

Appeal Decision

Hearing held on 4 October 2016

Site visit made on 4 October 2016

by John Dowsett MA DipURP DipUD MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 28th October 2016

Appeal Ref: APP/P3040/W/16/3149419

Brooklands Stables, Costock Road, Wysall, Nottingham NG12 5QT

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr D Walsh against the decision of Rushcliffe Borough Council.
 - The application Ref 11/01316/FUL, dated 15 August 2011, was refused by notice dated 29 October 2015.
 - The development proposed is the siting of a mobile home in connection with a livery use.
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Decision

1. The appeal is allowed and planning permission is granted for the siting of a mobile home in connection with a livery use at Brooklands Stables, Costock Road, Wysall, Nottingham NG12 5QT in accordance with the terms of the application, Ref: 11/01316/FUL , dated 15 August 2011, subject to the following conditions:
 - 1) The use hereby permitted shall be for a limited period being the period of 3 years from the date of this decision. The building hereby permitted shall be removed and the land restored to its former condition on or before 31 January 2020 in accordance with a scheme of work that shall first have been submitted to and approved in writing by the local planning authority.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Drawing Number MSP 620/001 (site layout plan); Drawing number MSP 620/002 (site location plan); and Drawing number MSP 620/003 (elevations).
 - 3) The occupation of the dwelling shall be limited to a person solely or mainly employed in connection with the operation of the equestrian business at Brooklands Stables, or a widow or widower or surviving civil partner of such a person, and to any resident dependants.

Main Issue

2. The main issue in this appeal is whether there is an essential need for a rural worker to live permanently on the site.
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Reasons

Background

3. The appellant has been engaged in running a livery business on the site for a number of years with planning permission for the livery use being granted in 2010. The livery business can accommodate up to 20 horses in an American style barn and two smaller sets of external loose boxes. A horse walking machine and riding arena are also present at the stables along with open paddocks. It was stated at the hearing that this is operated on a full livery basis where the appellant has complete responsibility for the welfare and exercise of the horses.

Policy Context

4. Whilst the planning officer's report refers to Policies 1, 5 and 10 of the Rushcliffe Local Plan Core Strategy 2014 and Policies GP2, EN19, EN20, HOU4 and HOU5 of the Rushcliffe Borough Non-Statutory Replacement Local Plan 2006 (NSRLP), the reason for refusal refers solely to Policy HOU5 of the NSRLP. This policy deals specifically with temporary dwellings in association with farming activities or other activities that are appropriate in open countryside. The NSRLP has been adopted by the Council for development management purposes but is not a formally adopted development plan. However, the policies in the NSRLP have been subject to formal examination and consequently significant weight has been given to them in determining planning applications and appeals.
5. Policy HOU5 predates the publication of the National Planning Policy Framework (the Framework) and was written within the context of earlier national guidance¹. The consistency of the Policy HOU5 with the framework was discussed at the hearing. It was agreed that the basic thrust of Policy HOU5 is to restrict new housing in the countryside except where there are special circumstances and this is consistent with the guidance in Paragraph 55 of the Framework. Substantial weight can still therefore be given to Policy HOU5. It is therefore necessary to consider whether there is an essential need for a rural worker to live permanently at or near their place of work in the countryside and whether there is clear evidence of both a firm intention to develop the enterprise and that it has been planned on a sound financial basis.

Essential need

6. The business provides a full livery service where the appellant is wholly responsible for the care, welfare and exercising of the horses accommodated on the site. At the hearing, the appellant also stated that an element of training is also carried out. The business caters for high value horses and the intention is also to expand into providing equine therapy services which would require horses to be brought to and cared for on the site.
7. Medical conditions such as colic can onset suddenly in horses and require urgent action and treatment. It was confirmed by the appellant that, from a welfare perspective, relatively common conditions such as colic can, if not swiftly attended to, lead to serious health issues and mortality.

