
Appeal Decision

Hearing held on 28 February 2017

Site visit made on 28 February 2017

by Andrew McCormack BSc (Hons) MRTPI

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

Decision date: 15 May 2017

Appeal Ref: APP/F2415/W/16/3164256

Harcourt Stud, Fleckney Road, Wistow, Leicestershire LE18 3TH

- 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 Charles Millington against the decision of Harborough District Council.
 - The application Ref 16/00285/FUL, dated 20 November 2015, was refused by notice dated 19 July 2016.
 - The development proposed is temporary log cabin for an equestrian worker.
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Decision

1. The appeal is allowed and planning permission is granted for a change of use of land for siting of temporary mobile home (revised scheme of 15/00957/FUL) at Harcourt Stud, Fleckney Road, Wistow, Leicestershire LE18 3TH in accordance with the terms of application Ref: 16/000285/FUL, dated 20 November 2015, and subject to the conditions set out in the attached schedule.

Procedural Matter

2. The description of development on the application form, as stated in the banner above, was amended by the Council when the application was registered to the following: '*Change of use of land for siting of temporary mobile home (revised scheme of 15/00957/FUL)*'. Having considered both descriptions, I find that the amended description better reflects the proposal and refers to an act of development, whereas the description on the application form does not. Therefore, I have referred to the amended description in my decision.
3. At the Hearing, further information was requested from the Council regarding the appellant's evidence on the costs of relocating power lines in relation to potential alternative sites. In addition, both parties were requested to devise, agree and submit a suggested landscaping condition for my consideration, were I to allow the appeal. I confirm that this information was received and that I have given the submissions due consideration in reaching my decision.

Main Issues

4. The main issues are:
 - whether the proposed development would be an isolated dwelling in the open countryside and, if so, whether there is an essential need for a dwelling to accommodate an equestrian worker on the site; and
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- the effect of the proposed development on the character and appearance of the surrounding area.

Reasons

5. The appeal site is situated to the south west of Newton Harcourt and is adjacent to existing facilities and buildings at Harcourt Stud. The immediate area around the site is rural in character and appearance with dispersed properties accessed by narrow country lanes and tracks. The Grand Union Canal flows approximately 80 metres to the north of the appeal site. Furthermore, the site is close to a public footpath which is on slightly elevated ground to the north. The proposed location of the temporary dwelling is adjacent to a small wooded area of trees. This area visually separates the appeal site from the rest of the stud complex and screens the existing buildings on the stud from wider view, particularly from the north and east.

Development in the countryside: isolation and essential need

6. Paragraph 55 of the National Planning Policy Framework (the Framework) states that local planning authorities should avoid new isolated homes in the countryside unless there are special circumstances which include the essential need for a rural worker to live permanently at or near their place of work in the countryside. Policy CS17 of the Harborough District Core Strategy 2011 (CS) states that only development required for the purposes of agriculture, woodland management, sport and recreation, local food initiatives, support visits to the District and renewable energy production will be appropriate in the countryside, subject to compliance with other relevant policies. This policy therefore strictly controls development in the countryside. As such, permission will only be granted for new dwellings required in connection with agriculture or another activity appropriately located in the countryside. Therefore, Policy CS17 is consistent with the Framework.
7. The Council has stated that equestrian activities, such as the appellant's business, are appropriate and acceptable in principle. However, the Council argues that the essential and functional requirements of the appellant's business are being met by an existing dwelling located in Newton Harcourt. Furthermore, it is argued that there is no equestrian support for the proposal as the stud manager currently occupies the dwelling in the village. Therefore, the Council believes that the existing dwelling is suitable to meet the essential needs of the existing enterprise as it has been managed from the village dwelling since 1994. It is also argued that the existing dwelling is capable of meeting the essential needs of the appellant's proposed enterprise.
8. The Council's assessment casts doubt on the feasibility and financial projections of the proposed enterprise in respect of the demand for full livery and foaling services. However, from what I have seen, heard and read, I find that the nature of the proposed enterprise would differ greatly from the existing business. Elements, such as foaling and a full time livery would in my view, require the on-site presence of a full time equestrian worker. Without this, I find that the risk to the health and well-being of horses on the site would likely increase. Moreover, the on-site presence would allow horses to be tended to more quickly than from the existing accommodation. In order for the proposed enterprise to develop and grow, I find that a residential presence to support the key services of that enterprise to be reasonable and necessary. Such provision would be expected by potential clients. Furthermore, it would

