

Item No	Application No. and Parish	8/13 Week Date	Proposal, Location and Applicant
(4)	18/03340/COMIND Greenham Parish Council.	24 April 2019 (Extended to 3 October 2019)	Permanent use of hostel (Use Class Sui Generis) as a hotel (Use Class C1) Newbury Racecourse, Racecourse Road Newbury Racecourse – Applicant

To view the plans and drawings relating to this application click the following link:  
<http://planning.westberks.gov.uk/rpp/index.asp?caseref=18/03340/COMIND>

**Recommendation Summary:**                    **The Head of Development & Planning be authorised to GRANT conditional planning permission subject to completion of a Section 106 legal agreement.**

**Ward Member(s):**                                Councillor Phil Barnett  
Councillor Billy Drummond  
Councillor Erik Pattenden

**Reason for Committee determination:**                    The Council has received 10 letters of objection.

**Committee Site Visit:**                                27<sup>th</sup> June 2019.

<b>Contact Officer Details</b>	
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## 1. Relevant Site History

09/00971/OUTMAJ: Outline planning permission for redevelopment of racecourse to [inter alia] the new hostel. Permitted April 2010.

11/00723/RESMAJ: Western area - erection of 421 dwellings with associated works and access. Approved October 2011.

11/01505/RESMAJ: Erection of 123 bedroom hotel, hostel, nursery, offices, refurbishment of stables and access. Permitted November 2011.

14/03109/OUTMAJ: Application to vary the original outline consent to allow up to 250 dwellings to be constructed prior to opening of bridge (most recent permission for entire site). Permitted February 2016.

15/03152/COMIND: Change of use of hostel (Sui generis) as a hotel (C1) for up to 305 days per year for a temporary period of up to 3 years. Permitted March 2016.

## 2. Publicity of Application

Site notice displayed 5 February 2019. Expired 26 February 2019.

## 3. Consultations and Representations

### Greenham Parish Council

Objection. This application has raised a number of objections from residents - mainly those living in Horsewalk, which is very close to The Lodge. It is felt that the original consented use purely as overnight accommodation for 'lads' prior to/on race days (only about 25 a year) was acceptable but that the temporary extension of use of the considerable spare capacity as a hotel (mainly on race days) was a different matter. If this is to be extended permanently, with the 'quid pro quo' being the unilateral cancellation by Newbury Racecourse of its plans for a hotel on a more suitable site well away from residential homes, GPC objects on the basis that this has been shown to cause harm to amenity of residents.

GPC to write to the British Horse racing club – in contravention of their rules.

### Newbury Town Council (adjacent Town Council)

Objection. The Racecourse should be required to build the original hotel, as previously approved. Affected neighbours have not been sufficiently consulted, and their concerns have not been sufficiently addressed. This proposal will cause duress to nearby residents, with issues re noise, access and egress. The present planning permission requires that the hostel should be reserved for the use of stable lads for at least 60 days per year.

If the application is approved, the following actions should be taken:

1) The present cut off time for street lighting of 11 p.m. should be retained. 2) The Racecourse should maintain ongoing consultation with adjoining residents of the hostel, to minimise inconvenience to them. 3) Suitable screening should be erected to shield neighbours from noise and light pollution from the hostel/hotel.

### Highways

The Lodge building was originally approved to house stables and racecourse staff. It was then in 2016 changed to a hotel use for 305

days per year for a temporary period of three years. The proposal is now to permanently have the building as a hotel throughout the year

A hotel was originally planned within the Newbury Racecourse but it was to be on the eastern side of the development. If this ever goes ahead, this would need to be considered at that time.

I am not aware of any traffic or highway difficulties with the existing use, and such issues does not seem to be mentioned much within the objection letters so far submitted. There does seem to be issues surrounding noise. I have much sympathy for this, but this is not a concern for the Highway Authority. I therefore I raise no objection to the proposal.

**Environmental Health**

No objections but recommend conditions requiring noise management and restriction on operation of external lighting.

**Archaeology**

No objections.

**Public representations**

10 letters of objection received to the application. The following material planning considerations have been raised:

- Overlooking and noise impacts on neighbouring residential properties;
- Increase in traffic movements and parking requirements;
- Concerns regarding the level of available accommodation for stable staff during race meetings;
- Existing consent for a 123 bedroom hotel to the east of the site;
- No sequential assessment of need for 2 hotels on the site in a non-town centre location;
- Lack of development of approved 123 bedroom hotel would alter the appearance of the "heart space" of the racecourse development;
- Use is incompatible with residential use;
- Proposed works do not support the racehorse industry so are contrary to Policy CS12.

