

**Item Number:** 7  
**Application No:** 20/00563/FUL  
**Parish:** Lillings Ambo Parish Council  
**Appn. Type:** Full Application  
**Applicant:** DHI Eventing Ltd And Peter Simmons  
**Proposal:** Erection of an Isolation Stable Barn for 12no. horses with ancillary areas for tack, feed and storage and associated landscaping, installation of 2.5m high acoustic fencing to eastern boundary of the site, installation of a section of new hardstanding to provide partially separated vehicular access for equestrian traffic, widening of the existing access, amendments to existing parking arrangements, installation of new vehicular passing place within main driveway and retention of a section of existing hardstanding, together with the temporary retention of temporary stabling and 1no.storage container. (Part retrospective)  
**Location:** East Lilling Grange Farm New Road West Lilling North Yorkshire YO60 6RW  
**Registration Date:** 25 June 2020  
**8/13 Wk Expiry Date:** 20 August 2020  
**Overall Expiry Date:** 26 November 2021  
**Case Officer:** Niamh Bonner **Ext:** 43325

#### CONSULTATIONS:

<b>Environmental Health</b>	No objection recommend condition
<b>Foss Internal Drainage Board</b>	No objection recommend condition
<b>Highways North Yorkshire</b>	No objection recommend condition
<b>Tree &amp; Landscape Officer</b>	No response received
<b>Lillings Ambo Parish Council</b>	As detailed below concerns/objection
<b>Building Conservation Officer</b>	No objection
<b>NYCC Natural Services</b>	No concerns on ecology - recommendations

**Representations:** Mr Roy Lewis obo Mr James Crawford, Ms Laura Collett, Mr James Avery, Ms Laura De Wesselow, Mr James Crawford, , Major (Retd) Richard Waygood MBE British Equestrian,

---

#### SITE:

The application site relates to East Lilling Grange Farm which includes a residential property (known officially as East Lilling Grange Farm) surrounding outbuildings and open fields/paddocks. The site is located approximately 1 kilometre to the south east of West Lilling, accessed via a vehicular entrance on New Road to the north.

The entrance also serves the separate residential dwellings of East Lilling Grange House, located to the east shared access lane and East Lilling Grange, situated to the east/south east of the application site. East Lilling Grange is a Grade II Listed property.

The application site is operated as a commercial equestrian business, by DHI Eventing. The history to this business and their use of the application site commercially will be further reviewed below. It is noted that there are presently 19 stables on site.

## **PROPOSAL:**

This application seeks approval for the *“Erection of an Isolation Stable Barn for 12no. horses with ancillary areas for tack, feed and storage and associated landscaping, installation of 2.5m high acoustic fencing to eastern boundary of the site, installation of a section of new hardstanding to provide partially separated vehicular access for equestrian traffic, widening of the existing access, amendments to existing parking arrangements, installation of new vehicular passing place within main driveway and retention of a section of existing hardstanding, together with the temporary retention of temporary stabling and 1no.storage container. (Part retrospective)”*

This proposal was noted as part retrospective as a section of hardstanding and 1no. storage container have been installed within the site within the last 4 years without specific permission, together with the siting of temporary stables. The lawful commercial equestrian use of the site has also been queried by the Parish Council and an adjoining neighbour. This will be discussed further below but it has not been considered necessary to require retrospective permission for this element, following careful review, including consultation with a Planning Barrister.

Additionally during the consideration of this application, due to operational requirements, the noted temporary tented stabling was installed. This forms part of the retrospective application, with retention sought until the completion of the isolation stables, if approved. If not approved, enforcement action will be taken if necessary to secure their removal.

During the consideration period of the application, various revised descriptions have been agreed, to include new elements. The current description has been appropriately re-advertised.

Following consideration of incoming representations, the proposed location of the stable building has been amended during the determination period, to a position approximately 33 metres to the north of the original proposed location, at a greater distance from the boundary with the neighbouring property East Lilling Grange. This would be situated 15m to the west of the existing stables. This now incorporates reduced height proportions and updated materials. The building would span approximately 33.45 metres in length (including approximately 30 metres of internal space) and approximately 10.25 metres in width. This would include a pitched roof design, now to be completed with solid timber boarding and coloured roof sheeting with some translucent roof lights. This would have an overall apex height of 4.6 metres and an eaves height of 2.54 metres. This was reduced in height proportions from the originally proposed building which would have had an overall ridge height of 5.8 metres and an eaves height of 2.9 metres.

The main access to this building would be to the north and it was noted that the southern door would only be used for emergency use and access to the feed store. Additional planting to the south and east of this building is also proposed.

During the determination the installation of a 2.5 metres high acoustic fence has been proposed to the shared boundary with the paddock under the ownership of East Lilling Grange. This would span approximately 43 metres in length and would be positioned behind the horse walker, manure store and storage area.

The proposed widening of the access is also proposed, merging into the originally proposed passing place, together with the installation of a section of access track to partially separate equestrian traffic from domestic traffic. This would mean that equestrian traffic would only share approximately 190 metres of the original access (under the ownership of the Applicant) with the other domestic traffic, which would be a straight element with dedicated passing place. Presently as much as approximately 400 metres of access track is shared with the occupiers of East Lilling Grange.

Two storage containers are present, positioned to the west of the proposed acoustic fence, which is also the location of the manure store presently serving the commercial equestrian business. One of these has been installed without permission in the last 4 years. This is referred to in the description is to be temporarily retained until the stable building is erected, should it be approved. If this is not approved, enforcement action will be taken if necessary to secure their removal.

It is acknowledged that various hardstanding has been installed at the site, however the LPA can only seek retrospective approval for that installed within the last 4 years. A specific plan to illustrate recently installed hard core (within the last 4 years) has been supplied. This relates to an area to the east of the arena, spanning approximately 62 metres from north to south and 22 metres from east to west. A review of satellite imagery does not indicate further areas that would require retrospective permission. A small area of tarmac in close proximity to the manure store on the eastern boundary has been confirmed by the agent as resurfacing of existing hardstanding.

A significant amount of information has been provided in respect of the business operations run from East Lilling Grange Farm, via the business noted as DHI Eventing. The supporting statement (amended 16th November 2020) notes that *“presently, the equestrian business that is East Lilling Grange Farm has between 15 and 20 horses on site, numbers vary as horses are sold or purchased. Horses are also kept stabled during extended teaching or training. Horses are also owned and kept outside the UK, from 10 to 20 horses at any one time.*

*The increase of international teaching and training together with the need to isolate before competitions is the requirement for the new isolation stabling.*

*It is anticipated that the new isolation stable barn will have around 60% occupancy as riders and teams come and go using the facility and the facility is cleaned between each occupancy. So in general terms an increase on average of around 7 to 8 additional horses can be expected on the premises.”*

The statement further notes that *“the normal day is from 7.30am to 5.00pm seven days a week but with limited work on a Sunday. The last check on horses being 5pm in the evening each day, but it is limited to just one person doing a walk around inspection.”*

It is noted that the supporting information from the 2016 and 2017 applications (which clearly identified that there was an ongoing commercial equestrian use) indicated that there were between 16 and 18 horses on site at any one time, but that this varied due to training schedules. This appears consistent with the number of horses indicated within the current supporting information.

This amended supporting statement also provides a timeline for commercial equestrian use at East Lilling Grange Farm, commencing in 1989 with 12 horses being liveried on site and Mr Simmons buying young horses for training and reselling.

It is noted that an Officer site visit was undertaken on the 20th July 2020 and on the 4th November 2020.

The latter visit included a site visit to the neighbouring residential property East Lilling Grange to ensure a comprehensive site visit was undertaken.