increase the security of the premises and the safety of the horses, particularly given the proposed location of the dwelling adjacent to the access lane. Notwithstanding the Council's assessment of the appellant's financial projections and demand for the proposed enterprise, I find that the above factors would likely have a positive effect on the demand for the proposed services. As a result, the proposed accommodation would seem to me to be reasonable and necessary to support the appellant's business plans.

9. I appreciate that the existing accommodation in Newton Harcourt is less than one kilometre from the site with a drive time of less than five minutes. However, I find that this travelling time would be significantly added to by other necessary and related activities including the locking, unlocking, opening and closing of property, gates and vehicles and the equestrian worker or stud manager potentially having to take time to get dressed, depending on the time of need. Such additional activities would have the potential to elongate response times and would therefore have the potential to have a materially detrimental effect on the welfare of the horses and the higher level of services provided by the proposed enterprise. Furthermore, whilst I appreciate that such activities may only extend the response time by a matter of minutes, I find this difference to have a significant bearing in this case.
10. The Council argues that monitoring by CCTV and other related alarm systems could alert the manager of any essential needs requiring attention without the need to be on site. I appreciate that remote monitoring of the premises would provide a level of care, management and supervision for the horses. However, given the differing nature of the activities proposed on the premises to those of the existing business, particularly foaling which, the evidence suggests, has a greater propensity to occur at night, I find that it would be essential to the potential growth of the business to have an equestrian worker resident on site.
11. At the Hearing, it was apparent to me that the nature of the activities relating to the proposed enterprise would not be seasonal and would, in effect, take place throughout the year. There would be differing needs, activities and focuses regarding the horses at the stud throughout a year. In different ways, these activities would require the presence of a full time worker on site. Therefore, it was argued that the provision of more temporary accommodation than that proposed, such as a caravan, for a shorter period of time would not meet the need of establishing the proposed enterprise. I find the appellant's argument in this regard compelling, particularly given the year-round activity which would be generated by the proposed enterprise. As a result, I find that the provision of a temporary caravan for the duration of a shorter specified period or season would not be appropriate in these particular circumstances.
12. I now turn to the alleged protected tenancy at the existing property in Newton Harcourt. The appellant has indicated that the tenant of the property and existing stud manager, Mr. Patrick Millington, has never been part of Millington Developments Ltd which owns the property. Furthermore, I note that a peppercorn rent has been charged on the tenancy and that Mr Millington would have nowhere else to live were that tenancy agreement to end. In addition, the appellant has expressed no desire to evict his brother, Mr Millington, from the property. I find this understandable.
13. The Council has indicated that Mr Millington has been living in the property since 2003. It is the Council's view that, by default, a secured tenancy would

be legally in place. As such, the Council argues that the property should be considered to be available and suitable in providing accommodation from which to manage the existing and proposed enterprises at Harcourt Stud. Whilst I acknowledge the Council's point, I have no substantive evidence before me to confirm that such a legal situation exists in this case. Therefore, I must give only limited weight to this. Furthermore, having had regard to the appellant's evidence regarding this matter, and my findings regarding the necessity for a residential presence on site, I given only limited weight to the tenancy of the existing accommodation and the personal circumstances of Mr Patrick Millington in my determination of the appeal.