The following matters that are not material planning considerations in this application have also been raised:

- Compliance with racehorse industry rules and standards;
- Impact of proposed change of use on property prices;
- Level of parking provision approved under planning permissions for residential development;
- No consideration of alternative uses for the lodge building if superfluous to need;

**4. Policy Considerations**

The following policies and documents are relevant to consideration of this planning application:-

## Policy

- The National Planning Policy Framework;
- The West Berkshire Local Plan Core Strategy (2006-2026) 2012: Policies ADPP1, ADPP2, CS2, CS5, CS9, CS11, CS12, CS13, CS14
- The West Berkshire District Local Plan (1991-2006) Saved Policies 2007: Policies OVS6, TRANS1

## Documents

- The West Berkshire Quality Design Supplementary Planning Document, in particular Part 2: Residential Development.

## 5. Description of development.

- 5.1 The application site comprises the present 36 bed hostel stable staff hostel at the Racecourse which was completed a number of years ago. It formed an integral component of one of the principal reserved matters applications pursuant to the original outline consent granted by the Council in 2010 for the comprehensive redevelopment of the whole racecourse site. The hostel building was, until recently operating under a temporary consent (15/03152/COMIND). This use has been retained pending the determination of this planning application.
- 5.2 It is important for the Committee to note that another component of that permission was the erection of a 123 bedroom hotel to the east of this application site, adjacent the central residential area, presently under construction. This hotel has not yet been commenced, but remains extant in perpetuity, by reason of the part authorised implementation of the 11/01505/RESMAJ application. At the present time the applicants have elected not to commence the hotel for commercial reasons. As part of the justification for the current proposal the applicant has offered to enter into a legal agreement with the Council preventing the development of the consented 123 bed hotel.
- 5.3 Although it is not specifically conditioned in either the original outline permission or indeed any subsequent reserved matters permission, the authorised use of the hostel is limited to accommodation for stable staff (described in the previous applications as stable lads accommodation), by virtue of both the clear description in the original application, and the fact that a hotel use [Class C1] is certainly different from the accepted sui generis use of a hostel. This is recognised by the applicants.
- 5.4 The recently expired temporary consent limited the use of the hostel as hotel accommodation to 305 days per year. However, this application seeks to retain this use permanently. The submissions state that the hostel accommodation is considerably over the level of demand for such accommodation on race days, and a simple management arrangement to prioritise stable staff having access to the hostel on race days can accommodate such level of need as there is associated with the horse racing business on the wider site.
- 5.5 An accompanying application (reference 19/00225/COMIND) seeks permission for a 40 bedroom extension to the existing lodge building to allow the racecourse the option to meet any growth in demand for hotel accommodation on the site beyond the current level. Access to the site is secured from the recently completed bridge to the east, and non-residential access across the site to the west is now understood to be restricted by the imposition of bollards in this location.