## **HISTORY:**

The following planning history is considered most relevant:

94/00726/OLD: 3/78/31E/FA Erection of Stable Block and Hay Barn (to replace steel framed barn, brick barn and 2 Dutch barns which are to be demolished). Approved.

Condition 05 noted: *“The approved stable block shall only be used for domestic purposes incidental to the adjacent dwelling and not for commercial purposes.*

*Reason: To avoid commercial or industrial use for which the site is considered to be inappropriately located.”*

03/00578/FUL: Formation of a horse dressage and schooling arena. Approved.

Condition 3 noted *“Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987 or any provision equivalent to the Class, the site shall be used for equestrian purposes in connection with the dwelling currently known as East Lilling Grange Farm. At no time shall the site be used for commercial purposes.*

*Reason: In order to protect the character and appearance of the locality and due to the existing restricted access to the main Flaxton to West Lilling Road.”*

10/00315/FUL: Installation of a horse walker. Approved.

Condition 2 of this permission noted *“The proposed horse walker hereby permitted shall only be used in connection with East Lilling Grange Farm for private use and shall not be used for commercial purposes.*

*Reason: In order to safeguard the general amenity of the surrounding area, and to comply with Policy AG11 of the adopted Ryedale Local Plan.”*

16/01520/FUL: Erection of 2no. detached stable blocks each comprising 3no. stables in association with existing equestrian business - Approved

17/00003/FUL: Erection of an attached equestrian building comprising 8no. stables, tack room, stalls and inspection and wash area. Approved

## **POLICIES**

Local Plan Strategy -Policy SP1 General Location of Development and Settlement Hierarchy

Local Plan Strategy -Policy SP9 The Land-Based and Rural Economy

Local Plan Strategy - Policy SP12 Heritage

Local Plan Strategy - Policy SP13 Landscapes

Local Plan Strategy - Policy SP16 Design

Local Plan Strategy - Policy SP17 Managing Air Quality, Land and Water Resources

Local Plan Strategy - Policy SP20 Generic Development Management Issues

National Planning Policy Framework

National Planning Practice Guidance

## **REPRESENTATIONS:**

The Parish Council have provided the following comments on the 14th July 2020:

*Lillings Ambo Parish Council has no objection to the actual stables or their position but there are certain observations which need to be addressed before planning consent is given.*

*1) The road to the site is a single track without any passing places. Two other properties rely on this road for access. Movement will be exacerbated with the increase of traffic, and the size of these vehicles.*

*2) The existing access is a problem. It is on a bend of a de-restricted road and the splay and the sight lines are very poor. Already large vehicles have to swing entirely to the other side of the road in order to turn into and out of the driveway with the risk of serious accidents.*

*3) There are no details about dealing with the effluent and waste created by the twelve horse stable. The stables will be in close proximity to a drainage course which drains into the River Foss. Any waste must not be allowed to pass into the water courses.*

*Until these concerns have been addressed, Lillings Ambo Parish Council cannot support this application in its present form.”*

A further consultation response was received from the Council following re-consultation on the 21st October 2020: *“Lillings Ambo Parish Council are pleased with the amendments made to the above planning application. The concerns about, which we, the Parish Council and our Parishoners commented have been largely addressed.*

*However we feel very strongly about the positioning of the muck heap from the cleaning out stables has been placed in an extremely insensitive place, on the boundary adjacent to the neighbours garden.*

*So before approving this planning application, we feel that this should be addressed and the muck heap be moved to a less sensitive position, where the smell, possible run off and health hazards to not invade the neighbours land.”*

A further consultation response was received from the Council following re-consultation on the 4th February 2021:

*“Lillings Ambo Parish Council welcomes the amendments to the original planning application of DHI Eventing Ltd and Peter Simmons to the erection of an Isolation Stable Barn for twelve horses.*

*However, there are serious observations which we would like you to address.*

*The Splays: We originally commented that the splays from the single-track road when joining New Road (the road from Flaxton to Sheriff Hutton) are insufficiently wide enough to manoeuvre a horse box containing four horses. These horse boxes, classed as HGVs, cannot enter the single-track road from Flaxton direction, unless they swing out onto the opposite side of the road. Surely, this is an unsafe and illegal manoeuvre. RDC Highways had no objection to the splays. We ask that they look into this again considering the size of these horse boxes, and the safety of other road users.*

*The Muck Heap: (See attached images ) This is, I quote, “A bonded sealed concrete walled enclosure brought into use in 2016. The housing for the waste manure is over 2m in height, constructed of concrete panels on three sides. These panels are sealed to the concrete base to ensure the manure is contained within the bonded enclosure at all times. It is inspected daily by DHI Eventing senior site manager. When it is 75% full the waste is collected & removed by a local farmer.”*

*As you can see from the attached images, it is full to the top and there are stains on the sides of the concrete walls which suggest it overflows on a regular basis. It is situated on the boundary of the neighbour’s garden. With twelve more horses to muck out, this enclosure will need to be emptied more frequently, to prevent run off and contamination.*

*We would ask that this be reviewed by your Environment Health Team.*

*However, HBLB International Codes of Practice <https://codes.hblb.org.uk/index.php/page/130> gives guidance for isolation units. It states that, “A separate muck heap should be used within the isolation facility”. “Nor should this manure be spread on land for fear of contamination.” There is nothing in the plans to suggest that this is the case.*

*Planning consent: In 2003 Mr P Simmons made a planning application for a Dressage Arena, and again in 2010 for the installation of a Horse Walker. Both these applications were passed by Ryedale District Council with the conditions that the proposed facilities “would be solely used by the applicants, and not on a commercial basis”. The reason being, “To safeguard the general amenity of the surrounding area, and to comply with Policy AG11 of the adopted Ryedale Local Plan.”*

*There has been no change of use for commercial purposes, but in 2016 and 2017 planning applications were made in the name of DHI Eventing. These plans were passed by Ryedale DC. somehow unaware of the conditions made on previous planning applications.*

*All the applications were made on behalf of the applicant by Mr J R Burns, who would have been aware of all the previous applications.*

*Lillings Ambo Parish Council feel that all the constraints should have been adhered to, and change of use to a Business entity should have been applied, otherwise it makes a mockery of Planning Regulations.*

*Lillings Ambo Parish Council would like all these observations considered before any consent to the planning application is given.”*

A final letter from the Parish Council was received on the 26th November 2021 noting the following: *“This planning application has been amended and changed in such a way that Lillings Ambo Parish Council is unsure of what is contained in the new planning application, and what included as retrospective planning. For instance*

*On 8th July 1994 planning approval was given for a stable block “for domestic purposes and not for commercial purposes” Reason “To avoid commercial or industrial use, for which the site is considered to be inappropriately located.”*

*Mr J Burns, of Robert Burns Design Associates, states in his ‘Time-line’ that, in 1996, “Heidi, daughter of Peter and Pauline, joined the equestrian business and started teaching riders from the farm and schooling young horses for sale. The work was carried out under the ELGF the equestrian business.”*

*This contravenes the above planning decision of Ryedale District Council.*

*In 2010 planning permission was approved by Ryedale District Council for Mr P Simmons for the construction of a horse walker but added, "The proposed horse walker would solely used by the applicants, who are the current occupiers of East Lilling Grange Farm, and not on a commercial basis." Their reasons: In order to safeguard the general amenity of the surrounding area, and to comply with policy AG11 of the adopted Ryedale Local Plan.*

*This enterprise has evolved over time, from a domestic love of horses to a business, but without the correct planning approvals. Lillings Ambo Parish Council do not wish to curtail this successful business. It brings employment to the area. However the planning should be approved and conditions adhered to.*

*It should be sympathetic to its neighbours and its surroundings. Measures should be taken to make sure the business and domesticity can run amicably, and fairly, side by side.*

