



Appeal Decision

Site visit made on 18 August 2020

by A Spencer-Peet BSc(Hons) PGDip.LP Solicitor (Non Practising)

an Inspector appointed by the Secretary of State

Decision date: 26 August 2020

Appeal Ref: APP/F9498/W/20/3249186

East Harwood Riding Stables, Harwood Lane, Timberscombe TA24 7UE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr Alan Jones against the decision of Exmoor National Park Authority.
 - The application Ref 6/34/19/106, dated 26 July 2019, was refused by notice dated 24 September 2019.
 - The application sought planning permission for retrospective consent for gallop and extension to gallop, and retention of horse walker without complying with a condition attached to planning permission Ref 6/34/15/102, dated 13 May 2015.
 - The condition in dispute is No 5 which states that: *"The use of the gallop track for exercising horses, so far as it relates to the section alongside Bridleway WL 25/33, shall not take place outside 0800 hours to 1200 hours Mondays to Fridays, 0800 hours to 1130 hours on Saturdays, and 0800 hours to 0930 on Sundays during April to October inclusive; and 0800 hours to 1400 hours Mondays to Fridays, 0800 hours to 1230 hours on Saturdays, and 1000 hours to 1130 hours on Sundays during November to March inclusive."*
 - The reason given for the condition is: *"To provide a balance between the needs of the business and the interests of users of the public rights of way in accordance with Policy TR12 of the adopted Exmoor National Park Local Plan and RTD12 of the Publication Draft Local Plan."*
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Decision

1. The appeal is dismissed.

Background and Main Issue

2. In 2013 retrospective planning permission¹ was granted at appeal² (the Recent Appeal) in respect of a gallop and which was subject to planning conditions which limited the hours of use of the gallop. In 2015, Exmoor National Park Authority (the NPA) permitted an extension to the hours of use for the gallop³. This appeal concerns a proposal which seeks to extend the hours of permitted use from that given in the 2015 planning permission.
3. The main issue is whether or not the appeal proposal would adversely affect users' interests having regard to local planning policy and, if users' interests

¹ Exmoor National Park Authority Reference: 6/34/13/101

² Planning Appeal Reference: APP/F9498/A/13/2197067

³ Exmoor National Park Authority Reference: 6/34/15/102

would be adversely affected, whether there are other material considerations to justify the proposal.

Reasons

4. Policy RT-D12 of the Exmoor National Park Local Plan 2011 – 2031 (the Local Plan)⁴ concerns Access Land and Rights of Way and provides, amongst other things, that users' interests must not be adversely affected by development. In instances where users' interests are adversely affected by development, it will be necessary to demonstrate that the need and benefit of the proposal would outweigh the harm caused to users of the access network.
5. The gallop, which is the subject of this appeal, is positioned adjacent and parallel to an access track and bridleway on its northern side. The gallop is separated from the bridleway by a high hedge for a majority of its length, with a separate public footpath crossing over the bridleway and gallop at approximately the midway point of the gallop. There are signs placed at points along the bridleway which notify users as to the times during the week for which the gallop is in use.
6. As noted above, extended hours of use were permitted by the NPA in 2015, and provided that during the period November to March inclusive, additional hours of use would be allowed on both weekdays and at weekends. The Appellant is now seeking a variation to the condition which restricted the hours of use, in order to allow for the current November to March permitted hours of use, to be used throughout the year.
7. The Inspector in the Recent Appeal noted that, "a horse cantering past another, particularly when unseen, as would be the case for much of the section of bridleway affected, can spook the horse, which can have safety implications, particularly for inexperienced or nervous riders". Whilst the Inspector concluded that, in that instance, the extended hours would likely result in the level of risk to users of the bridleway being quite low, there would undoubtedly be some residual risk and that "some potential users may be deterred from using the bridleway while the gallop is in use and that these are considerations which must be weighed against the need for, and benefits of, the development". The conclusion of the Recent Appeal was that, whilst there would be some harm to users' interests, these would be outweighed by the demonstrated needs and benefits associated with that proposal.
8. The evidence before me indicates that the NPA has allowed a temporary trial period during which the proposed extended hours of use was allowed, and it is acknowledged that no specific objections to that trial period were raised. I also acknowledge the comments and observations from the West Somerset & Exmoor Bridleways Association, the NPA's Public Rights of Way & Access Officer and the support provided by an interested party. However, I would agree with the conclusion reached by the Inspector in the Recent Appeal that increased use of the gallop would undoubtedly result in some additional risk, albeit to a limited degree, and that, consequently, some potential users of the bridleway would be put off from using the bridleway while the gallop was in use.
9. In my view, and consistent with the Inspector in the Recent Appeal, the appeal proposal to further extend the hours of use would result in some harm to the