14. I have been made aware of a previous grant of planning permission in 2008 for a similar scheme at Harcourt Stud which was not progressed. The Council argues that the business could have been developed into full liveries at that time in order to generate greater income through higher charges without the need for on-site accommodation. The appellant argues that the lack of development was due to incremental developments to the business being difficult and costly to implement. The appellant found that then, as now, the business would need to provide either a 'DIY' livery or a 'full' livery service.
15. At the Hearing, the appellant indicated that the difficulty in achieving this significant change was exacerbated by not having the permanent presence of an equestrian worker on site and that this proved to be a particular obstacle in attracting clients to the new enterprise. Furthermore, the appellant stated their intention that the proposed enterprise would provide opportunities for local employment as it develops and grows.
16. Paragraph 28 of the Framework seeks to support the sustainable growth and expansion of all types of businesses and enterprise in rural areas and promote the development and diversification agricultural and other land-based rural businesses.
17. Having had regard to all relevant matters raised in this regard, I acknowledge that the existing residential accommodation could meet the functional needs of the existing enterprise due to its past use and proximity to the appeal site. However, I find that the requirements of the proposed enterprise would be quite different, and more demanding, when compared to those of the existing business. Therefore, I find there to be an essential and functional need for a full time equestrian worker or stud manager to reside on site. As a result, the proposed development would not be an isolated dwelling as it would relate to the equestrian use at the stud which the Council accepts, in policy terms, as being reasonable and justified in the countryside.
18. Furthermore, I find that the expectation of future clients to have such a presence on-site, and therefore the potential for the business to grow by attracting more clients, would be adversely affected and would likely put the proposed enterprise at risk were an on-site presence not provided. Therefore, I find that a temporary planning permission to enable the proposals to be undertaken and tested would be a reasonable and appropriate approach to take in order to determine whether the proposed business could be a success.
19. Consequently, I conclude that the proposal would not be inappropriate, unsustainable development or an isolated dwelling in the open countryside. Furthermore, I conclude that there would be an essential and functional need for the dwelling to support the proposed enterprise. Therefore, it would comply

with Policies CS1, CS5, CS7 and CS17 of the CS and the relevant guidance within the Framework. Amongst other matters, these policies and guidance seek to ensure that development in the countryside is strictly controlled and supports rural land-based businesses.

Character and appearance

20. The appellant argues that the log cabin appearance of the proposal and its position close to a wooded area would be in keeping with its rural surroundings. Therefore, it would not be significantly harmful to the character or appearance of the area, including the setting of the Canal Conservation Area (CA).
21. The Council states that the proposal and its associated domestic curtilage and paraphernalia would appear conspicuous when viewed from the CA and particularly when travelling westwards along a section of Public Footpath C39 to the north of the appeal site. Furthermore, it is argued that the visual impact of the proposal would not be mitigated by its backdrop of nearby trees and its limited visibility at a longer distance and that the proposal would have a harmful effect on the setting of the Canal CA.
22. The proposed dwelling would be located on a relatively secluded part of a larger paddock, outside of the Canal CA. It would be visible from several points to the north, east and, to a lesser extent, from the south. However, I find that its position close to the wooded area, its materials, size, log cabin appearance and single storey scale would limit its visual impact and presence in the locality. Furthermore, the proposal would be situated on land which slopes away from, and is slightly lower than, the CA and public footpath to the north.
23. As a result, in accordance with Paragraphs 129 and 132 of the Framework, I find that the visibility of the proposal would be relatively limited and therefore it would not be significantly detrimental to the setting or the significance of the CA as a designated heritage asset. For similar reasons, I find that the proposal would have no material harmful effect on the character or appearance of the surrounding area or on the enjoyment of the footpath by its users.
24. Consequently, I conclude that the proposed development would have no material harmful effect on the character or appearance of the surrounding area, including the setting and significance of the CA as a designated heritage asset and the public footpath as a strategic green infrastructure asset. It would therefore comply with Policies CS8, CS11 and CS17 of the CS and the relevant guidance within the Framework. Amongst other matters, these policies and guidance seek to ensure that development has no significant or material detrimental effect on the character or appearance of the surrounding area or on designated heritage assets.

Other considerations

25. Other appeal decisions have been referred to by the Council and the appellant in this appeal. Amongst other things, these support the Council's view that not all liveries have an on-site dwelling. I have had due regard to these other decisions and note that whilst there are some similarities between them and this appeal proposal, there are also differences, particularly in terms of their context and circumstances. Notwithstanding this, I do not have the specific details and circumstances of these other cases before me. As a result, whilst I

have given them due consideration and weight in my decision making, I must assess the appeal proposal on its own merits and circumstances.