*Following a site meeting with DHI Eventing at East Lilling Grange Farm and East Lilling Grange, the neighbouring property, by representatives of Lillings Ambo Parish Council, these are our observations. We welcome the decision of the applicants to widen the splays at the junction of the drive with the main road and to create a passing place on the drive at that junction. However it must be constructed of sufficient length to accommodate a forty foot long vehicle such as a horse box. Reason To prevent large vehicles crossing onto the opposite carriageway in order to access the drive.*

*The passing place will prevent vehicles having to stop on the main road whilst waiting for vehicles to exit the single track driveway causing an obstruction. In order to make such a construction it is likely that the trees at the junction will need to be felled. The planning permission should include the requirement for the felled trees to be replaced.*

*We welcome the decision to change the position of the isolating stables to one nearer the original stables.*

*Reason The stable block will be sited further away from the neighbours' property. It will be less noise and visually less intrusive.*

*The plan to upgrade a separate track, from about half way down the drive to the hard standing for vehicular access will mean less congestion and noise for neighbours who have right of way on the drive. This can only be a positive step.*

*The erection of a 2.5m acoustic fence, to be suitable screened by hedging along the existing boundary hedge of Mr & Mrs Crawford's property and Mr Simmons property, initially sounds good. However the mature hedge is said to be on the Crawford's land and they would be unhappy for it to be removed. A culvert runs the length of the boundary hedge on the Simmons side, making the erection of an acoustic fence on their land problematic. A horse walker two storage unites, hard standing and muck heap are situated close to the drain and hedge leaving little or no space to put the fence. This is an area where a lot of work is carried out, including the tractor moving supplies and clearing waste. The area is adjacent to the Crawford's property. Re-siting this area of work, with exception of the horse walker would be an excellent solution.*

*Re-siting the flood lighting, needed for illuminating this area in the hours of darkness, would also be less intrusive to neighbours. Does the flood lighting need additional planning permission?*

*The horse manure is contained in an over two metre high, three sided concrete paneled open construction which is positioned by the boundary hedge of the neighbours property. A tractor moves the horse manure to the back of the heap daily. Contrary to Mr Burns statement of being odourless, the smell from the wet, steaming manure permeates through to the neighbours' property. This manure heap could be moved away from the boundary to a less sensitive site.*

*Lillings Ambo Parish Council have spent a great deal of time discussing the plans, visiting the site and talking to all concerned. We hope that our observations will be given due consideration as a fair and meaningful insight to this planning application.*

*Until these observations are taken into account, Lillings Ambo feel they cannot give their consent to this planning application."*

## Objections

Several letters of objection have been received from/on behalf of the occupiers of East Lilling Grange throughout the determination period.

- 22nd July 2020

- 12th August 2020
- 3rd November 2020
- 18th February 2021
- 10th May 2021
- 26th May 2021
- 19th October 2021
- 1st November 2021
- 9th December 2021

These responses raise the following summarised points, this summary has been undertaken as comprehensively as possible however Members are advised that these are available to view in full on the Planning file, together with the incoming letters from the Planning Agent to which many of these points refer.

### **22nd July 2020**

- Over intensification of the use of the land, which would see 32 stables on the Applicants' site.
- Progressive overdevelopment and the size is too large.
- Noise is already a problem for neighbours, this would only increase further as a 24/7 operation
- Impact upon the setting of the Grade II Listed East Lilling Grange
- Single track driveway with no passing places, causing illegal and dangerous manoeuvres due to equestrian traffic – proposal will increase volume of traffic on the unsuitable road
- Poor splays and sightlines for traffic existing road
- No drainage details, concern on significant EA proposal to hold water downstream of this development is also a major concern. The use of surface water drainage ditches would increase the prospect of flooding
- No details shown for effluent or other waste.

### **12th August 2020**

- Concerns over extent of red line (Case Office note: This red line plan was updated accordingly).
- Concerns over lack of height detail and lack of lighting detail.
- Considered to have a harmful impact upon the setting of the Grade II Listed Building, no alternative locations have been considered to have a lesser impact upon the listed building. Concern over intensification of the eventing building. This has included the siting of shipping containers and an area where hay bales are stored along the eastern boundary and significant new areas of hardstanding, undertaken without planning permission. The Aerial Image shows how the growing operation threatens the listed building.
- The proposal would increase the number of stables on site by 60% and result in a consequent increase in ancillary storage and paraphernalia associated with the operation.
- Light pollution is already harmful and concern over openings in the eastern side of the b building.
- Statutory duty of the LPA to consider whether development would affect a listed building or its setting.
- Existing problems of noise and light pollution associated with the use and this impact upon their residential amenity, this will be exacerbated with the new stable block operated on a 24/7 basis. The eventing business operators do not live on site which adds to the level of vehicular activity.
- The proposed building would be sited due west of East Lilling Grange, blowing smells and possible other detritus towards their house and garden.
- The current proposal is for isolation stables, there would be no limit on a subsequent change to individual liveryies which would further exacerbate the level of activity on site. It is unlikely a planning condition could be drafted to limit such a change.
- Large HGVs presently bring visitors horses to the site on an hourly basis and multiple rider clinic take place from early morning to early evening, often several times a week all year round in addition to other vehicles.
- The highway office has based her advice on the basis of 2 extra visits per week. This seems

highly unlikely due to the increase in stabling by 60% and intensification of business. The existing access arrangements are unsuitable.

- A drainage report by DW2 consultants engineers is attached. This sets out concerns that should be addressed.

### **3rd November 2020**

- Do not consider the current application documents are satisfactory in relation to the unauthorised areas of hardstanding. Larger areas of hardstanding are unauthorised.
- Concern that the equine operation is operating either without permission or in breach of existing planning conditions. The additional information dated 3rd October 2020 states that the equestrian business commences as liveries in 1989 and evolved into teaching in the 1990s. however there is no reference to any planning permission for a change of use from the former farming operation to buying and selling horses and teaching. The 2010 permission for the horsewalker was approved in a different location, restricted to personal use, not commercial. Condition 04 of the 1994 permission indicated that this permissible for non commercial private use only.
- Concern in relation to the area where the horsewalker has been erected has also been hard surfaced without planning permission and, part of the dividing hedge removed. Two storage containers are present and the storage of hay bales undertaken here, with a large muck heap sited.
- Whilst some of the development may be immune from planning enforcement action, it does not provide a justification for consolidation of the equine business in an inappropriate location, where it would harm the residential amenity of the occupants of East Lilling Grange Farm and the setting of the Listed Building. Would argue that planning permission should not be granted for the proposed isolation stable in this location. The existing unauthorised development does not provide a justification for the current proposal. We note from Mr Burns submitted statement that the applicant's do not rule out an alternative siting and I would suggest that in these circumstances, that is the reasonable way forward.
- Concerned over removal of south facing former pantile roof on traditional farm building range adjoining their property and replacement with profiles sheeting and translucent panels.
- Concern over engineering works including the creation of a large pond and banks, visible on Google Earth from 2017 onwards.
- A comprehensive review of the planning situation would enable your authority to regularise the situation, exert effective planning control and protect neighbouring residential amenity and the setting of the listed building..
- Points were raised about the proposed construction of the building to limit impact.
- No objection to the passing place on the drive, but we remain of the opinion that the proposed access to the public highway is inadequate.
- Mr and Mrs Crawford have no wish to curtail a business enterprise but such business cannot be allowed to ride roughshod over planning law with inadequate concern for close neighbours or listed buildings.