⁴ Adopted by the National Park Authority July 2017.

interests of users of the bridleway, and while the harm would be limited, it would nonetheless result in some additional harm by reason of the likelihood that some users, whether they reside within the locality and surrounding area or not, would be put off using the bridleway during the periods when the gallop was in use. Accordingly, to comply with the provisions of Policy RT-D12 of the Local Plan, it must be demonstrated that the need and benefit associated with extending the hours of use would outweigh the harm to the interests of users of the bridleway.

10. The Appellant has put it to me that the extended hours of use are needed on the basis of a number of factors. In the first instance, the Appellant maintains that the additional hours of use are necessary in order to comply with the requirements of a Flat Racing Licence. In this regard, while I note the reference to the Flat Racing Licence, the evidence submitted does not confirm why the additional hours would be needed in order to comply with the racing licence or how the level of proposed additional hours had been calculated or arrived at to ensure that the hours would be sufficient in order to meet the requirements of the licence or the business.
11. In the second instance, the Appellant maintains there is a need for extended hours so that they can “match” those trainers who have extensive access to a gallop. In this regard, I have not been provided with any information regarding gallops which the Appellant contends would provide more extensive access and, consequently, there is no comparison before me which would demonstrate that there is a need for additional hours in this instance. Furthermore, while I note the contention that the proposal would allow for more horses to be trained and that this “also benefits the local rural economy”, I have only been provided with generalised comments and assertions regarding the level of contribution the proposal would make to the local rural economy.
12. The Appellant has further put it to me that the proposed extension of hours of use would benefit users of the public bridleway and public footpath, given that when the gallop’s current hours of use run short of what is required in relation to the training of horses, the Appellant makes use of the public bridleway. In this regard the Appellant maintains that without increased hours of use, additional time will need to be spent on the nearby public bridleways and, therefore, it would be likely to increase the risk of conflicting with the recreational use of the bridleway by other users.
13. Whilst the potential for increased usage of the public bridleway is acknowledged, it is apparent that the Appellant would be able to continue using the bridleways at any time irrespective of whether this appeal was allowed or not. Therefore, the risk associated with using the public bridleways and the potential conflict that that may bring, would continue to exist. The additional hours of use requested would therefore not necessarily result in decreased usage of the public bridleway.
14. For the above reasons, I find that the proposal would result in some limited harm to the interests of users of the public bridleway and, in my view, it has not been sufficiently demonstrated that the needs and benefits associated with the proposal would outweigh that identified harm. Accordingly, the proposed change of hours of permitted use would conflict with the requirements of Policy RT-D12 of the Local Plan.

15. I acknowledge the Appellant's submissions with respect to the effect of the proposal on the existing horse training business. However, in the absence of substantive evidence as to how the need and benefit of the proposal would outweigh the harm to users' interests, and having regard to the legitimate and well established local and national planning policy aims which seek to protect and enhance public rights of way and thereby help promote healthy and safe communities, dismissal of this appeal would be proportionate and necessary.
16. I also acknowledge the submissions of the main parties with regards to a document which has been described as a local petition, and I have noted the Appellant's comments concerning the description of development as provided on that document. In this regard, it is noted that the description given matches that as provided on the NPA's decision notice and, while the details are acknowledged, I have attached only very limited weight to this document in the determination of this appeal. In any event, even if I attached less weight to this document in determining this appeal, in my view and for the reasons given above, it is apparent that there would be some limited form of harm to users' interests and, in this instance, it has not been demonstrated that that harm would be outweighed by any identified need or benefit.

Conclusions

17. For the reasons given above, I conclude that the appeal should be dismissed, and the condition retained in its present form.

A Spencer-Peet

INSPECTOR