



Appeal Decision

Site visit made on 23 January 2023

by Elaine Moulton BA (Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 March 2023

Appeal Ref: APP/C2741/W/22/3307755

Hall Farm, Strensall Road, York YO32 9SW

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73A of the Town and Country Planning Act 1990 for the development of land carried out without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr Andrew Hall against the decision of City of York Council.
 - The application Ref 22/00129/FUL, dated 21 January 2022, was refused by notice dated 10 May 2022.
 - The application sought planning permission for the demolition of the existing agricultural buildings and change of use of the land to provide 17no. touring caravan pitches between April and October each year, and associated refuse storage and shower and w/c facilities without complying with a condition attached to planning permission Ref 18/01979/FUL, dated 20 November 2018.
 - The condition in dispute is No 4 which states that: The caravan pitches hereby approved shall be used only by persons engaged in equestrian based holidays. The site operator shall maintain an up-to-date register of the names and main home addresses of all occupiers of the accommodation on site, including dates and durations of each stay by each occupier, and associated stabling details and shall make this register available for inspection at all reasonable times when requested by the Local Planning Authority
 - The reasons given for the condition is: As the provision of equestrian based holidays formed part of the very special circumstances used to justify inappropriate development within the Green Belt.
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Decision

1. The appeal is allowed and planning permission is granted for the demolition of the existing agricultural buildings and change of use of the land to provide 17no. touring caravan pitches between April and October each year, and associated refuse storage and shower and w/c facilities at Hall Farm, Strensall Road, York YO32 9SW in accordance with the application Ref 22/00129/FUL dated 21 January 2022, without compliance with condition number 4 previously imposed on planning permission Ref 18/01979/FUL dated 20 November 2018 and subject to the conditions identified in the attached Schedule.

Background, Preliminary Matters and Main Issue

2. Planning permission has been granted for a change of use of land to provide touring caravan pitches subject to a number of conditions including one which restricts the pitches to use only by persons engaged in equestrian based holidays. This is defined as staying overnight on the caravan pitches while keeping a horse accommodated in the neighbouring Hall Farm Livery Stables.

3. The buildings have been demolished and the change of use to provide touring caravan pitches has commenced on the appeal site. The development subject of the planning permission has therefore taken place.
4. The appellant requests that the above condition is removed or otherwise varied to require Hall Farm to continue to maintain and offer facilities for equestrian based holidays. The reason they have given is that this would more accurately reflect the attitude of the planning committee when it granted permission.
5. The Council, however, consider that the condition is necessary to provide the very special circumstances required to justify inappropriate development within the Green Belt.
6. The Council's reason for refusal refers to Policy GB1 of the Publication Draft Local Plan (2018) (the emerging LP) which is currently undergoing examination. Policy GB1 identifies forms of development that will only be granted planning permission in the Green Belt. It states that all other forms of development within the Green Belt are considered inappropriate and that very special circumstances will be required to justify such development. In that regard the policy is consistent with the Framework, and I give it great weight in the determination of this appeal.
7. I note submissions relating to considerations of the original planning application at Committee. However, I do not have jurisdiction to deal with whether the condition went beyond what was agreed by the Committee. My considerations relate to whether the condition is necessary and reasonable. As such it is not within the scope of this appeal for me to consider afresh whether the development, that has already taken place, is inappropriate in the Green Belt or whether very special circumstances were required to allow it.
8. The condition links the use of the caravan site to the livery stables and supports the use of the surrounding buildings within the Green Belt. Taking account of the comments of the parties, and the absence of any other identified harm that would result from the removal of the condition, other than in relation to the effect of the development on the Green Belt, the main issues are:
 - Whether removal or variation of the condition would result in inappropriate development in the Green Belt; and
 - If it were inappropriate development, whether there are any other considerations that would amount to the very special circumstances required to justify the removal or variation of the condition.

Reasons

Inappropriate development

9. Paragraph 147 of the Framework advises that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. The Framework provides guidance as to the types of development which constitute inappropriate development and any exceptions.
10. As the appeal relates to the use of land it does not fall to be considered against the exceptions listed in paragraph 149 relating to buildings. However, the change of use of land is not inappropriate in accordance with paragraph 150,

provided it preserves the openness of the Green Belt and does not conflict with the purposes of including land within it.

