicles (4x4s), although some more professional riders may travel in larger purpose built horse transporters that can accommodate several horses and associated equipment.
- 5.20 Figures submitted in relation to site usage in relation to training/schooling show that in 2014, at peak, 39 horses (in two group bookings) attended the site on one day; it is noted that these were riding and pony club events and it is unlikely that the number of horses actually on the course at any one time would breach the safety limit previously stated. Whilst this application seeks permission to regularise the training activities on site and not necessarily seeking an intensification of use, a fifty horse limit per day

would allow for an increase of activities at the site. This would result in additional traffic movements to those that currently exist, should the business expand through continued success.

- 5.21 The objections raised by local residents and Parish Councils in relation to the impact on the local highways again appear to predominantly relate to the larger events that take place at the site. Indicating that they believe the events at SPE will significantly increase the amount of traffic that goes onto the B4035 through the local villages of Tadmarton and Swalcliffe; which is also the main route between Banbury and Shipston on Stour. Whilst large events will increase the levels traffic the current application does not propose an increase in the number of events taking place at SPE and only seeks permission for events, of over 50 competing horses, in line with the 28 days allowed under permitted development; and is the situation that currently exists albeit without the benefit of planning permission.
- 5.22 The site is largely served by narrow country lanes which are predominantly single track in nature and have weight restrictions in place. Officers do have concerns that these lanes are unsuitable for large numbers of vehicles; especially HGVs. There is evidence of damage to the highway verge which is considered to be as a result of vehicles travelling in opposite directions pulling over to allow passing. Whilst this damage could be attributed to vehicles associated with the equestrian use at the site, it would not be exclusive; as the lanes are public highway in a predominantly agricultural area and will be used by cars, public service vehicles and agricultural traffic alike.
- 5.23 The applicants have submitted an Event Management Plan (EMP) which details how the associated traffic is managed on days of events; including routing arrangements and associated signage. The Highways Authority have considered that measures detailed within the EMP serve to mitigate the impact that large events will have on the local road network, however also note that some inconvenience to other highway users is probable. Further work in relation to the actual event day directional signage, including locational information and set-up and take down periods has been carried out on the EMP since its initial submission and a revised plan submitted. The detail contained within the EMP is now considered acceptable and it would therefore be appropriate that any permission is conditioned to be in accordance with the detail of the plan in the interests of highway safety and public amenity.
- 5.24 Comment has been made within the Transport Critique (submitted in support of the objections) with regards to additional vehicle movements being generated by spectators and people supporting users of the site. Officers consider that the numbers of spectators wanting to watch training activities is not likely to be so great that it would add further significant amounts of vehicle movements. Support staff are likely to accompany the more professional riders visiting the site. It is considered probable that these people are more likely to travel with the horses in transporters and again will not generate a significant amount of further vehicle movements.
- 5.25 Comments have been made as to the ability of the proposed parking area being able to accommodate the number of vehicles associated with the day-to-day usage. The Highways Authority and officers consider that the proposed extension to the parking area is sufficient to cope with the day-to-day training operations of up to fifty horses, but that the extension should be constructed as a matter of course. Notwithstanding the layout/landscaping scheme submitted, further details regarding the final construction, drainage and landscaping will be required but it is considered by officers that these can again be secured through the addition of suitably worded conditions should permission be granted.
- 5.26 Two accesses to the site from the road to the north of the site have been created and the ground reinforced. One of these accesses is to be retained (Access 2) whilst the

other (Access 1) is to be relocated; details of which has been included within the application and are shown on drawing number J251. Further clarification regarding the accesses, that have been created, has been received attached the agent's email dated 05/03/2015; including existing and proposed location plans and photographs. The accesses provide adequate vision splays and will improve access and egress to and from the site. The accesses are therefore considered acceptable in terms of highway safety.

- 5.27 The proposal will, on balance, generate some additional day-to-day traffic if the business continues to be successful. However, the effect on the local road network associated with these movements associated with up to fifty horses per day is not considered likely to be so significant that it would cause a severe impact. Oxfordshire Highway Authority raises no objections to the proposed day-to-day use of the site. It considers the day-to-day use for up to fifty horses undertaking equestrian training activities at the site gives rise to no significant detrimental impacts on highway safety and further that given the fall-back position of relying on permitted development rights, that there is not sufficient grounds for refusing the application on highway safety grounds; subject to the larger events not being carried on more than 28 days in any one calendar year. It is considered appropriate to apply a condition in this respect should the application be approved. Consequently, it is considered that the proposed development would not cause detriment to highway safety and as such, accords with central Government advice contained within the NPPF.
- 5.28 The County's Rights of Way Officer does not consider that the proposals will have a direct impact on the Public Rights of Way and any harm would be limited to those of a visual nature. These visual impacts are discussed later in the landscape impact section.

