
Appeal Decision

Hearing Held on 24 March 2021

Site visit made on 25 March 2021

by M Philpott BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13th April 2021

Appeal Ref: APP/F1610/W/20/3258768

Condicup Stables, Badsey Lane, Willersey WR11 7HF

- 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 M Doherty against the decision of Cotswold District Council.
 - The application Ref 20/01208/FUL, dated 30 March 2020, was refused by notice dated 26 June 2020.
 - The development proposed is described as 'the siting of 2 static caravans, retrospective'.
-

Decision

1. The appeal is dismissed.

Procedural Matters and Background

2. The spelling of the appellant's name differs across the evidence. The appellant confirmed his name at the hearing and this is reflected in the heading above. In addition, the site address differs on the planning application and appeal forms. I have used the address stated on the application form as it describes the site's location accurately.
3. The site comprises 2 static caravans adjacent to a stable at Condicup Stables, which is described by the appellant as an equestrian centre. At the time that the Council refused the application subject to this appeal, Condicup Stables could lawfully be used for equestrian purposes on a personal basis only. However, planning permission has since been granted for the centre to be used for both personal and commercial equestrian purposes¹. Consequently, the circumstances of the centre have changed since the application was determined and the main parties' appeal evidence was submitted. The appellant described the current nature of the business at the event. I have taken this into account in making a decision, which is reflected in my reasoning set out below.
4. The appellant stated that, as a consequence of the Covid-19 pandemic, both caravans are currently occupied by the appellant and his partner in order to provide overnight supervision of horses stabled at the centre. However, it is anticipated that once restrictions associated with the pandemic have lessened, each caravan would be occupied by one groom. I have therefore considered the appeal based on whether or not there is a need for 2 equestrian workers to live on or near their place of work, as confirmed with the parties at the hearing.

¹ Council reference: 20/01627/FUL

5. Notwithstanding that the circumstances of the centre have changed, viability information was submitted with the appeal statement in an attempt to overcome some of the Council's concerns. It sets out the projected profitability of the business as proposed at the time that the appeal was made. The Council and interested parties were able to consider the information and thus I have had regard to it in making a decision.
6. Planning permission is sought retrospectively for the siting of the caravans on a permanent basis. However, the appellant has also put a planning condition forward for consideration that would effectively grant permission on a temporary basis. I have also taken this into account in deciding the appeal.

Main Issues

7. The main issues are:

- whether or not there is an essential need for equestrian workers to live permanently at or near the centre; and
- whether or not the siting of the caravans is acceptable in respect of the site's flood zone location, having regard to national and local planning policies relating to flood risk.

Reasons

Essential need

8. The appellant confirmed at the hearing that one of the caravans features one bedroom and the other features 2 bedrooms. The caravans and stable are accessed by a track that connects to and runs roughly parallel with Badsey Lane. The rest of the land at Condicup Stables mostly features paddocks and manège enclosed by post and rail fencing. A field shelter is in situ and a collapsible and moveable field shelter is also used for accommodating horses. The appellant states that 13 horses can be stabled, with another 5 horses in the field shelters.
9. It was explained that the business principally entails full and partial livery rentals and that it is currently operating at around full capacity with 16 horses on livery. A horse owned by the appellant's partner is also stabled at the centre. In addition, the business includes the rehabilitation and training of retired racehorses, with income also generated from the summer grazing of horses that are not stabled. Various other ancillary activities also take place.
10. The main parties agree that the site is located outside settlement boundaries and in the countryside. There is also no dispute that the site is an isolated location for housing in the terms of paragraph 79 of the National Planning Policy Framework (the Framework). Based on what I have read, seen and heard, I have no compelling reasons to find otherwise.
11. Policy DS4 of the Cotswold District Local Plan (LP) confirms that housing will not be permitted outside settlements unless it accords with other policies that expressly deal with residential development outside such locations. In this regard LP Policy H5 is applicable, which sets out that housing for rural workers will be permitted outside settlements if specific criteria are satisfied.
12. The Council said that the viability information shows that a business based primarily on 11 horses on full livery would be able to support the salaries of 2

grooms. It is therefore reasonable to conclude that 16 horses on full livery would also be viable. However, the business currently includes 9 horses on partial livery and the rest on full livery and no evidence such as invoices or statements of accounts have been submitted which demonstrate that activities at the centre to date have generated income. Moreover, evidence has not been provided as to the ownership of all of the horses at the centre, nor has correspondence from owners, written agreements or other documentation been forthcoming to demonstrate that there has been or will be demand for either full or partial liveries. Although the appellant puts forward that there is a waiting list for liveries at the centre, this has not been submitted.