### **18th February 2021**

- Maintain objection – statement made by Mr Burns does not address the fundamental matter other than to imply that the current equestrian business is long established and lawful. Mr Burn's Statement is misleading. In my view there is clear evidence that the existing business carried out from the former farm building and on the adjoining fields is as a result of the intensification that has taken place within the last 10 years.
- I am advised that the livery activity that existing in the 1980s and 90s as referred to by Mr Burns was a low key, ancillary use. The first reference in the planning history to the existence of a commercial equestrian use at the site was in the application for stables made in 2016. The equestrian business has intensified considerably since 2017. Mr Burns makes it clear that international teams currently use the site for training and preparation for competitions. I understand that the intensification for he use has been compounded by the addition of two separate yards that have recently been related together with their professional riders and staff. Whilst the proposed 12 horse stable is described as an 'isolation' facility, it would seem from the documentation that it is needed for the intensified use and to facilitate further expansion. An

increase of a further twelve horses would exacerbate the problems caused by the current level of commercial intensification of the former low key ancillary use.

- In making the application for the horse walker in 2010, Mr Burns himself confirmed the structure was intended for personal use and the permission was made conditional on such personal use. This was constructed in a completely different location to that approved and is currently used for commercial purposes as are the stable block permitted for personal use in 1994, the former hay barn converted to stables without planning permission and the dressage arena.
- The longstanding modest livery business that was ancillary to farm and residential use in the 1980s/90s and was unlikely to have needed planning permission has intensified to a substantial equestrian business that is operating without planning permission. This intensification has taken place in the last 10 years.
- Lighting added to dressage arena without planning approval. Presence of unlawful storage containers.
- East Lilling Farm Bothy is a separate self contained holiday let now occupied on a permanent basis.

### **10th May 2021**

- Note representations have been made by Barton Willmore in a letter dated 8th April 2021, do not wish to enter into a prolonged series of debated but consider it essential to correct false and incorrect claims made.
- Points made on intensification of use raising case law. This continues to note the change in character of the equestrian use of East Lilling Grange Farm, which is evidenced by the number of large specialist vehicles that now visit the site and facilitate overnight stays for training events, the increase in horse numbers, hardstanding and other works.
- Point raised that planning permission for three separate operational developments at the site were made conditional on the personal use of the applicants is noted.
- Point made on the use of the land.
- Mr and Mrs Crawford do not wish to see the termination of the equestrian business. They simply wish to see planning controls exerted over a business that has grown in a largely uncontrolled manner in the interests of neighbours and the environment.
- There is no basis for the claim that the current equestrian use of the site is lawful. There has been no granting of planning emission and no application has been made for a Certificate of Lawful Existing Use. In his letter, Mr Binns sets out the time limits for pursuing enforcement action. This implicitly acknowledges that his clients have carried out unauthorised development. Whilst operational development carried out more than four years is immune from enforcement action, the evidence provided in my two previous letters shows that considerable expansion has taken place at the site since 2017, which constitutes a material change in the character of the use of the site. Mr Binns notes that the relevant period for enforcement uses against unauthorised development is ten years. A material change has taken place within the last 10 years and it therefore open to enforcement action. Consequently, the current equestrian use is not immune from enforcement action due to the passage of time as suggested by Mr Binns.
- The training jumps and pond form engineering works, no permitted development rights for these.
- Horse walker may be immune from enforcement action, it provides an example of how the equestrian business has expanded with a disregard for planning control and neighbourliness.
- Disagree with Mr Binns claims the proposal is fully in accordance with the local and national planning policy and does not cause amenity harm or environmental issues. If this was the case Mr and Mrs Crawford and the Parish would not be raising concerns.

### **26th May 2021**

- Points raised in relation to letter from Planning Agent dated 10th May 2020, confirming their view that the case law is relevant. "The Case Law is relevant as it establishes legal principles relating to change of use and makes it clear that intensification of a use can indicate a material change in the character of a use, for which planning permission is required. . . . Intensification of the former low key equestrian use at East Lilling Grange Farm is clearly relevant as there has

never been planning permission for equestrian use at this former farmstead.” It was confirmed in their view that this material change of use has taken place within the last 10 years and has not become immune from enforcement action through the passage of time.

- Up to and included the planning permission in 2010, permissions were granted for personal use. The only authorised development that has taken place since 2010 was the stable block permitted in 2017. Consequently, previously planning applications that have been approved at the site provide evidence that until 2017, the former use had a considerably different character.
- 19th October 2021
- Further information was provided in relation to machinery noise at the site, detailing the use and frequency of use of a tractor, JCB, quad bikes, a radio and instructor noise.
- It was noted that instructors shout instructions to riders being trained, with 4 different instructors operating at the site and sometimes teaching simultaneously. This can occur 7 days per week. During the summer months this occurs from 7.00am to 8.00pm.
- It was concluded that the cumulative impact of the above sources is harmful to the residential amenity enjoyed by the occupants of East Lilling Grange and has dramatically increased.
- Additionally, during the summer months a temporary grass arena was marked out with boards, to the west of the hardstanding area, creating further noise.
- It is common for there to be four or five large specialist horse vehicles at the site. Some incorporate living accommodation, which in recent months has facilitated overnight stays two or three times a week.

### **1st November 2021**

- Note the amended plan to indicate the widening of the junction between the access land and the highway. This is perplexing as the local highway authority did not require any widening of the access. The applicants appear to have decided of their own volition that a widening of the access is necessary to accommodate the large vehicles that now visit the site on a regular basis. This presents clear evidence of the intensification of the equestrian use. (Case Officer Note, this amendment came following an Officer request following review of the Parish Council’s concerns rather than proactively from the Applicant/Agent.
- Subsequent impact upon group of trees.
- No consultation with neighbours (Case Officer Note: This subsequently was fully reconsulted on.)
- At the time of writing it is noted that the equestrian calendar has a ‘closed season’ in the final two months of the year, when activity on site is lower. In relation to potential enforcement against unauthorised development at East Lilling Grange Farm, I trust your authority will assess the level activity throughout the calendar year.

### **9th December 2021**

- In response to letter from Mr Burns (Agent) it is advised that level of equestrian related activity is considerably greater than suggested. If it was possible to restrict these activities to the level suggested, with teaching restricted to the days stated by Mr Burns, along with restricted hours of operation for the business as a whole, Mr and Mrs Crawford would have no objection.
- At least 5 horsebox vehicles are now on site at any one time for much of the year. There is no planning permission for riders utilising the equestrian facilities to stay overnight at the site in specialist horse boxes.
- Endorse Parish Council’s recommendation for resiting muckheap and would recommend this area is returned to grazing land.
- Inaccuracies with Mr Burn’s recent statement: disagree that there are only two instructors on the premises. Website evidence confirmed that three separate equestrian businesses run from the site, including teaching riders and producing young horses.
- Disagree that instructions are spoken, maintain these are shouted.
- Disagree that horse boxes only stay for training “rarely occurs more than once per month.” Mr and Mrs Crawford maintain that stayovers occur two or three times per week for the majority of the year.
- Disagree that radios are only played very quietly.
- Mr and Mrs Crawford have only had one horse for 8/9 years and do not use a quad bike on a

regular daily basis. The extent of their equine use is personal only.

- Mr Burns maintains the boundary hedge is owned by Peter Simmons. This is not agreed.
- Mr Burns states Mr and Mrs Crawford's daughter used the facilities from 1993. In fact their daughter was not both until December 1993.

### Support

4 letters of support from the occupier of Windy Hollow, Lambourn Berkshire, Belsay Estate Office, Northumberland, Penhill Farm, Cheltenham, the Performance Director at British Equestrian Federation,

Support as a member of the New Zealand Evening High Performance Team, hoping to access as much training as possible in Yorkshire for the Olympic Games. Important to stay in secure premises with no chance of cross contamination with other horses competing at different venues, with the security of a quarantine facility.

Often travel to East Lilling for Lessons and stay over with the horses and use the facilities as a stopover when travelling further south to events. It is an impeccable training establishment with top notch biosecurity.