Neighbour Amenity

- 5.29 There have been substantial objections to the application by the occupants of neighbouring properties of the site, on the grounds of the impact on their amenity; citing specific instances where they have been impacted upon through noise emanating from the site, vehicles and structures being located within close proximity to their boundaries and the general impact arising from vehicles attending the site; providing photographic evidence to support their objection. Further objections from residents within Swalcliffe Village with regard to the noise emanating from the site due to the use of tannoy systems have also been received; although it has to be noted that letters of support have also been received from Swalcliffe residents indicating that they do not consider the noise from loudspeakers and tannoy as an issue.
- 5.30 The site is rural in its nature therefore the use of Public Address (PA) systems and other audible warning devices associated with equestrian events would be out of place. It is considered that whilst competitions and events are likely to involve the use of PA systems and other noise generating devices, it is considered that these would not usually be used in connection with training and schooling at the site and as such noise arising from the day-to-day use is unlikely to be at the same significant levels indicated in the noise report. It is however considered that the use of public address systems and audible warning/indicator sound generating devices do have the potential to cause noise nuisance and disrupt the amenity of neighbouring properties.
- 5.31 Noise impact assessments have been carried out both to support (iD!BRi report dated October 2014) and in objection to (Walker Beak Mason (WBM) Technical Notes dated 24 September 2014 and further on 9th January 2015), to the current proposals; both of these reports relate to measurements taken during an event which took place on the 21 September 2014. Further Technical Notes by WBM previously submitted in objection to application 14/00801/F were again received as part of Judith Norris'

detailed objection report.

- 5.32 The Council's Anti-Social Behaviour Manager (ASBM) has assessed the information presented both in support and objection to the proposals (full comments detailed above) and raises no objections to the proposal assessed within this application subject to a condition requiring that a Noise Management Plan (NMP) is prepared, approved and implemented; that ensures that noise levels arising from activities on site do not exceed a limit of at 45 dB LA eq (15mins) when measured free field at noise sensitive locations (i.e. adjacent to residential properties in proximity to the site).
- 5.33 The ASBM has indicated that the NMP must identify all sources of noise generated by the equestrian use which may include those sources of noise associated with the construction and/or dismantling of any temporary structures, the operation of any sound amplification equipment, the internal movement of traffic within the site, hours of operation of the site in all phases of use etc. The NMP must also indicate the means that will be used to reduce noise at source to a minimum and where noise levels cannot be reduced the means of mitigation must be stated. Mitigation may include the sensitive positioning of certain elements of the use in such a way as to minimise the impact of a particular activity on noise sensitive premises. The NMP must also include a method and timetable for the periodic quantitative monitoring of noise emitted from the site and a procedure for recording and responding to complaints received either directly from local residents or via the Local Authority.
- 5.44 Although the level suggested by the ASBM is 5 dB lower than that indicated as being an acceptable community noise target the 50 dB within the current British Standard BS 8233:2014, it is considered that given the context of the site and its tranquil rural nature that this would be an appropriate level for the noise limit to be set at; to ensure that the amenity of the neighbouring properties and also those further afield within the village would not be significantly affected by events taking place.
- 5.45 Comment has been made with regard to the parking of vehicles and stationing of temporary structures impacting on neighbour amenity during the larger events that take place. Noise is considered to be the most likely cause of harm to neighbour amenity arising from vehicles and structures being located in close proximity to neighbour residential property boundaries. As noted events would be considered permitted development up to 28 days per year and no control could be had over the use of the site under PD. However, it is considered that the NMP and its associated community noise target, as discussed, above would offer mitigation that would look to reduce any noise to a level that was considered acceptable. An NMP has been submitted by the applicants and is the subject of on-going work and consultation with the Council's ASBM. At the time of preparation of this report no consultation response has been received, however any response received will be conveyed to the Committee as a written update prior to the meeting on the 19th of March.
- 5.46 Officers consider that the day-to-day use of the site for equestrian training for up to fifteen horses at any one time (course safety limit) would not raise the same issues as larger events described in the objections raised; subject to activities being undertaken at reasonable times throughout the day. Parking would be located within the proposed parking area, and training would not require any temporary structures (e.g. temporary stables, portable toilets or commentary boxes). On balance officers consider that, subject to proposed conditions restricting the number of events, levels of noise and timing of activities, any impact on neighbour amenity brought about by the proposed development would not be so significant that it would warrant a reason to refuse the application.

