
Appeal Decision

Hearing held on 22 September 2016

Site visit made on 22 September 2016

by Claire Victory BA (Hons) BPI MRTPI

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

Decision date: 28 December 2016

Appeal Ref: APP/C1760/W/16/3149312

Eight Acres, Upton Lane, Nursling, Southampton SO16 0XY

- 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 Corporate Horse Ltd trading as Brunswick Carriage Company against the decision of Test Valley Borough Council.
 - The application Ref 14/02644/FULLS, dated 6 November 2014, was refused by notice dated 27 October 2015.
 - The development proposed is two equestrian workers flats.
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Decision

1. The appeal is allowed and planning permission is granted for two equestrian workers flats at Eight Acres, Upton Lane, Nursling, Southampton SO16 0XY in accordance with the terms of the application, Ref 14/02644/FULLS, dated 6 November 2014, subject to the following condition:
 - 1) "The occupation of the dwellings hereby approved shall be limited to a person solely or mainly employed, or last employed, in the locality in agriculture as defined by section 336(1) of the Town and Country Planning Act 1990 or in forestry or an equestrian business at this site, or as a dependent of such person residing with him or her, or a widow or widower of such a person."

Background and Main Issue

2. The Council adopted its Revised Local Plan on 27 January 2016, and the Test Valley Borough Local Plan (2006) was withdrawn on the same date. For the avoidance of doubt I have determined the appeal in accordance with the Revised Local Plan.
 3. A unilateral undertaking was submitted at the Hearing, which provides for a financial contribution towards mitigation of European Designated Sites. I deal with this in more detail below.
 4. Since the appeal was submitted the Council has adopted a Community Infrastructure Levy Charging Schedule. Consequently the Council confirmed at the Hearing that it was no longer contesting the second and third reasons for refusal. The main issue in the appeal is therefore:
 - Whether the enterprise justifies the residential accommodation proposed, having regard to the aims of national and local policies and guidance which seeks to restrict new development in the countryside.
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Reasons

5. The appeal site is located on the north side of Upton Lane. Farm buildings and a small number of residential properties lie to the north of the site, and the access drive to the Grade I listed Grove Place, a retirement home, lies to the east. An area of woodland adjoins the site to the west, and the M27 motorway is some 250m to the south. The village of Upton is about 800m from the site to the east, and the village of Nursling is approximately 800m to the north-west.
6. Eight Acres comprises two barns, stables, an agricultural workers dwelling, and paddocks on either side of the access road. Planning permission was granted in 2013 for an equestrian workers dwelling, which has been built and is occupied by the appellant and his wife. The appeal proposal is for two equestrian workers flats, within one of the stable blocks, to meet the essential need for 2 additional members of staff to be present on site to support the Brunswick Carriages enterprise.
7. LP Policy COM2 of the Test Valley Revised Local Plan (LP) (2016) states that new residential development outside settlement boundaries are not normally permitted except where there is an overriding need in the interest of the rural economy. The National Planning Policy Framework (the Framework) at paragraph 55 seeks to avoid new dwellings in countryside, save a number of exceptions. These include where there is an essential need for a rural worker to live at or near their place of work in the countryside.
8. LP Policy COM10 part b) applies to existing businesses that have been established for three years or more. In these circumstances, proposals for a rural workers dwelling will be permitted providing there is an essential need for the dwelling; the business is viable and established; there are no suitable and available existing accommodation either connected to the business or within the area; and the occupancy of the dwelling is restricted to those employed in the activity for which the dwelling was originally permitted.
9. The business has been operational since 2011, and there are now 15 horses on the holding. It provides carriages for corporate events, weddings and funerals, and is said to be developing further to provide carriage holidays in the New Forest. Financial information provided by the appellant indicates the steady growth of the business in recent years. It operates seven days a week and during non-event days the stables operate about 7am to 5pm, with longer hours on event days. During peak periods there are two or three bookings on a single day.
10. Mr and Mrs Finnegan both work full time in the business, although at the Hearing Mr Finnegan confirmed his wife also has a hairdressing business. Nonetheless, as they live on site their working hours are flexible and they often work early or late hours depending on what is required for the events booked. A manager and assistant site manager are also employed full time and currently live on site within the residential units subject of this appeal.
11. Funerals form a major element of the business, which is under contract to three national funeral director groups. Whilst weddings and corporate events can be booked much further ahead, there is less flexibility in bookings from the national funeral directors, a shorter lead in time. There is also a relatively large catchment within the south east for events, involving a long drive time,