26. Both parties have discussed matters relating to alternative sites identified for the proposal at Harcourt Stud. For practical and economic reasons, the appellant has identified the appeal site as the most appropriate. As the appeal before me relates to a temporary planning permission on the chosen appeal site, I find that the outcome of this appeal does not turn on the merits or otherwise of alternative sites, including the cost and relocation of power lines. Therefore, whilst I have given due consideration to such matters, I have given them only limited weight in my decision making.

Conditions

27. I have had regard to the planning conditions that have been suggested by the Council. Where necessary, and in the interests of conciseness and enforceability, I have altered the suggested conditions to better reflect the relevant parts of the Planning Practice Guidance. I have also imposed additional conditions for the reasons set out in the discussion below.
28. In addition to the standard implementation condition relating to time (1), I have imposed conditions relating to the temporary nature of the planning permission granted (2), the approved plans (3) and external surface materials (4). These conditions are necessary and reasonable in the interests of providing certainty and for reasons relating to character and appearance. Conditions relating to the occupancy of the proposed development (5) and improvements to the site access (6) are necessary and reasonable for reasons of certainty, highway safety and the safety of all road users. Furthermore, I have imposed a condition relating to landscaping (7) which is necessary and reasonable for reasons of character and appearance.

Conclusion

29. Having had regard to the evidence before me, I conclude that the essential and functional need for the proposal has been demonstrated. Furthermore, the proposal would not be an isolated, unsustainable or inappropriate development in the countryside. I conclude that the proposal would result in no material harm to the setting or significance of the CA, the strategic green infrastructure assets or the character or appearance of the local area and would provide benefits to the local rural economy, particularly in terms of retaining an existing rural business.
30. As a result, I conclude that a temporary planning permission would allow the appellant to expand and grow the existing business with a view to seeking a more permanent development to support the essential and functional needs of the proposed enterprise, if successful.
31. For the reasons given above, and having had regard to all other matters raised, I conclude that the appeal should be allowed and that temporary planning permission should be granted.

Andrew McCormack

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted is granted for a temporary period of three years and shall be removed and the land restored to its former condition on or before the date three years from the date of this decision in accordance with a scheme which shall have been previously submitted to, and approved in writing by, the local planning authority.
- 3) The development hereby permitted shall be carried out in accordance with the following approved plans: Drawing Number: KCC2114/01 – 'Site Plan'; Drawing Number: KCC2114/02 – 'Landscaping Plan'; and Drawing Number: KCC2114/03 – 'Elevations and Floorplans'.
- 4) No development shall commence until details of the materials to be used in the construction of the external surfaces of the extension hereby permitted have been submitted to, and approved in writing by, the local planning authority. Development shall be carried out in accordance with the approved details.
- 5) The development hereby permitted shall only be occupied by employees solely or mainly employed in connection with Harcourt Stud.
- 6) Prior to first occupation of the development hereby permitted the visibility out of the site access onto Fleckney Road shall have been improved in accordance with a scheme that shall have first been submitted to, and approved in writing by, the local planning authority. Once the visibility splays have been improved they shall be permanently maintained fully in accordance with the approved details.
- 7) Prior to first occupation of the development hereby permitted a post and rail timber fence shall be erected to demarcate the residential planning unit (notwithstanding vehicular access to the site). Any further planting undertaken in association with the development, within or around the site, shall utilise native species only.

END OF SCHEDULE

APPEARANCES

FOR THE APPELLANT:

Tony Kernon	Kernon Countryside Consultants Ltd
Charles Millington	Appellant

FOR THE LOCAL PLANNING AUTHORITY:

Nicholas White	Planning Officer – Harborough District Council
Andrew G Coombe	Sanham Agricultural Planning Ltd

DOCUMENTS SUBMITTED AT THE HEARING

- 1 *Budget Estimate for altering the existing electricity supply to Harcourt Stud, Fleckney Road, Wistow from Western Power Distribution (East Midlands) plc dated 9 February 2017.*
Submitted on behalf of the appellant with the agreement of the Local Planning Authority.