As a client of DHI, we frequently stay on the premises with our team of horses for training and prior to international competition. The proposed isolation stable unit would be an excellent addition, enabling us to stable on site and ensure the biosecurity of our horses and equipment. It is essential that we are able to isolate our horses prior to competition, to ensure they are in top notch condition, even more so when we are representing our country.

The application site is regularly used by many of the British High Performance Squad Riders to train with the world renowned coach, Ian Woodhead prior to travelling to international competitions and championships. Now, more than ever it is essential that riders are confident that a robust system is in place to provide biosecurity and to mitigate the possibility of any cross contamination resulting in an Anti-Doping violations where horses and equipment are accommodated during training...the proposed building of an isolation barn would be a highly beneficial addition to the facilities and training available to our elite athletes.

Various supporting letters from the Planning Agent, Mr Jim Burns have been received during the determination period, together with an additional letter from Mr Chris Binns of Barton Wilmore on behalf of the applicant (dated 8th April 2021) have been received. These will be referred to below but Members are advised that the full copies of these letters are available to view on the planning file.

### **CLARIFICATIONS**

#### Material change of use/Intensification:

In light of the consultations responses received from/on behalf of the occupier of the neighbouring dwelling and following review of the planning history, careful consideration into the lawful use of the site has been undertaken. It is clear that the proposed equestrian business has not benefitted from a specific permission for a commercial operation prior to 2016, however the supporting information specifies this has been a long established use with a commercial element occurring since 1989 (12 livery horses and Peter Simmons purchasing, training and selling young horses. It was confirmed that DHI eventing was launched as a company in 2006. This tallies with the relevant information available on Companies House. The inconsistency in the planning history of the horse walker approved in 2010 not being described or applied for as being for commercial use is however noted.

The LPA have engaged Counsel from Kings Chambers, Leeds to provide legal guidance on this matter. The full un-redacted legal advice dated 6th August 2021 and 9th December 2021 will be made available to Members but this will not be made public apart from relevant excerpts due to legal privilege.

Critically, Counsel was asked to consider:

- a. Would Counsel consider that the developments undertaken at East Lilling Grange Farm are lawful or do they require a retrospective change of use application?
- b. It is considered that a material change in intensity has occurred?

The advising Barrister confirmed *“The time limits for immunity from enforcement action are set out at s.171B of the Town and Country Planning Act 1990. Changes of use (other than to a single dwelling house) become immune from enforcement action after 10 years and operational development immune after 4 years. Where there has been a change of use which has not become immune from enforcement action any enforcement action can require the removal of operational development that is integral to the change of use even if the operational development was complete more than 4 years ago; Kestrel Hydro v Secretary of State for Communities and Local Government [2016] EWCA Civ 784.”*

The Barrister considered various relevant cases in relation to intensification including *In Brooks and Burton Ltd v Secretary of State for the Environment [1977] 1 W.L.R. 1294* where the court considered the interaction between intensification and permitted development rights. The court found that where there was intensification but the use remained within the same use class which was the permitted use of the land then that would be permissible.

The Barrister noted in their response dated 6th August 2021 *“As part of the Application a letter dated 8th April 2021 from Robert Burns Design Associates Ltd has been submitted which sets out the history of the use of the Land. This describes how there has been commercial equestrian use of the Land since 1989.”*

The advice continued in Para. 13 *“The Council have previously acknowledged the existence of an equestrian business at the Land and indeed have granted planning permission for it. On 27 October 2016 the Council granted planning permission for: “Erection of 2no. detached stable blocks each comprising 3no. stables in association with existing equestrian business” the lawful use of those buildings is for commercial equestrian use. In 2017 the Council granted planning permission for: “Erection of an attached equestrian building comprising 8no. stables, tack room, stalls and inspection and wash area.”*

*In doing so the Officer Report that considered the application stated “The site where the proposed development is to take place, is within an established equestrian use[...]” and considered the application against land based and rural economy policies.*

*In light of this, in my opinion, commercial equestrian use of the Land is lawful by virtue of it being ongoing for in excess of 10 years (on the assumption the history that has been provided is accurate). Further, parts of the Land have specifically been granted express planning permission for commercial equestrian use.”*

*However, on the information available to me it is not clear where on the site in question the described activities have taken place. It may be that the site has extended over time which could have altered the relevant planning unit with a knock on impact on the immunity of any activities. The Council may wish to explore this further.”*

Specifically turning to the point about intensification, the Barrister noted *“Whether a material change in use by intensification has occurred is a matter of planning judgment. The exercise of that judgment should be taken in accordance with the legal principles set out in this advice above. The history of the site provided with the Application shows some changes in level of use, however, these are relatively minor and in my view would not justify a conclusion that there has been a change of use by intensification.”* The Barrister then considered the supporting material to the 2016 application outlined above, including the detailed descriptions of the on site activities. It was concluded that in comparison to what is proposed *“would in my opinion, be unlikely to justify a conclusion that it would amount to a change of use when it is compared to the previous and existing levels of use that have been described.”*

It was advised that *“The task facing the Council when considering the Application is to determine whether or not it is acceptable in planning terms.”*

Consequently following this advice, the Case Officer sought further information from the Planning Agent, seeking any further information to support the timeline provided.

The following information was received on the 11th November 2021 as described by the Planning Agent:

1. *A letter from the accountants who have worked with DHI Event Horses Ltd since their formation in 2005. This details the companies date of formation and its sole use of the land at East Lilling Grange Farm since that formation date in 2005. The accounts for DHI Event Horses Ltd are in the public domain as a limited company and can be viewed at any time.*
2. *Sworn Declarations from, Peter Simmons, Joint Property Owner. Pauline Simmons, Joint Property Owner. Heidi Woodhead joint owner of DHI Event Horses Ltd and Ian Woodhead joint owner of DHI Event Horses Ltd. These sworn declarations confirm the commercial use by DHI Event Horses Ltd of the land since 2005 up to the present day.*
3. *A plan with land edged in blue that the sworn declarations refer to that details the principal use of various parcels of land that has been used for commercial equestrian use by DHI Event Horses Ltd since the formation of the company in 2005 up to the present day. These uses would vary and change from time to time, but the principal and sole use has been that of commercial equestrian by DHI Event Horses Ltd. and that fundamental use is established and correct since 2005 up to the present day.*

The plan referred to indicated that area's labelled A-G had been in commercial use since 2015. This excluded sections of land to the south of the site, indicating that the entire site is not used for commercial equestrian purposes.

It is noted in relation to the sworn declarations, legal proceedings can be brought against anyone who makes, or causes to be made a false statement.

The Barrister reviewed the incoming material and additional letters of representation received (with the exception of that submitted on the evening of the 9<sup>th</sup> December 2021.) On the 9<sup>th</sup> December 2021 updated advice was received which noted "*Following my previous advice the Council have sought further evidence from the applicants about the history of use of the Land. The applicants have responded to this and have confirmed that the totality of use of the Land has been for a commercial equestrian business for in excess of 10 years. They have provided statutory declarations and other evidence to confirm this. In my view the Council have sufficient evidence to form an opinion on the status of the use of the Land.*"

The Barrister continues "*Here, whilst the Council are not considering a certificate application they are considering the same issues that would be raised by such an application. The Council do not have in their possession any material that meaningfully calls into question the evidence provided by the applicants and it is my understanding that Officers consider that the evidence in the Council's possession is consistent with that of the applicants. The Council therefore, in my opinion, have sufficient material to conclude that the commercial equestrian business is immune from enforcement due to the passage of time. However, ultimately this is a matter for the Council.*" It is also noted that the Barrister had access and was directed towards all incoming letters of representation from the occupiers of East Lilling Grange (except the latest of the 9<sup>th</sup> December 2021 as identified which is not considered to materially affect the consideration.)