Landscape Impact

- 5.47 One of the core principles in the NPPF is that planning should recognise the intrinsic character and beauty of the countryside and should look to conserve and enhance the natural environment. The site is within an area designated as being of High Landscape Value (AHLV). Officers consider that the main elements of operational development of the proposal that will impact on the landscape and the surrounding countryside will be the extension of the parking area (and associated vehicle parking within this area) and the jumps/obstacles associated with the equestrian uses within the site.
- 5.48 The Council's Landscape Officer has raised concerns relating to the impact that the proposed parking area, and vehicles parked there within, would have on the landscape and surrounding countryside. The parking area is considered of an acceptable scale and location that, subject to the area being set into the immediate landscape with appropriate screening, will have limited impact on the landscape. A landscaping scheme has been submitted in support of the application; however, its detail is considered unacceptable by the Landscape Officer and further work will be required in this area. It is unfortunate that a landscaping scheme could not be finalised within the timeframe of the application but it is considered by officers that this is not an obstacle that cannot be overcome and not a reason to refuse the application on these grounds alone. It is considered that a suitable landscaping scheme would sufficiently screen the parking area and that these details can be secured through the addition of suitably worded conditions should permission be granted.
- 5.49 Comments have been made by objectors in relation to the unauthorised development of jumps/obstacles within the site. Officers consider that the permanent jumps/obstacles constitute operational development and therefore require consent. The applicant contends that due to the passage of time that some, if not all, of the jumps would now be immune from enforcement action; this has not been established and officers doubt whether this could be demonstrated given available aerial photographs of the site; which show that the permanent jumps were not in place at specific points in time (August 2005 and August 2009). Details of the locations and styles of fixed jumps have therefore been submitted during the process of the application so that their impact can be assessed within the current application.
- 5.50 The jumps do appear as an alien feature within the landscape, although they are often a common sight in rural locations where equestrian uses exist. Many of them would be moveable and not cause any permanent harm to the topography of the site. Hedgerows exist in and around the site and, in officer's opinion, serve to soften/screen views of the jumps. The hedgerow along Grange Lane is still in its early stages of development; however, once established this will serve to further limit views of the site and structures contained therein.
- 5.51 To further lessen the visual impact of any equestrian related equipment on the open countryside it is considered appropriate for any unused items to be stored within the storage area shown on approved drawing 13_002_01 Rev. C; it is considered by officers that this can again be secured through the addition of suitably worded conditions should permission be granted.
- 5.52 On balance, whilst the jumps and features may be visible from certain vantage points, officers consider that the development of the parking area and use of the site for equestrian training will not have such a significant adverse impact on the character and appearance of the countryside or harm visual amenities to the extent that would warrant a reason to refuse the application. Officers consider that subject to a suitable landscaping scheme being approved and implemented, and unused equipment being stored in an approved location, that the proposals would not cause any significant harm to the Area of High Landscape Value within which the site sits and are therefore acceptable in terms of landscape and visual impact.

- 5.53 As is the theme throughout this report, the holding of events introduces much greater impacts than the day-to-day equestrian activities at the site. Temporary structures and vehicles parked within the field, in officer's opinion, have the potential to cause harm to the character and appearance of the landscape. However this harm would be temporary in its nature and confined to periods of events taking place and their preparation and clear-up periods. It is therefore considered that subject to the number of events being controlled to the 28 days allowed under permitted development rights, that the impact would not be so significant that it would warrant a reason to refuse the application.

Biodiversity and Ecological Impacts

- 5.54 Conserving and enhancing the natural environment requires that "the planning system should contribute to and enhance the natural and local environment by minimising impacts on biodiversity and providing net gains in biodiversity where possible, contributing to the Government's commitment to halt the overall decline in biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures" (NPPF, Para. 109)
- 5.55 Paragraphs 192 and 193 further add that "The right information is crucial to good decision-taking, particularly where formal assessments are required (such as Habitats Regulations Assessment) and that Local Planning Authorities should publish a list of their information requirements for applications, which should be proportionate to the nature and scale of development proposals. Local planning authorities should only request supporting information that is relevant, necessary and material to the application in question". One of these requirements is the submission of appropriate protected species surveys which shall be undertaken prior to determination of a planning application. The presence of a protected species is a material consideration when a planning authority is considering a development proposal. It is essential that the presence or otherwise of a protected species, and the extent to that they may be affected by the proposed development is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision.
- 5.56 Local planning authorities must also have regards to the requirements of the EC Habitats Directive when determining a planning application where European Protected Species (EPS) are affected, as prescribed in Regulation 9(5) of Conservation Regulations 2010, which states that "a competent authority, in exercising any of their functions, must have regard to the requirements of the Habitats Directive so far as they may be affected by the exercise of those functions".
- 5.57 Objections have been raised in relation to potential detrimental impacts on biodiversity and ecology within the site and surrounding area. An extended Phase 1 Habitat Survey and Baseline Ecological Impact Assessment report was submitted with the previous application (14/00801/F) which identified no significant ecological impacts; this report has been updated and resubmitted in support of the current application and its increased site area. The report again identified no significant ecological impacts. The Council's Ecologist is satisfied with conclusions and precautions suggested within the report.
- 5.58 Officers consider that, subject to the recommendations and precautions detailed within the report being adhered to, that there will be no significant ecological impacts as a result of the implementation of the proposals and is therefore acceptable in this regard.
- 5.59 Consequently it is considered that art.12(1) of the EC Habitats Directive has been duly considered in that the welfare of any protected species found to be present at the site and surrounding land will continue and be safeguarded notwithstanding the