11. The siting of touring caravans on the appeal site, which would otherwise be largely free from buildings and structures, affects the spatial openness of the land. Furthermore, the siting of touring caravans would be contrary to the purposes of the Green Belt as it results in development encroaching into the countryside. If the condition were removed, it would result in the link between the use of the caravan site and surrounding land and buildings being severed. As the condition was required to maintain that link, its removal would affect the openness of, and purposes of including land within, the Green Belt.
12. However, a condition could be imposed requiring the cessation of the use to provide touring caravan pitches at the point that the livery stables are no longer available. This would mean that the caravan site would continue to support the use of the buildings and land, albeit some users of the caravan site may not keep their horses in the livery yard. It would provide more flexibility to the use, whilst retaining the link between the caravan site and the equestrian facilities. Such a variation would not materially alter the development so would not affect the openness or the purposes of the Green Belt.
13. In determining an appeal against a refusal to grant planning permission under section 73, I may also impose new conditions provided they do not materially alter the development that was subject to the original permission and are conditions which could have been imposed on the earlier permission. I conclude that I should replace the existing condition with a new condition that requires the cessation of the use to provide touring caravan pitches at the point the livery stables are no longer available. That would not conflict with emerging LP Policy GB1, Policy ENP4 of the Earswick Neighbourhood Plan (NP) and the Framework.
14. Nevertheless, I conclude that, were I to remove the condition without replacing it as suggested above, its removal would result in development that would be inappropriate in the Green Belt. It would therefore conflict with emerging LP Policy GB1, NP Policy ENP4 and the Framework.

Other Considerations

15. The removal of the condition without replacement would result in an unrestricted touring caravan site which would benefit the local tourism economy. It would contribute to the ongoing viability of the business. In this regard, the proposal would adhere to the aims of paragraphs 84 and 145 of the Framework which seeks to support a prosperous rural economy. There is, however, no substantive evidence that suggests that the future viability and operation of the business would be reliant on this income and removal of the condition would mean it would not be linked to it. Neither is it clear that the loss of the site would result in a shortfall of touring caravan pitches in the area.
16. The information before me suggests that a trend for equestrian based holidays has been identified. Furthermore, it is said that there is no such provision in the York area and that the use, therefore, diversifies and improves the tourism offer. There would, however, be no certainty that equestrian based holidays at the appeal site, and such benefits to tourism, would continue should the condition be removed.

Conclusion

17. Paragraph 147 of the Framework advises that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 148 of the Framework advises that substantial weight should be given to any harm to the Green Belt and very special circumstances will not exist unless that harm, and any other harm, are clearly outweighed by other considerations. As set out above, no other harm in addition to that arising from inappropriate development in the Green Belt has been identified.
18. I have found that the removal of the condition would result in the link between the livery yard use and the touring caravan pitches being severed. Removal of the condition would result in inappropriate development that harms the openness of the Green Belt. An unrestricted touring caravan would support a prosperous rural economy. However, this can only carry moderate weight. As such, the substantial weight to be given to the Green Belt harm and any other harm is not clearly outweighed by other considerations, either individually or cumulatively, sufficient to demonstrate very special circumstances. Therefore, the removal of the condition would be contrary to emerging LP Policy GB1, NP Policy ENP4 and the Framework that seek to protect the Green Belt from inappropriate development.
19. Nevertheless, I have concluded that the removal of condition 4 of the planning permission and its replacement with a new condition requiring the cessation of the use to provide touring caravan pitches at the point that the livery stables are no longer available would not materially alter the development. It would not affect the openness or the purposes of the Green Belt or conflict with emerging LP Policy GB1, NP Policy ENP4 and the Framework. As a result, it would not result in inappropriate development.

Conditions

20. Considering my findings, it is not necessary to comply with condition 4 of the planning permission. For the reasons set out above, I have replaced it with a new condition that requires the retention of the equestrian facilities at Hall Farm whilst the use of the site to provide touring caravan pitches continues.
21. The Planning Practice Guidance advises that where an application under section 73 of the Act is granted the planning permission should also repeat the relevant conditions from the original planning permission unless they have already been discharged. I am aware that the planning permission has been implemented, the buildings that were previously on the site have been demolished and the waste material removed. Conditions relating to such matters are therefore no longer relevant.
22. The Council has confirmed that a Landscape Plan has been approved and I have amended the wording of the condition accordingly in the attached Schedule and included the Plan in the condition listing approved plans.
23. I have not been presented with the Council's confirmation that other conditions of the planning permission have been discharged. Therefore, I shall impose all those that I consider remain relevant. If some have in fact been discharged, that is a matter which can be addressed by the parties. As permission is being granted retrospectively, and it is not possible to use a negatively worded

condition to secure the approval and implementation of the outstanding matters before the development takes place, I have included a strict timetable for compliance. The conditions will ensure that the development can be enforced against if the requirements are not met.