The Barrister continues: "*The more meaningful issue raised by objectors to the Application is whether there has been a change of use in recent years by way of intensification. I have set out in my previous opinion the relevant legal guidance on this and it is for Officer's to apply this to the facts of this case. If Officer's were to conclude that there had been a change of use by way of intensification, this would in my opinion be a difficult position to defend on an appeal.*"

Following careful review, it is therefore considered that no retrospective permission for a change of use will be requested by the Local Planning Authority as it is considered that the commercial equestrian business is immune from enforcement due to the passage of time. It is also concluded that the existing/proposed level of use would relate to material intensification.

### Enforcement/Discordance with previous approvals

With consideration afforded to the 10 and 4 year periods identified under planning law referred to above, it has been concluded that no retrospective change of use will be sought.

However there are a number of other aspects of operational development within the site that have been investigated.

It is considered that the originally sited storage container, a significant amount of the hardstanding, the siting and non-personal use of the horse-walker, the engineering works to create the pond are breaches of planning permission against which no enforcement action can be taken due to the passage of time. It is not considered that the existing jumps would be likely to require planning permission.

The reroofing of a section of the existing traditional stable building was also highlighted in the incoming information. This was formally constructed with pantiles and replaced with roof sheeting in 2018. This was reported to have been undertaken due to the pantile roof failing. Whilst this was not 'like for like' it also adjoins an existing section of the Dutch barn roof, so in planning terms could be considered to be 'similar materials' and visually has been concluded to not appear incongruous or expedient to require retrospective permission. This approach has been reviewed with the Building Conservation Officer who had no objection to the retention of this or this approach.

As noted, one of the storage containers and the temporary stables are included within this application for temporary retention, together with the permanent retention of the additional area of hardstanding.

The issue of lighting having been added to the dressage arena has not been considered as part of this application, but will be investigated via a separate planning enforcement powers and retrospective application sought if necessary.

The raising of the residential occupation of 'The Bothy' will also be fully investigated separately. It is noted permission was given in 1997 for the change of use of a holiday cottage to form a residential annex.

It is considered that the occasional overnight sleeping within the equestrian vehicles within the land that has been established to have a lawful commercial equestrian use could be ancillary to this overall use. It is acknowledged that these vehicles are often designed for such a purpose and this is intrinsically linked with that use. The point about potential associated intensification has been addressed above.

### **APPRAISAL:**

The main considerations within the determination of this application are:

- i. Principle of the Development
- ii. Character, Form and Impact upon the Setting of the Grade II Listed Building
- iii. Impact upon neighbouring amenity
- iv. Impact Upon Access and Highway Safety
- v. Drainage
- vi. Other matters, including consultation responses.

#### i. Principle of the Development

Policy SP1 (General Location of Development and Settlement Hierarchy) notes that in all other villages, hamlets and in the open countryside development will be restricted to that 'which is necessary to support a sustainable, vibrant and healthy rural economy and communities.'

Policy SP9 (The Land Based and Rural Economy) of the Ryedale Plan - Local Plan Strategy is supportive of new buildings that "*are necessary to support land based activity and a working*

*countryside, including for farming, forestry, and equine purposes.”*

In light of the consultations responses received from/on behalf of the occupier of the neighbouring dwelling, careful consideration into the lawful use of the site has been undertaken. The LPA have engaged legal counsel from Kings Chambers, Leeds and the conclusions above that this commercial use is lawful due to the passage of time has been made following consideration of all the available information.

Therefore, the principle of development including further operational development to support the development for equine activity is therefore considered to be acceptable and in accordance with Policy SP9 of the Ryedale Plan, Local Plan Strategy.

This however is subject to the proposed development according with the other identified main considerations listed above. This will be explored in the following sections.

#### ii. Character, Form and Impact upon the Setting of the Grade II Listed Building

This proposal seeks permission for the erection of a block of 12no. additional stables as outlined above. It is noted that the revised siting means that this is positioned at a greater distance from the shared boundary with East Lilling Grange Farm.

It is considered in terms of form and design that the proposal is acceptable in terms of visual amenity and in relation to the character and form of the locality. It is not considered that this would have an adverse impact upon the character of the locality and it is considered that the potentially enhanced level of use would not be such as to result in harm to the character of the locality.

It is considered that the other operational development, including the 2.5 metres high acoustic fencing, the hardstanding, the new section of access lane, the passing place and widening of the access would have no harmful impact in terms of character and form.

A landscaping condition will be sought in order to secure details of new landscaping to soften the new building and also, to account for the removal/replanting of any trees along the entrance that may require removal to facilitate the access. This landscaping scheme will also be expected to contain planting to soften the existing dressage arena and the new stable building. Landscaping to the new stable building has already been indicated but this will secure a site wide scheme with specific planting details.

A condition to prevent the installation of any new lighting without the prior written approval of the LPA will be included. Concern has been raised within the incoming information about ‘flood lighting’ of the site. The Agent has indicated within their email submitted to the LPA on Monday 6th December that *“We will look at the lighting in this area and see what can be improved if this is causing problems to Mr and Mrs. Crawford.”* As noted before, a review of existing lighting will be undertaken through Planning Enforcement Powers and an application sought if necessary. Additional lighting to the new stable building will only be permissible through a discharge of conditions application.

The Council’s Building Conservation Officer noted in a consultation response dated 11th August 2021 *“No Objection.”* In a further response dated 18th August 2020 *“I have visited the site and read the neighbour objection and my ‘No Objection’ comment still stands. In my view due to distance, existing development both within the application site and the neighbouring land and screening, this application will not affect the setting of the listed building.”* They reconfirmed no objection in a response to the revised resited building in a response dated 23rd February 2021. It is therefore considered that the LPA have fulfilled their statutory duty in terms of considering the setting of the Listed Building.

It is also not considered that this proposed development would result in wider landscape impacts, being visually grouped with the existing buildings on site.

#### iii. Impact upon neighbouring amenity

The original consultation response were provided by the Council’s Environmental Health Officer on the 6th November 2020 prior to the repositioned (further north) scheme. The following response was in

relation to the originally positioned scheme with an amended blank eastern elevation and the proposed acoustic fence, which was detailed together with a specification of the fence to be installed provided for review.

The Council's Environmental Health Officer confirmed *"I have studied the re-consultation and I am satisfied that now there are no proposed openings to the east elevation of the stable block, and an inclusion of a 2.5M acoustic fence, adequate measures have been taken to attenuate any potential noise and protect the amenity of the adjacent residential dwelling. It would however be prudent to extend the fencing along the northern end to afford additional protection from the existing stable. Whilst the provision of an acoustic fence will attenuate noise at the boundary and afford protection from light trespass from inside the block, constructing the block using a solid timber method will provide additional noise attenuation and light trespass protection."*

*I do have concerns about the positioning of the manure storage along the eastern side abutting the acoustic fence. Unless it can be shown that the retaining walls are sealed and no run off is likely to the neighbouring land then I would recommend that this be repositioned to a more suitable area. In its current position I am concerned that damage could be caused the acoustic fencing compromising its effectiveness. With the likely increase in the number of horses I would also recommend that a detailed manure management plan be submitted."*

Additional information was provided in relation to the construction of the Manure Heap in the amended planning statement dated November 2020. This is considered to be a comprehensive Manure Management Plan which noted that the *"present bunded sealed concrete walled enclosure that replaced a block wall enclosure was started in 2016 and brought into use some 4 years ago.... The housing for the waste manure is over 2m in height, constructed of concrete panels on three sides, these panels are sealed to the concrete base to ensure the manure is contained within the bunded enclosure at all times. Once a week the waste manure is pushed up to the rear of the enclosure, which takes approximately 10 minutes. This is to ensure that all the manure remains within the concrete bund walls. The muck heap is inspected on a daily basis by DHI event Horses senior site manager. When the muck heap is approximately 75% full, the waste is collected and removed by a local farm within a couple of days. This ensures the cleanliness of the muck heap is maintained with no odours or smells. Presently the dry horse manure within the muck heap is moved every 6 to 7 weeks by Whitestone Farms who use it on their land as manure. With the increase in horses it is intended that this process will take place every 4 to 6 weeks or as required. When the waste has been removed, the concrete housing is thoroughly swept down, which allows regular inspection of the sealed unit, this ensuring its continued effectiveness."* There is further information contained within this MMP which can be reviewed in full by Members on the Planning file.