proposed development. The proposal therefore accords with the National Planning Policy Framework - Conserving and enhancing the natural environment and Policy C2 of the Adopted Cherwell Local Plan.

- 5.60 The Council's Arboricultural Officer has assessed the application and raises no objections. The only element that is likely to have any impact on any trees within the site is the extension of the car park. The work is unlikely to significantly impact on trees adjacent the site, but there is a risk that the roots of a tree on the north-east corner of the car park area could be damaged during construction. It is considered that protection should be afforded during the construction of the car parking area and could be dealt with through the addition of a suitable condition should permission be granted.

Other Matters

- 5.61 Although not within either the Swalcliffe or Sibford Ferris Conservation Areas, concern has been raised over the potential of the proposals detrimentally impacting on their character and appearance. Although not usual working practice, given the context of the site, the nature of the proposals and their relationship with the identified conservation areas, both English Heritage and the Council's Conservation Officer have been consulted on the proposals; neither of which raised any objections to the scheme. The nearest point of the application site is some 170m from the Swalcliffe Conservation Area and 350m from the Sibford Ferris Conservation Area. Given the context of the site and the nature of the proposals officers see no reason not to agree with the opinion of both English Heritage and the Council's Conservation Officer.
- 5.62 Concerns have been raised by the objectors as to whether the Authority and its consultees had sufficient information to ultimately come to an informed decision. It is considered that the information initially submitted with the application described the proposal sufficiently for it to be registered as valid and that any further information, the case officer deemed necessary for clarity and ultimately, determination, has been requested and received during the course of the application. A further period of consultation has been allowed for consultees and key stakeholders to assess and comment on all revised and additional information and officers are satisfied that there has been sufficient information submitted over the course of the application to enable them to make an informed recommendation.
- 5.63 Objectors have placed substantial weight within their objections with regards to the fact that a full Environmental Impact Assessment has not been carried out and submitted in support of the proposals; as was the case with the two applications previously withdrawn (13/01295/F and 14/00801/F). This was again raised at the committee on the 19th of February by Shoosmiths solicitors speaking on behalf of objectors. The application has been screened by the Authority in relation environmental impact pursuant to Part 2, Regulation 4 of the Town and Country Planning (Environmental Impact Assessment) Regulations 2011; a copy of the Authority's opinion has been placed on the application file. It was the Head of Development Management's opinion that the use of land for mixed use comprising part agricultural, part equestrian training and competitions (Use Class D2), formation of new access, extension to existing car park and associated work did not constitute Schedule 1 or 2 development, as defined within the Regulations, and as such an Environment Impact Assessment was not required. The screening opinion has been further scrutinised by the Council's legal department who are satisfied that the regulations have been correctly interpreted and that the opinion is correct.
- 5.64 Comments have been made within the Portus & Whitton landscape impact report again submitted in objection with regard to the cumulative impact that proposal would have on the local road network and the landscape in light of the recent permission (12/01588/F) and development of an anaerobic digestion facility at Grange Farm

some 1km south-east of the current site. Whilst these comments are noted, given that no highway issues have been raised by the Highways Authority in relation to either application and that both proposals have been assessed in terms of their landscape impact and considered acceptable subject to suitable landscaping, it officer's opinion the that any cumulative impacts that arise from the use of the site, currently being considered, are unlikely to be so significant that it would warrant a reason for refusal.