¹ Planning Policy Statement 7: Sustainable Development in Rural Areas

8. It was suggested that by living on site and within sight and sound of the stables, the appellant is more likely to be aware of an animal in distress and treatment can be given sooner and, in addition, periodic checks can be more easily carried out. Evidence was submitted with the appeal that horse owners are disinclined to stable animals if there is no on site supervision and that the appellant is unable to obtain veterinary referrals for equine therapy due to not living on site which is hampering expansion of the business.
9. Reference has been made by both parties to a number of appeal decisions for similar livery stable operations. In some cases it has been considered that a worker living on site is essential and in others it has not. There is no clear pattern in the decisions provided. It was however, agreed that in most cases it was regarded as preferable for a worker to live on the site.
10. More compelling is the reference made by the appellant to a planning permission granted in 2013 by the Council for establishment of new equine business with a temporary dwelling at Widmerpool Lane, approximately 3 and a half miles from the appeal site. From the evidence this business appears to be essentially similar to that carried out at the appeal site and it is similarly located in the countryside but near to settlements. In this case it was accepted that there were no suitable properties nearby and a temporary dwelling was permitted. This case is almost directly analogous to the current appeal and the Council were not able to indicate any circumstances that would differentiate it from the appeal proposal.
11. Whilst the Council provided evidence of a large number of properties for sale in the area, the majority of these are some distance from the appeal site, making periodic checks in the evenings and night time less efficient to carry out. Due to relatively high property prices in the close vicinity of the appeal site there are also affordability issues for the appellant. Although there is internal video monitoring of the barn, this is not capable of being monitored remotely. The building alarms do sound remotely, although the appellant advised at the hearing that, when these have been triggered by intruders, in the time it took to travel to the site, property had been stolen and the intruders had left. Remote audio and video monitoring of the facility for welfare rather than security purposes has not been seriously considered by the appellant. However, whilst this is technically possible, it would not overcome the need to travel from a remote location to address welfare issues which could require regular and swift attention.
12. It was not considered that the use of temporary sleeping accommodation such as a touring caravan to monitor known welfare issues was a solution as the need would be too frequent, and would not necessarily be acceptable to the Council.
13. On this basis, I consider that the number of animals, combined with the higher monetary value of the horses and related concerns regarding client confidence indicates that the nature of the enterprise demonstrates an essential physical need for a worker to live permanently on the site.
14. The livery business has been operating for a number of years now. The Council had questioned whether there was sufficient security of tenure for the business to justify a dwelling on the site. At the hearing, a copy of a lease was provided which shows that the appellant has security of tenure until March 2039. The appellant has built up the business since it was established in 2010 and it was

stated verbally at the hearing that in the event that the appellant were able to reside at the site, the business would be developed further to include equine therapy. From this, I consider that there is a clear intention to develop the business, which would meet the first part of the test in Policy HOU5.

15. Various sets of business accounts have been submitted. Whilst there is some question as to whether these include the wages of the employees of the business, and the appellant was unable to confirm where in the accounts staff wages were incorporated, they do nonetheless show a year on year profit and that this has increased over the time that the business has been established. The test in Policy HOU5 is that the business has been planned on a sound financial basis. The business has successfully operated for more than five years and has made a profit each year. This is sufficient evidence to show that there is an adequately sound financial basis for the business to justify a temporary building.
16. The business meets the tests set out in Policy HOU5 and also meets the requirement of Paragraph 55 of the Framework. I therefore conclude that there is a need for a worker to live permanently on the site and that the proposed temporary building would meet the requirements of the Policy.

Other matters

17. It is common ground between the parties that the proposed mobile home would not cause harm to the character and appearance of the area and would not have any adverse effect on the living conditions of the occupiers of nearby residential properties. It is also common ground that the proposal would not cause harm to road safety in the vicinity of the appeal site and that adequate drainage can be achieved. From the evidence before me, and from what I saw on the site visit, I have no reason to disagree with this position.

Conditions

18. I have had regard to the conditions that have been suggested by the Council. It was agreed at the hearing that should planning permission be granted, as the proposal is for a mobile home, it is necessary to impose a condition limiting the time that the mobile home can be retained on site due to the temporary nature of the building. I have also included a short period of time following removal of the building to allow for reinstatement of the site. In order to provide certainty as to what has been granted planning permission, I have imposed a condition specifying the approved drawings. It is also necessary to restrict the occupation of the mobile home to a person employed at the stables as the building is required in connection with the livery stable business.

Conclusion

19. For the above reasons the appeal should be allowed and planning permission granted in accordance with the conditions discussed above.

John Dowsett

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Mike Sibthorp	Mike Sibthorp Planning
Richard Bacon MBA, BSc	Equine Business Consultant
Darren Walsh	Appellant
Rebecca Lovatt-Walsh	Appellant
Derek Lovatt	Landowner

FOR THE LOCAL PLANNING AUTHORITY:

Joe Mitson	Planning Officer
Andrew Coobe MRICS, FAAV	Sangham Agricultural Planning Limited

INTERESTED PERSONS:

Greg Sharman	6 Yew Tree Close, Rockcliffe on Trent
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DOCUMENTS SUBMITTED AT THE HEARING

1. Statement of Common Ground
2. Lease between Derek Lovatt and Darren Walsh, dated 18 March 2014
3. List of properties for sale in the area, dated 3 October 2016