The Planning Inspectorate

Appeal Decision

Hearing Held on 6 July 2021

Site Visit made on 7 July 2021

by R Morgan BSc (Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4 August 2021

Appeal Ref: APP/E2001/W/20/3262704
North Moor Stables, North Moor Lane South, COTTINGHAM, HU16 4JN

- 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 John Fox against the decision of East Riding of Yorkshire Council.
- The application Ref 20/01360/PLF, dated 2 April 2020, was refused by notice dated 24 July 2020.
- The development proposed is replacement static dwelling unit associated with existing livery business.

Decision

1. The appeal is dismissed.

Procedural Matters

2. The dwelling unit is already in place, so I have treated the appeal as being retrospective.

3. Since the hearing closed, a revised version of the National Planning Policy Framework (the Framework) has been issued. Having reviewed the revised document, I am satisfied that the changes to national policy do not materially affect the matters of dispute within this appeal. The changes would not prejudice the cases put forward by either party, so I have therefore determined the appeal on the basis of the revised Framework. Any references to the Framework within this decision refer to the July 2021 version.

Main Issue

4. The main issue is whether the retention of the dwelling unit is justified by the needs of the business at the site, having regard to policies which seek to restrict development in the countryside.

Reasons

Policy and background

5. The appeal site is located within the countryside and as such is subject to Policy S4 of the East Riding Local Plan Strategy 2016 (Local Plan). This policy seeks to protect the intrinsic character of the area whilst supporting development which will contribute to a working, living and attractive countryside. Criterion C.5 of Policy S4 allows for agricultural, forestry or other rural-based occupational dwellings, subject to demonstrating an essential need. This approach is consistent with paragraph 80 of the Framework, which seeks

to avoid the development of isolated dwellings in the countryside, other than in specific circumstances.

6. In 1999, temporary planning permission was granted for a mobile home in association with the equestrian business, which at the time had recently been established at the appeal site. Although that permission expired in 2002, it was not followed up by an application for a permanent dwelling, and no enforcement action was taken. The original mobile home remained in place for a number of years and was subsequently replaced in a slightly different part of the site. The replacement dwelling unit is the subject of the current appeal.

7. Since the original planning consent for worker's accommodation on the site, the appellant's personal circumstances have changed, and due to family commitments, he has been unable to dedicate the time and energy to developing the business in the way which had initially been envisaged. Even though the business has been operational for more than three years, both parties agree that the proposal should be treated as an application for a new temporary dwelling, rather than as a permanent unit of accommodation. Having regard to the change in circumstances, I agree that this is a reasonable approach.

8. Paragraph 4.45 of the text accompanying Local Plan Policy S4 sets out a number of considerations for assessing proposals for temporary rural workers dwellings, which I will address below.

Clear intention and ability to develop the enterprise

9. The existing equestrian business comprises 2 blocks with a total of 14 stables, three of which are retained for housing the appellant's own horses and the stud stallion. The yard also contains a floodlit exercise arena and a number of buildings used for the storage of equipment, hay and tack. Just over one hectare (2.8 acres) of land to the rear of the buildings is used for grazing and hay crops, and an additional area of around 1.6 hectares (4 acres) of grazing land is rented by the appellant on the other side of Cottingham. The mobile home which is the subject of this appeal is located on part of the car park, at the entrance to the site.

10. The appellant has significant experience in working with horses and is clearly committed to making a success of the enterprise. Over the past few years, family commitments have limited the time he has been able to devote to the business, which has not developed to the extent originally intended. Despite this, since taking over the management of the business in 2015, the appellant has made a number of improvements to the facilities on site, including upgrading the stables and exercise arena, as well as improving the grazing land.

11. The focus of the business has changed somewhat over the years, but the core activity remains a livery yard. The yard is currently operating below capacity, with livery services provided mainly on a DIY or part time basis, and the breeding and foaling activities at a low or minimal level. There is therefore scope to generate additional revenue by increasing capacity and providing more full livery services. Stud work, training of young stock, and hiring out the arena could also be increased from their current level. The yard has always bred horses, and this is an area which the appellant wishes to expand. The

appellant is also open to branching out into new activities, such as transporting horses to shows or the beach.