5.65 The site has not been identified as being within any known archaeological sites of interest; although there are known sites immediately to the south. Whilst no formal response has been received from the County's Archaeologist, given that there is little operational development actually taking place and the general nature of the proposals, it is considered that they will not have any significant impact on any archaeological sites within the area. It is however considered appropriate to add a suitably worded planning note to advise the applicant that they should contact Oxfordshire County Council's Archaeologist should any items of archaeological interest be discovered during any operational development taking place.

5.66 Since August 2013, there has been an on-going investigation by the Council's Planning Enforcement Team into activities at the site. Officers lacked conclusive evidence to establish a breach of planning control on the site. In October 2014, a planning contravention notice was served on the site owners to ascertain the extent of the uses on the site. The owners' replies to this PCN were very detailed and helped clarify exactly what was happening on the site. In the light of the answers to the PCN, Officers now have evidence that a breach of planning control has occurred. However, the investigation was put on hold whilst this current application was considered as it was supported by Officers. It would not be expedient to take enforcement action when efforts are being made to regularise the uses on the site and the application is supported by officers.

Should the committee be minded to refuse this application, officers, under delegated powers, would need to consider whether it would be expedient to take formal enforcement action in relation to breaches of planning control that have occurred within the site having regard to the development plan and other material considerations.

The following are considered to be the identified breaches of planning control:

- Unauthorised vehicular access points
- Unauthorised permanent jumps being constructed within the landscape
- Unauthorised parking area
- Alleged unauthorised material change of use of the land for equestrian use
- Breach of permitted development rights for temporary uses afforded under Schedule 2 Part 4 of The Town and Country Planning (General Permitted Development) Order 1995 (as amended)

5.67 The unauthorised vehicular accesses on to the road leading from the B4035 to Sibford Ferris and the permanent jumps have been assessed in relation to the development plan, within the body of this report, and on balance are considered, by officers to be acceptable. It is therefore considered that given that officers have concluded within the recommendation that the development of the accesses and jumps to be acceptable, that it would not be expedient to take enforcement action in relation to these elements. However, if the committee consider that the accesses and jumps are not consistent with development plan policy and guidance, then officers would need to review their position in relation to these elements.

5.68 The parking area south of Grange Farm (shown within the site boundary and proposed for extension) has not been granted planning permission and is therefore considered to be unauthorised. There appears to be no conclusive evidence as to when the parking area was created; however, aerial photographs taken in August

2005 show the parking area to be in existence at that point in time. It is therefore considered that due to the passage of time that it is likely that the parking area would be immune from enforcement action and in these circumstances it would not be expedient to pursue matters in relation to this area.

- 5.69 It is alleged that use of the land for equestrian use has intensified on the application site; and therefore that a material change of use away from use of the land for the purposes of agriculture could be considered to have occurred. The principle of use of the site for the purposes of equestrian activities is considered by officers to be acceptable, as discussed earlier within this report. The detailed response to the PCN has served to demonstrate the uses that have occurred on site, at specific periods of time; these uses comprise of both equestrian and agricultural activities. At this point in time the Council's Enforcement Team have not considered that it is reasonable or expedient to take formal enforcement action, given that there have been applications to determine (14/00801/F and this current application 14/01762/F), with officer recommendations of approval. If the committee resolve to refuse the current application, then officers would need to review their position in relation this issue and whether there is sufficient evidence to demonstrate that a material change of use has occurred, which is in breach of planning control, and whether it would be expedient to pursue formal enforcement action on this matter having regard to the development plan and other material considerations.
- 5.70 As discussed earlier in the report, the applicants contend that the use of the site for larger events has been carried out by utilising permitted development rights, afforded to them within the GPDO for temporary uses on the site. The response to the PCN clearly indicates that there has been a breach of the 28 day rule relating to permitted development for temporary uses at the site in 2014; with the duration of events that have taken place (including the number of days required for preparation and dismantling of the site) totalling 54 days. It is considered that it is the use of the site for larger events that significantly impacts on neighbour amenity, highway safety and the character and appearance of the local and wider landscape; and members could reasonably conclude that this would be contrary to both local and national policy guidance. Again at this point in time the Council's Enforcement Team have not considered that it is reasonable or expedient to take formal enforcement action, given that there have been applications to determine (14/00801/F and this current application 14/01762/F), with officer recommendations of approval. However, it is considered that should permission be refused that officers would need to seek to remedy the breach of planning control through the issuing of an appropriately drafted enforcement notice.
- 5.71 Comments have been made as to the use of a Lunge Pen and Floodlit Riding Arena adjacent Grange Farm being used in association with SPE's equestrian activities at the site. The arena was granted planning permission under ref. 01/00850/F; this permission was restricted by condition to be used by the occupiers of Swalcliffe Grange and not for commercial use. These elements have not been considered within the current application as they fall outside of the scope of the application and its boundaries; however, the matter is currently being investigated by the Council's Planning Enforcement Team under reference 15/00028/BCON.
- 5.72 It has been suggested in objections to the current proposals that the Council should impose an Article 4 Direction restricting permitted development rights on the site. Article 4 directions must be made in accordance with national Government guidance given in the National Planning Policy Framework which directs that there must be a clear justification for removing national permitted development rights:
- The use of Article 4 directions to remove national permitted development rights should be limited to situations where this is necessary to protect local amenity or the wellbeing of the area (this could include the use of Article 4 directions to require planning permission for the demolition of*