13. Consequently, it has not been demonstrated that the business is viable or that there is an essential need for equestrian workers to reside at or near the site on a permanent basis. Nevertheless, based on the evidence and the views of the main parties, the infrastructure is in place for a livery business to operate at Condicup Stables. A condition to grant permission for a temporary period could therefore be appropriate, subject to essential need being demonstrated.
14. The Council confirmed that a business of the nature described would typically require one worker to reside within approximately 100 metres of a stable to react to potential horse welfare issues that could arise overnight. This was said to be the case irrespective of whether measures such as CCTV, noise monitoring or alarms are installed. I have no compelling reasons to disagree and thus find that there is a need for a worker to reside within the immediate vicinity of the stable. Although the appellant has not provided evidence of searches for housing in the vicinity having been undertaken, there are very few properties within 100 metres of the centre and therefore, on the balance of probabilities, I am satisfied that there is no suitable alternative accommodation elsewhere. Furthermore, it was clear from my site visit that there is no scope to adapt the stable to provide accommodation.
15. The main parties agreed that most of the incidents that might occur at the stable could be resolved within an appropriate timescale by one worker living on site. However, the appellant put forward that if a single worker resided at the site that worker would be unable to take any time off work. Additionally, the appellant intends to employ a groom with a dependent and considers that it would not be suitable for them to share accommodation with another worker. Whilst the Council accepts that a second worker may be required to address some incidents, that worker could reside in a nearby settlement and the one living on site could contact them if necessary.
16. I appreciate that the appellant wants to employ people who they trust with the business. However, the supporting text to LP Policy H5 makes clear that whether there is an essential need for overnight accommodation will depend on the needs of the enterprise concerned and not the personal preferences or circumstances of any of the individuals involved. Firm and substantive evidence has not been presented which indicates that arrangements could not be made for a second worker to reside at the site from time-to-time by bedsitting or by means of another temporary arrangement to enable the worker normally residing at the site to take time off work. It has thus not been demonstrated that there is an essential need for 2 workers to reside at the site. Accordingly, I am not satisfied that 2 units of accommodation and therefore the siting of both caravans is proportionate to the needs of the centre.

17. I note paragraph 83 of the Framework states that decisions should enable the development and diversification of land-based rural businesses. In addition, the appellant has referred to strategies² which make clear that the horse industry contributes to the economy and lives of people in rural areas and promote that a sympathetic view is taken towards criteria for equine development. Whilst the appellant wishes to expand and diversify the business and its growth could increase the need for accommodation, limited information has been provided as to the likelihood of this occurring. Moreover, it was confirmed that this would be largely contingent on associated planning applications being granted. The potential for growth to the business thus attracts limited weight in determining whether there is an essential need for workers to reside at the centre.
18. In the context of the foregoing, it would not be appropriate to grant permission subject to a condition to enable both caravans to be sited at the centre for a temporary period. It was suggested that a condition could require the caravans to be occupied by one worker and any dependents. However, I am not convinced that a worker and their dependents would be unable to occupy a single caravan and that 2 caravans for this purpose are needed here. Furthermore, it would be inappropriate to permit the siting of one of the caravans at the centre and not the other, as this would fundamentally change the character of the application and interested parties would be deprived of an opportunity to consider such a proposal.
19. In conclusion, it has not been demonstrated that there is an essential need for 2 equestrian workers to live permanently at or near their place of work. The siting of both caravans at the centre therefore conflicts with LP Policies DS4 and H5 and paragraph 79 of the Framework.