12. It is apparent that there is a clear desire and intent to make a success of the enterprise, and the ability to grow the business from its current operation. However, the extent to which the business can expand remains limited by the constrained size of the site and the amount of grazing land available.

13. Since the previous appeal decision, the appellant has increased the amount of land that he rents for grazing, but this is on the other side of Cottingham. The appellant is actively seeking to purchase additional grazing land closer to the business, but until such a transaction takes place, there is uncertainty over any additional land purchase and the timescale for achieving this, even if funding is available. As a result, questions over the ability of the business to expand remain. The first of the tests set out in paragraph 4.45 is therefore only partly met.

Clear functional need for a full-time worker to be employed on the unit

14. The business, which is currently working below its potential capacity, has three part-time workers. This includes the appellant, who evidently works long hours between his two jobs. The total number of hours provided by the three workers in an average week at the yard is unclear. If the yard were to operate as suggested in the business plan, with 75% occupation of the stables on the basis of part or full livery; together with regular commissions for training young animals as well as stud work; breeding; foaling mares and arena hire, then there would be a clearer need for at least one full time worker to be present at the yard during the day.

15. However, Local Plan paragraph 4.47 says that evidence for the functional need test should clearly demonstrate that having one or more workers available at most times of the day and night is essential for the proper functioning of the unit. Final checks on the animals and site are carried out at around 9.30pm each day, with a further check in the early morning before 8am. Whilst living on site is undoubtedly convenient for making these checks, it is not essential, as it would be possible for a worker who lived nearby to travel to the site.

16. During the night, the need to attend to the horses is very occasional. The appellant recalled two or three occasions over the last two years when urgent veterinary care was required during the night. Whilst such episodes cannot be predicted, they are clearly infrequent.

17. The proposal to increase breeding and foalings could result in additional need for a worker to be present on the site at night time, but the numbers likely to be involved would be low, with the suggestion of 2 or 3 foalings per year and a similar level of breedings. As such, the need for a 24 hour presence on site would be limited to a few occasions during the year, and in many cases, such as birthings, the need would be anticipated in advance and could be planned for.

18. The security of the site and the welfare of the animals is a matter of concern, and the knowledge that there is someone on site most of the time is likely to provide reassurance to customers. The appellant suggested that without the on-site presence, a number of existing customers would be lost to the business. However, CCTV has been installed in some of the stables which can

be used to monitor animals remotely in the event of any concerns over welfare. Security systems could be expanded to provide an effective deterrent against criminal activity as well as an increased ability to monitor the welfare of the horses. Whilst such additional measures may be required to provide reassurance to customers, I am not convinced that a permanent night time presence is a necessary requirement of the business.

19. Despite the limited requirement for a night time presence, the business has the potential to develop further, which could result in a clear functional need for full time worker to be present at the site for much of the day time and part of the evening. However, this is dependent on the business growing to the extent that it is financially viable, and able to cover the worker's wages.

Activity has been planned on a sound financial basis

20. The yard has been operational for over 20 years, but the income generated has never been sufficient to sustain the family financially. Although the appellant is clearly motivated by his interest in horses and is not concerned with making a large profit, the business does need to be financially viable so that it can cover its running costs, provide a living wage and leave sufficient surplus to allow for future investment in the facilities.

21. The appellant confirmed at the hearing that the business plan dated March 2020 is a reflection of the position which he would like to get to, rather than the current level of operation. Based on the suggested level of activities and associated income and expenditure, the business plan shows an overall surplus for wages and profit of £21,520. There may be scope to increase revenue further, depending on the nature of the activities carried out. However, the Council has questioned the accuracy of the figures presented, and I agree that the costs for general overheads appear surprisingly low. The allowance for an agricultural worker's wages is also low, being below the national minimum wage. Furthermore, the charges for services provided at the yard are unchanged from the 2018 business plan, with no adjustment having been made for inflation.