local facilities). Similarly, planning conditions should not be used to restrict national permitted development rights unless there is clear justification to do so (NPPF, Para. 200).

Given that prior to the first application in 2013 (13/01295/F) no formal complaints had been received by the Council in relation to equestrian activities at the site, it is considered that there is little justification for action of this nature at this time; given that there is an application before the Council to determine. If however, the application is refused and it is considered that greater control over the site is required, then it may be that the option of imposing an Article 4 Direction would need to be further explored and an assessment as to whether it would be expedient and appropriate to impose such a restriction on the site undertaken and also to consider the cost implications of taking such action; as the Council may be liable to pay compensation to those whose permitted development rights have been withdrawn if they:

- refuse planning permission for development which would have been permitted development if it were not for an article 4 direction; or
- grant planning permission subject to more limiting conditions than the GPDO [the 1995 Order] would normally allow, as a result of an article 4 direction being in place.

Engagement

- 5.73 With regard to the duty set out in paragraphs 186 and 187 of the Framework, any problems or issues that have arisen during the application have been dealt with in consultation with the applicant and their agent. An extension of the determination period has been agreed with the applicant's agent in order to fully assess further information that has been received during the course of the application. It is considered that the duty to be positive and proactive has been discharged through the interaction with the applicant's agent and the efficient determination of the application.

Conclusion

- 5.74 As can be seen from the above assessment it is officer's opinion that there are two scales of equestrian activity that need to be considered in determining this application; the day-to-day use of the site and the use of the site for larger events. The majority of the objections that have been raised appear to relate to a greater extent to the larger events rather than the day-to-day activities. Whilst the principle of use of the site for equestrian use is considered acceptable, it is clear that there is a point at which the timing and scale of the activity taking place becomes detrimental to neighbouring amenity, highway safety and landscape. Consideration of the application is finely balanced and whilst officers do not dispute objector's representations that there are significant impacts on the local highway network and neighbour amenity as a result of large equestrian events being held at the site; due regard has to be had to the fall-back position that the applicants have in terms of what can be carried under permitted development.
- 5.75 It is considered that the use of the site for day-to-day activity, for equestrian training/schooling for up to 50 horses, would not have the same detrimental impacts as those of the larger events and therefore would be acceptable within the site's rural context and would not appear out of place.
- 5.76 The larger events however introduce impacts on neighbour amenity, highway safety and on the landscape that are a cause for concern. Notwithstanding these concerns, given that these larger events could take place without the need for planning permission, up to 28 days per year, in officer's opinion it would be unreasonable to refuse the application if the larger events were limited to the same 28 day period as allowed under permitted development.

- 5.77 In conclusion, officers consider that given the fall-back position that could be adopted, that the proposals, on balance, are therefore considered to be acceptable. The proposals support the continued operation and viability of both the existing farming and equestrian businesses on site and within the local area, and are recommended for approval subject to the receipt of an approved Noise Management Plan and conditions as set out below.
- 5.78 In reaching this recommendation officers have had due regard to any implications that may arise from the Human Rights Act 1998; specifically to Article 8 (right to respect for private and family life) and Article 1 of the First Protocol (protection of property). It is not considered that the recommendation for approval of the grant of permission in this case interferes with local residents' right to respect for their private and family life, home and correspondence, except insofar as it is necessary to protect the rights and freedoms of others (in this case, the rights of the applicant).

6. Recommendation - Approval subject to the receipt of an approved Noise Management Plan and the following conditions

1. The development to which this permission relates shall be begun not later than the expiration of three years beginning with the date of this permission.

Reason - To comply with the provisions of Section 91 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. Except where otherwise stipulated by condition, the application shall be carried out strictly in accordance with the following plans and documents: Application forms, Planning Statement (dated October 2014), DTPC Transport Statement (dated October 2014), Extended Phase 1 Habitat Survey and Baseline Ecological Impact Assessment (dated November 2014), Course Jump Details contained in agent's letter dated 22nd December 2014 and drawings numbered: 13_002_01 Rev. C, 13_002_02 and J251.