Flood risk

20. The appellant's Flood Risk Assessment shows that the land on which the caravan closest to Badsey Lane is sited and part of the rest of the centre are within Flood Zones 2 and 3.
21. Paragraph 155 of the Framework states that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk. This is achieved through the application of the sequential test. Paragraph 158 of the Framework confirms that development should not be permitted if there are reasonably available sites for the development in areas with a lower risk of flooding. It explains that the exception test may also have to be applied depending on the potential vulnerability of the site and the type of development proposed in line with the Flood Risk Vulnerability Classification set out in the Planning Practice Guidance (PPG)³. However, these considerations only apply if there are no sites with a lower risk of flooding.
22. In addition, LP Policy EN14 states that development proposals must avoid areas at risk of flooding in accordance with the sequential approach and by applying the exception test where necessary.
23. No sequential test has been undertaken. Additionally, the main parties agreed that the caravan nearest the lane could reasonably be located on land at the centre which is in Flood Zone 1 and thus in an area with a lower risk of

² Strategy for the Horse Industry in England and Wales, December 2005; Facilities Strategy for Equestrian Sport and Recreation, May 2006

³ Reference ID: 7-066-20140306

- flooding. Moreover, the PPG states that the residential use of caravans is highly vulnerable to flooding and should not be permitted in Flood Zone 3 in any case.
24. The main parties agree that the caravans are on a base 0.6 metres above natural ground level and there is little prospect of flooding because of drainage works that have been installed at the centre⁴. In addition, the Council's Drainage Engineer has no concerns and the Lead Local Flood Authority raised no objections to the drainage works. It was also stated that one of the entrance doors to the caravan nearest the lane would be in Flood Zone 1 and that safe and convenient means of egress to the lane could be achieved in a flood event. Consequently, the main parties consider that the extent of Flood Zones 2 and 3 are not reflective of the current risks of flooding on site.
25. However, the Environment Agency's Flood Map for Planning and thus the extent of Flood Zones 2 and 3 have not been formally challenged. Additionally, firm and substantive evidence such as fluvial flood modelling has not been provided to substantiate the main parties' positions or the likelihood, extent or risk of flooding at the site. In any event, the matters raised do not obviate the need to apply the sequential test in the first instance.
26. The appellant put forward that matters relating to flood risk could be assessed following the grant of a temporary permission. However, Flood Zone 3 constitutes land with a 1 in 100 or greater annual probability of river flooding and as such there is a relatively high likelihood of a flood event occurring and this, of course, is irrespective of whether only a temporary permission is granted. Moreover, the potential consequences of a flood event are unknown and could be considerable given the vulnerability of caravans to flooding.
27. The siting of the caravans is therefore not acceptable having regard to their flood zone location. The location of the caravans conflicts with LP Policy EN14 and paragraph 158 of the Framework.

Other Matter

28. It is put forward that the Council's approach to development in the area is different to the one adopted by Wychavon District Council, which has permitted the siting of caravans in association with dog kennels and a timber cabin holiday complex nearby. Full details of those cases have not been provided. However, they represent different individual circumstances and involve the application of different planning policies given that the sites are within separate authority areas. Given that each proposal must be assessed on its particular planning merits and impacts arising direct parallels are not easily drawn. As such, the said planning permissions do not lead me to alter my findings.

Conclusion

29. The siting of the caravans on the site, and their use for residential purposes as described, conflicts with the development plan. There are no material considerations which outweigh the conflict with the development plan. Accordingly, and for the above reasons, the appeal is dismissed.

Mark Philpott

INSPECTOR

⁴ Council reference: 20/01635/FUL

APPEARANCES

FOR THE APPELLANT:

M Doherty ACA	Appellant
D Jones MRTPI MRICS	Evans Jones Ltd

FOR THE LOCAL PLANNING AUTHORITY:

A Moody BSc(Hons) DipTP MRTPI	Senior Case Officer, Cotswold District Council
R Fox BSc(Hons) MRICS FAAV	Fox Rural Planning & Land Management

INTERESTED PERSONS:

D Rapkins