Overall Conclusion

24. For the above reasons, and having regard to all other matters raised, I conclude that the appeal is allowed, and a new planning permission is granted.

Elaine Moulton

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall be carried out in accordance with the following plans and other submitted details:
Location plan
Proposed site plan HF-S_050_2F
Existing and proposed site plan HF_S050_2F
Landscape Scheme T0052.fig.002 Rev. P01
- 2) Within 3 months of the date that the equestrian facilities at Hall Farm Livery Stables become unavailable for equestrian based holidays in connection with the use of the caravan pitches, the use of the land hereby permitted shall cease and all materials and equipment brought on to the land in connection with that use shall be removed.
Definition: 'Equestrian based holidays' shall be defined as staying overnight on the caravan pitches while keeping a horse accommodated in the neighbouring Hall Farm livery stables for the duration of the stay on the caravan pitch.
- 3) No caravans shall be occupied or shall remain on site between 31st October in any one year and 1st April in the succeeding year.
- 4) The accommodation shall not be used for residential purposes other than holiday letting. For the purpose of this condition 'holiday letting' means letting to the same person, group of persons or family for period(s) not exceeding a total of 28 nights in any one calendar year. The site operator shall maintain an up-to-date register of the names and main home addresses of all occupiers of the site, including dates and durations of each stay by each occupier, and shall make this register available for inspection at all reasonable times when requested by the local planning authority. No individual caravan or motorhome shall be located on the site hereby permitted for a total of more than 28 nights in any one calendar year.
- 5) This permission allows the siting only of touring caravans and motor homes. No more than an overall combined total of seventeen touring caravans and/or motor homes shall be accommodated on the site hereby permitted at any one time. At no time shall static caravans be stationed on the site.
- 6) Unless within 2 months of the date of this permission details of foul and surface water drainage works are submitted in writing to the local planning authority for approval, and unless the approved works are implemented within 2 months of the local planning authority's approval, the use of the site to provide touring caravan pitches shall cease and all equipment and materials brought onto the land for the purposes of such use shall be removed until such time as a scheme is approved and implemented.

If no drainage works in accordance with this condition are approved within 6 months of the date of this decision, the use of the site shall cease and all equipment and materials brought onto the land for the purposes of such use shall be removed until such time as a scheme approved by the local planning authority is implemented.

Upon implementation of the approved drainage works specified in this condition, those works shall thereafter be permanently retained and maintained.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

- 7) Unless the approved scheme of hard and soft landscaping, as detailed on plan reference T0052.fig.002 Rev P01, is implemented within the next planting season, the use of the site to provide touring caravan pitches shall cease and all equipment and materials brought onto the land for the purposes of such use shall be removed until such time as a scheme is approved and implemented.

Any trees or plants which within the lifetime of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless alternatives are agreed in writing by the local planning authority.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

- 8) Unless within 2 months of the date of this permission details of the bin storage areas, including means of enclosure, are submitted in writing to the local planning authority for approval, and unless the approved works are implemented within 1 month of the local planning authority's approval, the use of the site to provide touring caravan pitches shall cease and all equipment and materials brought onto the land for the purposes of such use shall be removed until such time as a scheme is approved and implemented.

If no scheme in accordance with this condition is approved within 6 months of the date of this decision, the use of the site shall cease and all equipment and materials brought onto the land for the purposes of such use shall be removed until such time as a scheme approved by the local planning authority is implemented.

Upon implementation of the approved bin storage specified in this condition, those works shall thereafter be permanently retained and maintained.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

- 9) Unless within 2 months of the date of this permission a lighting scheme for the site is submitted in writing to the local planning authority for approval, and unless the approved scheme is implemented within 1 month of the local planning authority's approval, the use of the site to provide touring caravan pitches shall cease and all equipment and materials brought onto the land for

the purposes of such use shall be removed until such time as a scheme is approved and implemented.

If no scheme in accordance with this condition is approved within 6 months of the date of this decision, the use of the site shall cease and all equipment and materials brought onto the land for the purposes of such use shall be removed until such time as a scheme approved by the local planning authority is implemented.

Upon implementation of the approved scheme specified in this condition, those works shall thereafter be permanently retained and maintained.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.