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## Appeal Decision

Hearing held on 1 February 2017

Site visit made on 1 February 2017

**by A J Mageean BA (Hons) BPI PhD MRTPI**

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

**Decision date: 21<sup>st</sup> March 2017**

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**Appeal Ref: APP/N2739/W/16/3153547**

**Hollybank Forge, Philip Lane, Hambleton, Selby YO8 9GB**

- 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 Mrs Eva Taylor against the decision of Selby District Council.
  - The application Ref 2015/1221/FUL, dated 3 November 2015, was refused by notice dated 1 June 2016.
  - The development proposed is conversion of single storey barn to a three bedroom dwelling.
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### Decision

1. The appeal is allowed and planning permission is granted for conversion of single storey barn to a three bedroom dwelling at Hollybank Forge, Philip Lane, Hambleton, Selby YO8 9GB in accordance with the terms of the application, Ref 2015/1221/FUL, dated 3 November 2015, subject to the following conditions:
  - 1) The development hereby permitted shall begin no later than 3 years from the date of this decision.
  - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 1166 001 Existing Plans; 1166 002 Proposed Plans; 1166 003 Location Plan.
  - 3) Prior to the commencement of the development the materials to be used in the construction of the exterior walls and roof of the development hereby approved shall be submitted to and approved in writing by the Local Planning Authority, and only the approved materials shall be utilised.
  - 4) The occupation of the residential dwelling hereby permitted shall be limited to a person who is a proprietor of or who is otherwise mainly engaged in the supervision and care of horses at the laminitis clinic at Hollybank Forge, Philip Lane, Hambleton and to any resident dependant of such a person.

### Main Issue

2. The main issue is whether, having regard to the National Planning Policy Framework which seeks to avoid isolated new homes in the countryside, there is an essential need for a rural worker to live permanently at their place of work.
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## Reasons

### *Background*

3. Hollybank Forge was constructed following planning approval in 2006 for the erection of a forge and stables and the change of use of the land from agricultural to equestrian.<sup>1</sup> The scheme comprised the development of a forge to be used for the hot and cold shoeing of horses and stables to be used in connection with a laminitis clinic, with the remaining agricultural lands used for the keeping of horses.
4. The barn which is the subject of this application was intended for storage purposes as part of the 2006 application, but has only been partially constructed. A single storey log cabin in which the appellant and her family are currently living is an unauthorised structure. This was introduced originally for security purposes during the construction phase of the Forge, and was the subject of a retrospective application for its retention which was dismissed at appeal in 2012<sup>2</sup>. I understand that in subsequent induction proceedings the appellant has given an undertaking that if the present appeal is unsuccessful residential use on the site will cease within three months.

### *Policy context*

5. The reason for refusal refers to paragraph 55 of the National Planning Policy Framework (the Framework). This states that to promote sustainable development in rural areas local planning authorities should avoid isolated new homes in the countryside unless there are special circumstances, such as the essential need for a rural worker to live permanently at or near their place of work. The Selby District Core Strategy Local Plan 2013 (the Core Strategy) Policy SP2 generally echoes this approach<sup>3</sup>.
6. Current policy does not require the application of specific functional and financial tests to such cases, though I note that the previous Inspector considered that detailed guidance which had been cancelled was *still relevant and appropriate*. The parties have referred to various previous cases in which functional and financial testing have featured to greater or lesser degrees. At the present time it is clear that the *essential need* for a *permanent* agricultural workers dwelling should be considered both in terms of the operational need for someone to be on site at most times, and also whether the business in question has reasonable long term prospects, such that it may be regarded as permanent. I will therefore consider firstly the nature of the business and its operational needs, and secondly, whether it is likely to endure in the longer term.
7. The parties also make reference to paragraph 28 of the Framework which supports sustainable new development in rural areas, and the Core Strategy Policy SP13 which additionally supports the expansion of rural businesses. As this proposal is for a rural worker's dwelling these policies are not strictly

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<sup>1</sup> 2006/1431/FUL

<sup>2</sup> APP/N2739/C/12/2174853 & 2174854; APP/N2739/A/12/2174932

<sup>3</sup> Policy SP2 limits development in the countryside to the re-use, replacement or extension of existing buildings and well-designed new buildings which would contribute towards and improve the local economy and where it will enhance or maintain the vitality rural communities or meet affordable housing need or other special circumstances.

applicable, nonetheless the principle of supporting a prosperous rural economy is of some relevance.