## 6. Consideration of the scheme.

The application will be considered against the following two issues:-

## **Principle of change of use, and amenity.**

- 6.1 The following points revisit a number of the officer's comments on application 15/03152/COMIND, which continue to be relevant to the current application. A full copy of the officer's report to the Committee on this application is included as an appendix to this report.
- 6.2 It is clear from the officers original Committee report to the Council on application 09/00971/OUTMAJ, that (inter alia) it was noted the hostel was ONLY for stable staff accommodation and for no other use, albeit this was not specifically conditioned as such in the outline permission.
- 6.3 It is clear that to change the use from a hostel to a hotel, a planning application is required.
- 6.4 The officer noted in his report on the original outline application, the apparent need and local demand for additional "good" hotel accommodation in the Newbury catchment based on a report actually prepared in October 2008, by the then applicants. This was undoubtedly the case at that time.
- 6.5 Since that time the Travelodge has been approved and built in Parkway and the Premier Inn Hotel was approved at Committee (100 beds) on 17 February 2016. This is now complete. In addition the Inspector's decision to grant outline planning permission (ref. 12/00772/XOUTMAJ) and the subsequent approval of reserved matters (ref. 19/00278/RESMAJ) has allowed (inter alia) a new 82 bedroom apart-hotel at Faraday Road, and another apart-hotel has recently been completed in West Street in Newbury Town Centre. Accordingly the level of supply of hotel bed spaces in sequentially preferable locations to the NRC permission has increased significantly since 2008.
- 6.6 Consequently the Racecourse have reconsidered the need for the extant 123 bedroom hotel permission on their site: this is a legitimate business decision upon which planning has, and should not, have any control. It is a fundamental basis of planning advice and law, that unless in specific circumstances, normal commercial competition has no place as a material consideration in arriving at planning decisions.
- 6.7 Objectors have noted that the Racecourse acted "not in good faith" regarding the timing of the previous planning application for temporary permission for hotel use following the house sales adjacent, and subsequently in submission of this application for permanent change of use. This may or may not be the case (entirely without prejudice) but the Council, including officers can make no judgement on this issue since it is not a material planning consideration. Devaluation of property is mentioned, but this is not a planning matter.
- 6.8 As commented on the previous application for temporary use, the purchasers bought their dwellings in the knowledge that the hostel was to be built. What the Committee must now do is to examine if the new increased use is acceptable in overall amenity terms having regard to the reasonable living expectations of adjoining residents to the south.
- 6.9 Officers have concluded, taking into account the economic advantages of permitting the application, the scheme should be approved. Additional hotel accommodation in this existing building will assist the functioning of the Racecourse, and will be of benefit to the town as a whole. While it is noted that objections have raised concerns in respect of compliance with rules within the racehorse industry related to provision of accommodation for stable staff, it is up to NRC to ensure that such rules are complied with and irrespective of the requirements of Policy CS12 to support the racehorse industry, the administration of requirements outside of planning legislation and policy is not a material planning concern. There is no reason to suppose that NRC would not be in a position to comply with such requirements under the altered arrangements under the currently proposed change of use by giving priority for accommodation to stable staff on race days, especially if such a

requirement of industry rules would have a commercial impact on how the businesses on the site are run. It is not for planning to enter into the detail of how such commercial decisions are made and administered.

- 6.10 In considering the previous application for temporary change of use officers concluded that, on balance, notwithstanding the objections raised, the impact on amenity is acceptable, having regard to local overlooking - the physical distance is in excess of 21m (actually 23m) the accepted best practice guideline for "front to front " distances in such situations - indeed elsewhere on the Racecourse estate there are lesser equivalent distances between housing and the latter is more intensively used than hotel occupation. There is no additional overshadowing as the hostel is already there.
- 6.11 Several residents of the adjacent development have objected on grounds of noise and disturbance related to the continued use of the site to provide a hotel, and to the increase in number of days of such use. However, environmental health have considered the use of the site, including reviewing their investigation records. The environmental health officer has confirmed that environmental health have not received any noise nuisance complaints since temporary use of the site as a hotel was commenced three years ago. In respect of these matters your officer notes first that the properties concerned are located within a commercial site with a significant hospitality and tourism element where there should be a reasonable expectation of commercial enterprise focussed on hospitality and tourism taking place. As such the situation on site should not be expected, either in planning terms or by residents living on the site to be static, but to be an evolving situation based on current demands associated with the industry and local area. Furthermore, location of a hotel use alongside a residential use is far from being a unique situation. It is common for such uses to be located in close proximity, and many examples of this can be seen in the Newbury area, such as the apart-hotels permitted at West Street and Faraday Road alongside residential development, and the Travelodge and Premiere Inn alongside London Road and Park Way, again in very close proximity to residential development. The racecourse is not a town centre location but it is a commercial operation that has characteristics equivalent to such a location, and one such characteristic is the expectation that commercial activities will operate alongside its residential elements. As such the proposed change of use is considered compatible in this location with the existing residential use alongside the site. In order to ensure that appropriate measures to limit noise arising from guests at the hotel are imposed a condition is recommended regarding provision of a noise management plan for the hotel within one month of the date of approval.
- 6.12 As per the previous temporary consent, while noting objections raising concerns regarding overlooking between the hotel and dwellings officers have not recommended a condition in respect of obscure glazing windows of the hotel as it would not meet the 6 tests on conditions set out in the NPPF. This is because of the acceptable intervening distances involved. While the previous officer's report noted that the permission was temporary this does not impact on the materiality of overlooking as a planning consideration, which has been assessed as acceptable in accordance with the guidance set out above.
- 6.13 Finally, in terms of traffic and car parking, the highways officer has raised no objections to this application, which would not generate additional vehicle movements or parking requirements beyond those considered acceptable under the previous temporary consent.
- 6.14 In addition to the above, paragraph 86 of the NPPF makes it clear that for town centre uses, (such as hotels) a sequential test should normally be undertaken in order that the out of centre sites, such as the application site, are not favoured over and above more central and accessible sites. In respect of this matter officers agree with the applicant that subject to completion of a section 106 legal agreement requiring that the extant permission for a 123 bedroom hotel shall not be constructed this application would result in a provision of less hotel accommodation than already benefits from having planning permission on the site, and as such a sequential test would not be necessary. This would also be the case if

Members were to approve both this application and the accompanying application for a 40 bedroom hotel extension, which would result in a combined total of 76 bedrooms, approximately 62% of the number of bedrooms already consented and currently capable of being implemented on the site.