- and early starts and late finishes at the stables. Travel further afield is therefore necessary to expand and maintain the business.
12. The appellant is the main driver and coachman and is frequently away from the stables at events, particularly during the day. Mrs Finnegan, whilst assisting at the stables at different times of the day as well as doing the book keeping for the business, also runs a hairdressing business and will not always be on site. The provision of the additional dwellings enables either the yard manager or assistant yard manager to be present at all times of the day. This flexibility is integral to the continued success of the business.
 13. Turning to the welfare needs of the horses on site, I heard that there may be multiple carriages arriving from different events on occasion, particularly during the peak season, and as such there is a need to prepare the horses and upload the lorries in the morning or wash down and feed them on arrival back at the stables. I also note evidence from a veterinary surgeon¹ that staff may be required to deal with emergency situations when Mr Finnegan is absent.
 14. The Council asserts that it was intended for the dwelling permitted in 2013 to provide occasional accommodation for additional staff. A bedroom in that dwelling is used for drivers on occasion if they arrive back late at night or require an early start, as set out in the supporting statement for the application granted in 2013² but I do not consider it would be a suitable or reasonable arrangement to expect permanent staff to share the single family dwelling with the appellant and his family.
 15. Furthermore, on the evidence before me there is a lack of alternative affordable accommodation within nearby villages and the unpredictability of the hours worked on different days would not make it attractive to staff travelling to and from accommodation a longer distance away. The work of the grooms is relatively low paid, and on-site accommodation is considered as part of the overall staff package and an incentive for staff retention. A comparison was made at the Hearing to race yards where accommodation for grooms on site is generally well accepted.
 16. Paragraph 28 of the Framework recognises the need to support the rural economy. It is clear that the business has grown since the rural worker's dwelling was permitted in 2013. The need to retain skilled staff is particularly important in order to maintain national contracts with funeral directors, and high turnover of staff would be a risk to the enterprise.
 17. For all of the above reasons, I conclude that there is a functional requirement for the additional accommodation at the appeal site for rural workers as proposed and the proposal would meet all the criteria set out in LP Policy COM10 b). The scheme would accord with the development plan as a whole, and the Framework.

Other Matters

18. The Council has advised that the site lies within an area where it is necessary to mitigate the effects of new residential development on the New Forest SPA and Solent and Southampton Water SPA, in accordance with LP Policy E5. A signed and executed unilateral undertaking has been submitted which provides

¹ Appendix 1 to Appellant Statement of Case – Equine Consultancy Group (April 2016)

² Paragraph 4.12 of Planning Supporting Statement – DPDS Consulting Group (August 2013)

a contribution towards the required mitigation measures, and the Council has confirmed this is acceptable. Accordingly I am satisfied that the contributions sought by the Council would meet the tests in paragraph 204 of the Framework and Regulation 122 of the Community Infrastructure Levy (CIL) Regulations 2010.

Conclusion

19. I have found that there is an essential need for the two equestrian workers units. Because the development is in place, the usual conditions requiring commencement within a certain time and compliance with submitted plans do not apply. However a condition is required to restrict the occupancy of the dwellings to someone currently or formerly working in agriculture or forestry, as the development is only justified on the grounds of this exceptional need.
20. The Council have also suggested that a condition is imposed to require the development to meet the requirements of part G2 of the Building Regulations 2015 in respect of water efficiency. This would accord with LP Policy E7. However, the Planning Practice Guidance³ advises that conditions requiring compliance with other regulatory requirements will not meet the test of necessity and thus I shall not impose it.
21. For the reasons set out above, I conclude that the appeal should be allowed.

Claire Victory

INSPECTOR

³ Planning Practice Guidance Paragraph 005 Reference ID: 21a-00520140306

APPEARANCES

For the Council:

Paul Goodman Planning Officer, Test Valley Borough Council

For the Appellant:

Rebecca Wilson Equine Consultancy Group

John Finnegan Appellant, Owner of Corporate Horse Ltd

Kerry Pfleger Pegasus Group

DOCUMENTS SUBMITTED AT THE HEARING

- 1 Statement of Common Ground
- 2 Brochure of appellant's business
- 3 Unilateral undertaking
- 4 Covering email setting out requirements for unilateral undertaking