Reason - For the avoidance of doubt, to ensure that the development is carried out only as approved by the Local Planning Authority and to comply with Government guidance contained within the National Planning Policy Framework.

3. Events with greater than 50 competing horses shall be limited to take place on no more than 28 days (including days required for the setting up and taking down of any associated equipment and structures) in any one calendar year.

Reason - In order to safeguard the amenities of the area and in the interests of highway safety and to comply with Policy C30 of the Adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.

4. Equestrian events of greater than 50 competing horses taking place on site shall be in accordance with details within the Event Management Plan (EMP) dated October 2014, ref. J251/EMP rev A.

No operational changes shall be made in relation to the details of the EMP without prior written approval by the Local Planning Authority through the submission of a further 'approval of details reserved by condition' application.

Reason - In the interests of highway safety and public amenity and to comply with Government guidance contained within the National Planning Policy Framework.

5. Equestrian events of greater than 50 competing horses taking place on site shall be in accordance with, the Noise Management Plan (NMP) dated [DATE], ref. [REFERENCE], detailing the methods to be employed to achieve compliance with a noise limit of at 45 dB LA eq (15mins), when measured free field at noise sensitive

locations adjacent the residential properties of Partway House, Elm Farm, Swalcliffe House and Wykham, shown on the attached plan ref. CDC-01.

No operational changes shall be made in relation to noise management without prior written approval by the Local Planning Authority in which case a revised NMP shall be submitted approved through the submission of a further 'approval of details reserved by condition' application.

Reason - In order to safeguard the amenities of the area and to comply with Policy ENV1 of the Adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.

6. Equestrian events of greater than 50 competing horses taking place on site shall be in accordance with the 'Swalcliffe Park Equestrian - Calendar of Events (of more than 50 horses) 2015' document; received 05/03/2015.

Thereafter, prior to the 31st of December of each year a calendar of events for the following year shall be submitted to and approved in writing by the Local Planning Authority.

Reason - To enable the Local Planning Authority to retain planning control over the site in order to safeguard the amenities of the occupants of the neighbouring properties and in the interests of highway safety, in accordance with Policy C30 of the Adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.

7. Swalcliffe Park Equestrian shall keep a log of all equestrian users visiting the site in connection with day-to-day equestrian activities taking place at the site; excluding events of greater than 50 competing horses. As a minimum the log shall include:
 - i. The date;
 - ii. Arrival and departure times;
 - iii. The number of attendees;
 - iv. The number horses;

The log shall be maintained and made available for inspection by the Local Authority upon request.

Reason - To enable the Local Planning Authority to be able to monitor levels of equestrian activity at the site, in the interests of safeguarding the amenities of the occupants of the neighbouring properties and in the interests of highway safety, in accordance with Policy C30 of the Adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.

8. Notwithstanding the details submitted, within 3 months of the date of the permission hereby approved, a landscaping scheme shall be submitted to and approved in writing by the Local Planning Authority. The scheme for landscaping the site shall include:-
 - i). Details of the proposed tree and shrub planting including their species, number, sizes and positions, together with grass seeded/turfed areas,
 - ii). Details of any existing trees and hedgerows to be retained as well as any to be felled.

Reason - In the interests of the visual amenities of the area, to ensure the creation of a pleasant environment for the development and to comply with Policy C28 of the Adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.

9. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in accordance with BS 4428:1989 Code of Practice for general

landscape operations (excluding hard surfaces), or the most up to date and current British Standard, in the first planting and seeding seasons following the approval of the landscaping scheme. Any trees, herbaceous planting and shrubs which, within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the current/next planting season with others of similar size and species.

Reason - In the interests of the visual amenities of the area, to ensure the creation of a pleasant environment for the development and to comply with Policy C28 of the Adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.

10. a) No retained tree shall be cut down, uprooted, damaged or destroyed, nor shall any retained tree be pruned in any manner, be it branches, stems or roots, other than in accordance with the approved plans and particulars, without the prior written approval of the Local Planning Authority. All tree works shall be carried out in accordance with BS3998: Recommendations for Tree Works.
- b) If any retained tree is cut down, uprooted, destroyed or dies, another tree shall be planted in the same place in the next planting season following the removal of that tree, full details of which shall be firstly submitted to and approved in writing by the Local Planning Authority.

In this condition a “retained tree” is an existing tree which shall be retained in accordance with the approved plans and particulars; and paragraphs (a) and (b) shall have effect until the expiration of five years from the date of the permission hereby approved.