- 6.15 Echoing previous officer considerations the NPPF makes it clear to local planning authorities that it should not place unreasonable requests on developers for additional information, unless fully justified. In this case the additional data cannot be justified in officer view due to the level of consented hotel accommodation on the site, and the applicant's offer to legally agree not to develop that consented accommodation. Finally, policy CS12 in the adopted Core Strategy specifically outlines the Racecourse as a major tourist attraction and economic driver. Accordingly it is clear that the application for a hotel use is compliant with this policy.

## **7. Conclusion.**

- 7.1 The proposed works to change the use of the site are considered to offer significant benefits in terms of the ongoing vitality and viability of the racehorse business and its range of compatible leisure and tourism activities on the site. The impacts of the change of use on residential amenity are not considered to be of an unacceptable or unexpected level on a site with mixed commercial and residential uses of this nature. Subject to the extant hotel permission for the site being addressed as set out above, the works are not considered to result in an overprovision of hotel accommodation on the site, and indeed the need to avoid overprovision and make best use of existing buildings on the site are offered as partial justification for this application. As such, subject to completion of a section 106 legal agreement for the applicant or any future party not to develop the consented 123 bed hotel, this application is recommended for approval.

## **8. Recommendation.**

**The Head of Development & Planning be authorised to GRANT planning permission, subject to the conditions set out at section 8.1 below and to an acceptable section 106 legal agreement or other means of securing that the 123 bedroom hotel consent is not constructed being agreed by officers.**

**OR**

**In the event that a section 106 agreement or other means of securing that the 123 bedroom hotel consent is not constructed is not agreed within 3 months of the date of the Committee resolution or such other period as to be agreed by the Development Control Manager, that the Head of Development & Planning be authorised to REFUSE planning permission for the reason set out at section 8.2 below.**

### **8.1. CONDITIONS.**

1. All vehicular access to the hostel/hotel shall be via the east from the new racecourse bridge as shown on location plan drawing reference 4385 SK20. At no time shall any traffic, including deliveries, be directed to arrive or leave via the western access through Stroud Green.

Reason: To ensure the amenity of residents in the western area are respected having regard to traffic movements in accord with policy CS14 in the West Berkshire Core Strategy 2006 to 2026.

2. The external lighting to the hotel shall be switched off no later than 11pm daily and shall not be operated before 7am.

Reason: In the interests amenity of preserving the amenity of adjacent residential occupants in accord with policy CS14 in the West Berkshire Local Plan Core Strategy (2006 to 2026) 2012.

3. Within 1 month of the date of this decision a noise management plan shall be submitted to the local planning authority, for written approval, that sets out how noise from the following sources will be controlled to protect residents living close to the site from noise and disturbance:
- Noise from guest and other users of the hotel
  - Noise from people using the outside seating area to the west of the restaurant bar
  - Noise from service vehicles and delivery operations
- The measures identified in the approved noise management plan shall be implemented and maintained upon approval of those details and thereafter.

Reason: To protect residential amenity in accordance with the requirements of the NPPF, Policy CS14 of the West Berkshire Local Plan Core Strategy (2006-2026) 2012 and Policy OVS6 of the West Berkshire District Local Plan (1991-2006) Saved Policies 2007.

## **8.2 Refusal reason**

The application is not accompanied by sufficient information or a sequential test to demonstrate that it would result in provision of hotel accommodation (a town centre use) in an appropriate location and at a justified amount. Furthermore, due to the extant consent for a 123 bedroom hotel on the racecourse site the proposed works would result in an over-provision of hotel accommodation in this location without justification of local need. The proposed works are therefore contrary to the requirements of paragraph 84 of the National Planning Policy Framework and Policy CS9 of the West Berkshire Local Plan Core Strategy (2006-2026) 2012, requiring that proposals for new business development should not conflict with existing uses.

DC