As noted, the position of the proposed unit was subsequently moved c33m further northwards, at a greater distance from the neighbouring property, which consequently resulted in buildings being positioned between the two locations. Openings were reintroduced to the eastern elevation. A 2.5m acoustic fence running approximately 43 metres was proposed for installation between points C and D on the Proposed Block Plan. This would be located behind the muck heap and horsewalker, wrapping around the northern side of the horse walker. It is noted that this area of the site does not directly abutting the domestic curtilage of East Lilling Grange Farm. Rather it adjoins a paddock under their ownership. It would be located approximately 27 metres from the nearest section of domestic curtilage associated with this property.

In a consultation response dated 17th February 2021, the Council's Environmental Health Officer confirmed *"I am satisfied that the relocation of the unit and the inclusion of acoustic fencing will offer adequate noise protection to the neighbouring dwelling. I note the parish councils comments with regard to the manure heap and the Horse Race Betting Levy code of conduct guidance re: a separate manure collection point within the isolation unit, this is a matter for the applicant to consider, it should be noted that this is guidance and as such does not fall within the remit of the Environmental Health department."*

*I note that the applicant has submitted a manure management plan within the planning statement and should be reminded of the importance of not allowing the existing manure heap to become over full*

*before removal.”*

The continued concerns over the manure heap from the Parish and the occupier of the neighbouring property are acknowledged. However, the Council’s Environmental Health Team have raised no concerns with the approach taken to manure management. The reviewed manure management plan will be conditioned and a bespoke condition worded so that should any sustained complaints be received, the Local Planning Authority, in conjunction with the Environmental Health department will reserve the right to seek review of the manure management plan. The Council also has other legislation through which to investigate nuisance impacts such as odour.

On the basis of the Environmental Health Officer’s response and through the inclusion of the acoustic fencing, it is not considered that the proposed operational development for the stable building would result in any additional material harm to neighbouring amenity by virtue of overshadowing, loss of privacy or noise, given its position within the site adjoining agricultural land. This would be located at a distance of approximately 50 metres from the nearest neighbouring domestic curtilage. It is also considered that this 2.5m high acoustic fencing to the rear of the muck heap will help to limit concerns over smells in addition to the more regular emptying identified within the Manure Management Plan to be conditioned. The degree of separation between this point and the domestic curtilage of East Lilling Grange is also noted.

The point raised about the practicality of installing an acoustic fence has been noted. In their most recent comments when this was queried, the Agent noted the following:

*“On the aspect of the sound proofing fence and existing hedge adjacent to East Lilling Grange. The hedge is, so far as Peter Simmons concerned on his land, however there is no intention of removing this hedge, the new fence will be constructed between the hedge and the horse walker/manure heap in the 0.5m to 1.0m gap that exists. The new fence posts will be anchored with steel shoes set into concrete every 2m. All work will take place on Peters land and will not harm the hedge or the piped culvert. So far as the Muck Heap is concerned it should be noted that immediately behind the horse walker and adjacent to Peters muck heap is the muck heap on Mr and Mrs. Crawford’s land, used by them for their own horses and adjacent to their garden.”*

In light of the concerns raised, it is considered appropriate to create a specific condition to require the installation of the acoustic fence to be inspected and signed off by the Local Planning Authority prior to the above ground erection of the stable building. This is not a standard method of control normally sought, however in this instance, this would mean that if for any reason, the fence could not be appropriately installed, the operational development of the stable could not be commenced.

The further concerns raised in relation to noise by the occupiers of East Lilling Grange Farm are noted. Further impacts in terms of noise were raised by the use of machinery. The LPA is aware that due to the previous agricultural use, the use of machinery may have occurred, however it would be impossible to surmise to what level. It is considered that the placement of the acoustic fencing to separate the site from the paddock land under the ownership of East Lilling Grange will help to improve the current situation.

Furthermore, the Council have further powers in terms of noise nuisances that can be explored under separate Environmental legislation should issues persist.

It is not considered that in isolation, this additional proposal would result in a materially increased impact upon amenity, in particular due to the installation of the acoustic fencing.

#### iv. Impact Upon Access and Highway Safety

North Yorkshire Highways Officers have been consulted and have confirmed no objection to the proposed development. The revised scheme to include the widening of the access was requested by the Case Officer, following full review of the Parish Council’s comments. This was not requested proactively by the Highways Authority due to need, however they have confirmed no objection to the revised scheme and recommended relevant conditions.

It is considered that the proposed wider entrance, passing place and the reoriented access route would

help to improve the current on site situation and partially separate equestrian and domestic traffic.

#### v. Drainage

The Foss Drainage Board responded to the original proposal in a response dated 8th July 2020, recommending a condition. The provided a further response dated the 28th October 2020.

Their final response, dated 16th February 2021 their views on the existing and proposed hardstanding within the site that *“strictly on the basis that the new hardstanding will remain permeable, the Board has no objection to the proposal.”* This was confirmed as being the case within the submitted documents. In relation to the surface water from the isolation barns, the IDB noted in relation to the proposed soakaways *“if soakaways are feasible then these should be wholly used, with no direct discharge into any watercourse.”* An appropriate condition was subsequently recommended.

It is noted that the Drainage Report from DW Consulting Engineers submitted by the occupiers of East Lilling Grange was acknowledged by the IDB within their consideration.

#### vi. Other matters, including consultation responses.

The North Yorkshire County Council Ecologist noted in a consultation response dated 18th August 2020 *“Thank you for consulting the NYCC ecology team regarding this application. Looking at aerial photography, the site of the proposed stables would be a field of agriculturally-improved grassland adjoining the existing equestrian facilities at East Lilling Grange Farm. This is likely to be of negligible nature conservation value and we have no concerns from an ecology point of view, provided that (a) good practice in the management of manure is followed to prevent pollution of watercourses and (b) any external lighting should be directed away from hedgerows, which may be used as movement corridors by nocturnal wildlife.”* As noted above, a condition to require details of any external lighting prior to installation will be required.

Therefore following careful review of the proposed development and investigation into the planning history of the site, on the balance of probabilities and in light of the incoming supporting information, Officers are of the view that no retrospective change of use application is necessary. It is acknowledged that various unlawful operational developments have occurred and what can be controlled via this planning application has been (with the identified exception of wider lighting which will be separately reviewed.)

The Local Planning Authority will be closely monitoring the situation on site and it is considered that the proposed planning conditions are reasonable in meeting the tests of soundness of planning conditions.

It is considered that the proposed development would not result in a material level of harm to the occupiers of residential dwellings nor would it result in harm to the character of the locality or wider landscape, nor to the setting of the Grade II Listed Building. It is also considered that this presents an enhancement in terms of access and highway safety.

Subject to these identified conditions we can be satisfied that this proposal conforms with Policies SP1, SP9, SP12, SP13, SP16, SP17, SP19 and SP20 of the Ryedale Local Plan, Local Plan Strategy and the recommendation is for approval – subject to the following conditions:

#### **RECOMMENDATION:                      Approval**

- 1            The non-retrospective elements of the development hereby permitted (the stable building and associated works, the amendment to the entrance and passing place, proposed additional hardstanding and the acoustic fencing) shall be begun on or before .