Reason - In the interests of the visual amenities of the area, to ensure the creation of a pleasant environment for the development and to comply with Policy C28 of the adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.

11. The existing hedgerows along the boundaries of the site along Grange Lane and the street leading to Sibford Ferris from the B4035 shall be retained, and if any hedgerow plant dies within five years from the date of this decision it shall be replaced and shall thereafter be properly maintained in accordance with this condition.

Reason - In the interests of the visual amenities of the area, to provide an effective screen to the proposed development and to comply with Policy C28 of the adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.

12. No removal of hedgerows, trees or shrubs shall take place between the 1st March and 31st August inclusive, unless the Local Planning Authority has confirmed in writing that such works can proceed based on the submission of a recent survey (no older than one month) that has been undertaken by a competent ecologist to assess the nesting bird activity on site, together with details of measures to protect the nesting bird interest on the site.

Reason - To ensure that the development does not cause harm to any protected species or their habitats in accordance with Policy C2 of the Adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.

13. Notwithstanding the details submitted, within 3 months of the date of the permission hereby granted, specification details (including construction, layout, surfacing and drainage) of the parking and manoeuvring areas shall be submitted to and approved in writing by the Local Planning Authority. Within 6 months from the date of the approval of the specification, the parking and manoeuvring areas shall be provided on the site in accordance with the approved details and shall be retained unobstructed

except for the parking and manoeuvring of vehicles at all times thereafter.

Reason - In the interests of highway safety and flood prevention, to ensure a satisfactory standard of construction and layout for the development and to comply with Government guidance contained within the National Planning Policy Framework.

14. No equipment or structures associated with the equestrian use other than equipment and structures associated with a current course configuration shall remain on site outside of the storage area shown on approved drawing 13_002_01 Rev. C.

Reason - In the interests of the visual amenities of the area, to ensure the creation of a pleasant environment for the development and to comply with Policies C13 and C28 of the Adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.

15. The use of the site for equestrian training and schooling shall be restricted to the hours of operation between 08:00 and 20:00.

Reason - In order to safeguard the amenities of neighbouring properties and in the interests of highway safety and to comply with Government guidance contained within the National Planning Policy Framework.

16. No external lights/floodlights shall be erected on the land without the prior express planning consent of the Local Planning Authority.

Reason - In order to safeguard the visual amenities of the area and to protect neighbouring residential amenity in accordance with Policy C28 of the Adopted Cherwell Local Plan.

PLANNING NOTES

Planning permission only means that in planning terms a proposal is acceptable to the Local Planning Authority. Just because you have obtained planning permission, this does not mean you always have the right to carry out the development. Planning permission gives no additional rights to carry out the work, where that work is on someone else's land, or the work will affect someone else's rights in respect of the land. For example there may be a leaseholder or tenant, or someone who has a right of way over the land, or another owner. Their rights are still valid and you are therefore advised that you should seek legal advice before carrying out the planning permission where any other person's rights are involved.

Your attention is drawn to the need to have regard to the requirements of UK and European legislation relating to the protection of certain wild plants and animals. Approval under that legislation will be required and a licence may be necessary if protected species or habitats are affected by the development. If protected species are discovered you must be aware that to proceed with the development without seeking advice from Natural England could result in prosecution. For further information or to obtain approval contact Natural England on 01635 268881.

Birds and their nests are fully protected under the Wildlife and Countryside Act 1981 (as amended), which makes it an offence to intentionally take, damage or destroy the eggs, young or nest of a bird whilst it is being built or in use. Disturbance to nesting birds can be avoided by carrying out vegetation removal or building work outside the breeding season, which is March to August inclusive.

Records indicate that the proposal does not appear to directly affect any presently known archaeological sites. However, the County Council's records do show the presence of known archaeological finds nearby and this should be borne in mind by the applicant. If archaeological finds do occur during development, the applicant is requested to notify the County Archaeologist in order that he may make a site visit or otherwise advise as necessary. Please contact: County Archaeologist, Historic and

Natural Environment Team, Infrastructure Planning, Speedwell House, Speedwell Street, Oxford, OX1 1NE (Telephone 01865 328944).

STATEMENT OF ENGAGEMENT

In accordance with the Town and Country Planning (Development Management Procedure) (England) (Amendment No 2) Order 2012 and paragraphs 186 and 187 of the National Planning Policy Framework (March 2012), any problems or issues that have arisen during the application have been dealt with in consultation with the applicant and their agent. An extension of the determination period has been agreed with the applicant's agent in order to assess further information that has been received during the course of the application. It is considered that the duty to be positive and proactive has been discharged through the interaction with the applicant's agent and the efficient determination of the application.