*Operational requirements of the business*

8. A number of business elements operate out of Hollybank Forge: the on-site forge which is used primarily for the hot and cold shoeing of horses, a mobile farrier service used to treat horses at their owners' premises, and a laminitis clinic operating from the stable block. This latter component provides what the appellant describes as specialist laminitis care and involves the residential care of sick animals for up to 5 weeks through remedial shoeing and other treatments. Other equine conditions such as tendon injuries and hospital plate shoes for severe wounds and lameness are also treated.
9. It appears that the laminitis clinic has become a more significant element of the business than was originally envisaged. It operates largely on the basis of referrals from vets and other farriers. Once in the clinic the more severe cases require 24 hour monitoring and treatment, which can require regular checking in person throughout the day and night. Less severe cases, and recovering animals are monitored through the CCTV which is installed in each stable. Whilst I accept that the more general monitoring could be undertaken remotely, it is clear that horses in the acute stages of this condition require an on-site presence at most times.
10. The appellant also argues that a permanent on site presence is required to manage security issues, given the relatively remote location of the Forge and the high value of both the horses and equipment on site. Whilst I accept that this is of concern, it could be managed with appropriate surveillance equipment and security measures, and would not in itself be sufficient justification for on-site accommodation.
11. The previous Inspector observed that from when the premises first came into use in 2009 until September 2011 16 animals were treated, and between February and September 2012 11 animals were treated. On this basis the Inspector concluded that there was not a need for someone to be there at most times, and that this situation was not likely to change. Over the intervening years annual occupancy has ranged from 42 to 50 horses, suggesting at least a tripling of the 2012 figure and therefore a modest but consistent increase in the operational demands of this business.
12. The calculations presented by the Council at the hearing indicate that occupancy levels have been around a third of a theoretical maximum capacity at the stables<sup>4</sup>. Whilst I accept that these levels have been well below maximum, it is clear that over the past four to five years there has been a reasonably stable level of usage, with an increase in the overall number of weeks of occupancy in both 2014/15 (116) and 2015/16 (141). In this respect my view is that the business has demonstrated the need for a 24 hour on-site presence for a sizable proportion of the year. Furthermore the responsive nature of the service means that demand is unpredictable, and for this reason there is an operational need for a worker to be available on site at most times.
13. I note the observations of interested parties which question the nature and scale of activity at the laminitis clinic. However, on the basis of the figures and

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<sup>4</sup> On the basis of 8 stables the theoretical maximum capacity would be 450 weeks.

evidence presented by the appellant, including the letters of support from customers and related businesses, it is clear to me that the appellant is operating a legitimate and well respected business.

14. As there are a limited number of stables available this is a relatively small scale operation. A larger facility might reasonably employ a number of people on a shift basis, removing the requirement for permanent on-site accommodation. However, in the present case I accept with on-site accommodation the appellant and her partner could further develop and manage this enterprise between them, whilst caring for their young family.
15. In this respect I agree with the point made by the Council's adviser in relation to this application that, if the information given regarding the number of cases and duration of treatment at the laminitis clinic is accurate, "*then I do believe that there is an essential need for a rural worker to live on the site*"<sup>5</sup>. This same document also states that "*this is not a sustainable business*". It is to this latter point, or more specifically the likelihood that the business will endure, that I now turn.

*Whether an operational need is likely to endure*

16. As a starting point I accept the Council's point that the sustainability of this business was not in itself proved as part of the original application. At that time propositions about the future viability of the equestrian farriery business were for the most part theoretical, though Mrs Taylor and Mr Clarke had experience in this area.
17. The accounts relating to the 'Stabling and Laminitic Clinic' and 'Mobile Farriery' are presented for the past four financial years<sup>6</sup>. These demonstrate a modest annual net profit, which dipped in 2012/13 at a time when there was storm damage to the forge building. This figure increased in 2015/16, though I note that these accounts are currently in draft form. I agree that there are some anomalies within these figures when examined in detail, and that they suggest that the income generated could not support two full time members of staff<sup>7</sup>. The Council also states that from these accounts it does not appear that the funding required to invest in the business is available, however I accept that the appellant has other sources to draw on.
18. Overall it is clear that the business has remained reasonably stable over the past four years, demonstrating a degree of resilience, with the probability that this will continue into the future. I accept that Mr Clark has other business interests which have and may continue to contribute to the overall commercial viability of Hollybank Forge. My view is that this fact does not undermine this case, as some diversity of operations is typical of many rural enterprises.
19. I noted on my site visit that whilst considerable investment has been made in the facilities at Hollybank Forge, some aspects have not been completed. In addition to the partly constructed barn, investment in further building work, drainage and surfacing is required. However, I have some sympathy with the appellant's reluctance to further invest in the facilities at Hollybank Forge due

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<sup>5</sup> Review of a Planning Appraisal on behalf of Selby District Council Reference 2015/1221/FUL. Prepared by Jonathan Wood, Chris Clubley and Co Ltd. 16 February 2016.