Reason: To ensure compliance with Section 51 of the Planning and Compulsory Purchase Act 2004

- 2 The development hereby permitted shall be carried out in accordance with the following approved plan(s):  
Proposed Use at Hardcore Areas Plan (DHL 7A/1 Nov 20 Amended to include wide access Oct 21)  
Proposed Use at Hardcore Areas Plan (DHL 6 a/b/c Nov 20 revised stable barn position)  
Proposed Boundary Treatment Plan Evergreen Planting and Acoustic Fence C-D on Plan (Drawing no. DHL 3A a/b Nov 20)  
Isolation Stable Barn DHL Eventing Ltd East Lilling Grange (Drawing no DHL 2A a/b/c November 2020)  
Isolation Stable Barn DHL Eventing Ltd East Lilling Grange (Drawing no DHL 1A a/b/c November 2020)  
Site Block Plan and Site Location Plan (DHL 4a/b/c November 2020 Amended Jan 21/A to indicate proposed isolation Stable barn repositioned, location of acoustic fence and to indicate temporary and permanent storage containers.  
Temporary tended Stabling (No Drawing no. 1:100 Oct 2020)  
Temporary Stabling Location Plan (No Drawing no - Blackwells.)  
Plan showing existing hardcore areas, tarmac areas and recent hardcore areas proposed for retention. (Yellow) (DHL 5A November 2020 1:2500 - Blackwells.)

Reason: For the avoidance of doubt and in the interests of proper planning.

- 3 Unless otherwise approved in writing by the Local Planning Authority, the temporary stabling and shipping container must be removed from the site prior to the occupation of the stable building hereby approved. Details and photographs must be provided to the Local Planning Authority following their removal and this will be recorded on the Planning Enforcement File.

Reason: In the interest of proper planning and to prevent the retention of unlawful development.

- 4 Unless otherwise approved in writing by the Local Planning Authority, prior to the above ground construction of the isolation stable building hereby approved, the proposed 2.5m high acoustic fencing to be located as per the approved plans and in accordance with the submitted details (Drawing no. DHL 3A a/b Nov 20, DHL 4a/b/c November 2020 Amended Jan 21/A and JCW Reflective Sound Screen Details).  
Once installed, this shall be visited by the Local Planning Authority to ensure that this has been installed to the correct specification. Following written approval of this and any other relevant precommencement conditions, the Applicant may then proceed with the erection of the stable block hereby proposed.

Reason: in the interests of proper planning to ensure that the proposed acoustic fencing can be properly sited and in the interests of protecting neighbouring residential amenity in accordance with Policies SP16 and SP20 of the Ryedale Plan, Local Plan Strategy.

- 5 Unless otherwise approved in writing by the Local Planning Authority, no lighting shall be installed at externally to serve the developments hereby approved unless first agreed in writing with the Local Planning Authority.  
Informative: Any unauthorised lighting within the site will be separately reviewed by Officers.

Reason: In the interests of the character of the Area of High Landscape Value in accordance with Policy SP13 of the Ryedale Plan, Local Plan Strategy.

- 6 All manure waste on the site shall be managed in line with the agreed details contained within the Manure Management Plan (Robert Burns Designs - Amended 16th November 2020) Any variation from this agreed scheme shall require the written approval of the Local Planning Authority.

Informative: the proximity of the adjoining residential property East Lilling Grange is noted and the Applicant is advised to be mindful of their residential amenity. Ryedale District Council will investigate potential instances of statutory nuisance.

Reason: In the interests of the residential amenity, in accordance with Policy SP20 of the Ryedale Plan, Local Plan Strategy.

- 7 No development approved by this permission shall be commenced until the Local Planning Authority in consultation with Foss (2008) Internal Drainage Board has approved a Scheme for the provision of surface water drainage works.  
Any such Scheme shall be implemented to the reasonable satisfaction of the Local Planning Authority before the development is brought into use.

The following criteria should be considered:

- The suitability of soakaways, as a means of surface water disposal, should first be ascertained in accordance with BRE Digest 365 or other approved methodology.
- If soakaways are not feasible, then the Board may consider a proposal to discharge surface water to a watercourse (directly or indirectly).
- For the redevelopment of a brownfield site, the applicant should first establish the extent of any existing discharge to that watercourse.
- Peak run-off from a brownfield site should be attenuated to 70% of any existing discharge rate (existing rate taken as 140lit/sec/ha or the established rate whichever is the lesser for the connected impermeable area).
- Discharge from "greenfield sites" taken as 1.4 lit/sec/ha (1:1yr storm).
- Storage volume should accommodate a 1:30 yr event with no surface flooding and no overland discharge off the site in a 1:100yr event.
- A 30% allowance for climate change should be included in all calculations.
- A range of durations should be used to establish the worst-case scenario.

Reason: To ensure the development is provided with satisfactory means of drainage and to reduce the risk of flooding in accordance with Policy SP17 of the Ryedale Plan, Local Plan Strategy.

- 8 Unless otherwise agreed in writing with the Local Planning Authority, prior to any above ground construction of the isolation stables hereby approved, plans showing details of a landscaping and planting scheme shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall provide for the planting of any trees/shrubs and show any areas to be grass seeded or turfed and indicate the accurate positioning and canopy spread of all existing landscaping to be retained. The submitted plans and/or accompanying schedules shall indicate numbers, species, heights on planting, and positions of all trees and shrubs. All planting seeding and/or turfing comprised in the above scheme shall be carried out during the first planting season following the commencement of the development, or such longer period as may be agreed in writing by the Local Planning Authority. Any trees or shrubs which, within a period of five years from being planted, die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar sizes and species, unless the Local Planning Authority gives written consent to any variation.

Reason: To enhance the appearance of the development hereby approved in accordance with policy SP20 of the Ryedale Plan - Local Plan Strategy.

9

The widening of the highway verge and/or footway must be constructed in accordance with the approved details on drawing number dhl.7A/1, Nov 20 (wide access added Oct 21) and construction cross section to Standard Detail number E50 Rev A and the following requirements.

- Any gates or barriers must be erected a minimum distance of 5 metres back from the carriageway of the existing highway and must not be able to swing over the existing or proposed highway.
- The final surfacing of any private access within 5 metres of the public highway must not contain any loose material that is capable of being drawn on to the existing or proposed public highway.
- Measures to enable vehicles to enter and leave the site in a forward gear.

All works must accord with the approved details.

Reason: To ensure a satisfactory means of access to the site from the public highway in the interests of highway safety and the convenience of all highway users in accordance with Policy SP20 of the Ryedale Plan, Local Plan Strategy.

MHi-C New and altered Private Access or Verge Crossing -(MHC-03)

Notwithstanding any valid planning permission for works to amend the existing highway, you are advised that a separate licence will be required from North Yorkshire County Council as the Local Highway Authority in order to allow any works in the existing public highway to be carried out. The 'Specification for Housing and Industrial Estate Roads and Private Street Works' published by North Yorkshire County Council as the Local Highway Authority, is available to download from the County Council's web site:

[https://www.northyorks.gov.uk/sites/default/files/fileroot/Transport%20and%20streets/Roads%2C%20highways%20and%20pavements/Specification for housing ind est roads street works 2nd edi.pdf](https://www.northyorks.gov.uk/sites/default/files/fileroot/Transport%20and%20streets/Roads%2C%20highways%20and%20pavements/Specification%20for%20housing%20and%20industrial%20estate%20roads%20specification%202nd%20edition.pdf)

The Local Highway Authority will also be pleased to provide the detailed constructional specifications referred to in this condition.