22. Although the appellant described the business as being debt free, he confirmed that he intends to continue working at his contracting job for a further 12 months, by which time he will have completed the payments for the dwelling unit. If an on-site dwelling is a necessary part of the business, then to be financially viable, the business needs to generate sufficient revenue to cover the costs associated with that accommodation. The mobile home may provide adequate accommodation for a number of years before it needs to be replaced, but it is not a permanent dwelling and its replacement will need to be budgeted for. Accommodation costs should therefore be included in the financial information, but are missing from the business plan.

23. The financial information contained in the business plan is sketchy and unconvincing, and is based on costings which appear overly low, with accommodation costs missing. Furthermore, the proposals are not supported by any details of accounts for the business. Whilst I appreciate that financial information may not be available for the period when the appellant was not solely responsible for the business, this has not been the case since 2015. The provision of accounts for the last two to three years would help provide a much clearer picture of the full costs associated with the business.

24. In the absence of more detailed information, evidence that the activity is planned on a sound financial basis is lacking. As a result, significant questions remain over the ability of the business to become self-sustaining over the next few years, and this undermines the longer term case for a permanent dwelling. Whilst I am considering this appeal as a proposal for a temporary dwelling, to allow it would require reasonable certainty that, within three years, the business would be capable of becoming financially viable. On the basis of the evidence before me, and that provided at the hearing, such reassurance is currently lacking.

Need for the dwelling cannot be met by an existing dwelling

25. The appeal site is located in the countryside, but is within a mile of nearby settlements, including Cottingham and the edge of the urban area of Hull. The cost of purchasing a family sized home in Cottingham is likely to be out of reach of the appellant, but the Council's Estates and Valuation Officer confirmed that at any given time, there is a range of property available in the local area including properties which would be affordable for a typical agricultural worker at a managerial grade. I acknowledge that such property may be available on a rental basis, which would not be the appellant's preferred form of tenure. However, given the proximity of the site to nearby settlements, I am not convinced that alternative, affordable accommodation would not be available in the local area, within a short driving distance.

Conclusion on main issue

26. The appellant is clearly committed to making a success of the business, but in order to become self-sustaining and to support the costs of a full time worker at the site, the business needs to grow from its current level of operation. This can be achieved partly through an increase in the level and value of activities carried out, but further expansion will require acquisition of additional land for grazing. The lack of detailed financial information means that uncertainty remains over whether the business is capable of becoming financially viable over the next few years. Furthermore, convincing evidence has not been provided to convince me that alternative, suitable accommodation would not be available in the nearby area.

27. Whilst the tests set out in paragraph 4.45 are partly met, insufficient evidence has been provided to justify allowing a dwelling in a countryside location, where such development is restricted by national and local planning policy.

28. I conclude that, having regard to policies which seek to restrict development in the countryside, insufficient information has been provided to demonstrate that the retention of the dwelling unit is justified by the needs of the business. The proposal fails to comply with Local Plan Policy S4 and Framework paragraph 80, both of which seek to protect the countryside by restricting new housing development.

Other Matters

29. A different conclusion was reached by a previous Inspector who granted temporary planning permission for a mobile home on the site, but that decision was made over twenty years ago, on the basis of a different business proposal and a different policy context. The previous decision also took account of an

independent equestrian appraisal carried out by ADAS which was submitted as part of that proposal.

30. At the time of the previous appeal, the business had only recently been established, and the Inspector accepted that the enterprise could provide a financial return just adequate to support a worker and maintain the business, and so allowed the appeal. However, concerns were raised in the appeal decision about the limited area of land available, and the ability of the business to expand. These concerns remain valid.

31. Although the level of financial information provided with the current appeal is similar to that contained in the ADAS report, accommodation costs are missing, and there is uncertainty over some of the other figures, as noted above. This undermines the weight which can be given to the updated business plan.

32. The previous Inspector accepted the need for a worker to be present during the night time, but the development of modern CCTV and other security systems over the past 20 years means that the need for livery stables to have on site accommodation is now less compelling.

33. For the above reasons, the previous appeal decision does not justify granting a further temporary planning permission in relation to the equestrian business.

Conclusion

34. Insufficient evidence has been provided to demonstrate that the proposal complies with the development plan, and no other considerations outweigh this finding. For the reasons set out above, the appeal is therefore dismissed.

R Morgan

INSPECTOR