<sup>6</sup> Unaudited Financial Statements for 2012/3, 2013/14, 2014/15 and 2015/16.

<sup>7</sup> I understand that the appellant's partner also employs two part-time apprentice farriers, but that these are employed through the farrier business which is accounted for separately.

to the uncertainty around the future residential occupancy of the site. I accept that without such surety it would not be reasonable to make further investment in the development of the clinic, with the commensurate increase in the commitment to an on-site presence this would require.

20. The appellant argues that the clinic has the potential to grow but that it has not been actively promoted. Whilst there is a website the appellant states that this is in place for the integrity of the business when accepting referrals. It does not appear in usual searches. I accept that, based on a number of years of fairly consistent levels of occupation in the clinic, it would be reasonable to expect that if a permanent on site residence were to be secured, this would allow the appellant to commit to the further development and promotion of this business.
21. The Council notes that the proposal involves the residential conversion of what was previously envisaged as a barn for the storage of hay, and the use instead of one of the 8 stables for such storage. It is suggested that this indicates an acceptance that the business will not grow sufficiently to require all stables. However, I accept the appellant's explanation that alternative arrangements have been made for the collection and storage of hay, which is brought in in small quantities on a regular basis. Whilst it appears that the clinic will only have access to 7 stables, I note that the individual stables are of sufficient size to accommodate some storage within them. In this respect there is some flexibility within these facilities.
22. The Council argues that the mobile farrier work is taking Mr Clarke off site, so that he is not able to provide the level of on-site presence required to support this business. Nevertheless it is clear that this is a responsive business, and as such the day to day operations at the Forge will vary, with Mr Clark and Mrs Taylor managing specific requirements accordingly.
23. Based on the evidence of the past few years of operation, my view is that the appellant has demonstrated that the laminitis clinic has both an operational need for a permanent on-site presence, and the probability that this business will endure. I am therefore satisfied that a permanent essential need, as required by paragraph 55 of the Framework and Core Strategy Policy SP2, has been demonstrated. Furthermore, my view is that the provision of a permanent dwelling would provide surety to this rural enterprise to enable its further development, thereby supporting the principle of a prosperous rural economy as envisaged by paragraph 28 of the Framework and Core Strategy Policy SP13.

#### **Other matters**

24. The Council's adviser states that as the barn has not been completed it cannot be considered as a conversion. The foundations and floor slab are in place and the external stone walls have been erected but there is no roof. Nevertheless the proposal would complete this structure in accordance with the plans submitted with the 2006 application, and in this respect would be of the same height and general appearance as the adjacent forge and stables block, though there would be some modifications to accommodate residential use. I also note that the parties have agreed in the Statement of Common Ground that in design terms the proposal would be acceptable, and I have no reason to take a different view.

25. The parties refer to the poor condition of Philip Lane, with the appellant noting that this is having an impact on the transport of horses to and from the clinic. I understand that there are some wider factors affecting this situation, including a complex enforcement history and the recent construction of a new pipeline under part of the road. However, no specific actions are suggested to address this situation as part of the present case and it therefore has little bearing on my overall conclusion.

### **Conditions**

26. I have considered the conditions put forward by the Council and discussed at the hearing. I have imposed a condition specifying the relevant plans as this provides certainty. A condition relating to the approval of materials is required in the interests of the character and appearance of the area, and such details are required prior to the commencement of development to ensure that it is satisfactory in this regard. Finally, a condition restricting the occupancy of the dwelling to the proprietor of the laminitis clinic and their dependants is required to ensure that the approved dwelling supports the functional need of this enterprise.

### **Conclusion**

27. For the above reasons I conclude that the appeal should be allowed.

*AJ Mageean*

INSPECTOR

## **APPEARANCES**

### FOR THE APPELLANT

|                |                     |
|----------------|---------------------|
| Eamonn Keogh   | Appellants agent    |
| Graeme Holbeck | Consultant          |
| Nick Clarke    | Appellant's partner |

### FOR THE LOCAL PLANNING AUTHORITY

|                 |                  |
|-----------------|------------------|
| Ruth Hardingham | Planning Officer |
| Peter Dixon     | Barrister        |
| Jonathon Wood   | Consultant       |
| Calum Rowley    | Officer          |

### INTERESTED PERSONS

|               |                       |
|---------------|-----------------------|
| Naomi Heikale | O'Neill Associates    |
| J Youle       | Planning Inspectorate |

### DOCUMENTS SUBMITTED AT THE HEARING:

1. Duration of treatment at the clinic/no. of cases.
2. Summary of accounts
3. Selby District Planning Officer Report for 2014/1237/OUT (8/09/98N/PA).
4. Review of an Agricultural Appraisal associated with 2014/1237/OUT submitted to Selby District Council by Chris Chubley & Co.