



Appeal Decision

Hearing held on 10 September 2024

Site visit made on 10 September 2024

by A Hickey MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 November 2024

Appeal Ref: APP/B3030/W/24/3337234

Land at Wood Lane, Kersall, NG22 0BJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Ms Anna Speir against the decision of Newark & Sherwood District Council.
 - The application Ref is 22/01742/FUL.
 - The development proposed is siting of park home/lodge for use as a rural worker's dwelling in connection with existing livery business.
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Decision

1. The appeal is dismissed.

Applications for costs

2. At the hearing the Council made an application for costs against the appellant. The costs application is subject to a separate Decision.

Preliminary Matters

3. The appeal site address was agreed at the hearing to be land at Wood Lane, Kersall, NG22 0BJ. I have therefore used this address in the banner heading above.
4. It was confirmed at the hearing that the above description of development, which is set out in the submitted Statement of Common Ground ('SoCG') and was used in the Council's decision notice and on the appeal form, should be taken in preference to the description included on the original planning application form. It was also agreed between the parties that the appellant is seeking a temporary three-year consent.
5. The Council's third reason for refusal related to insufficient information being provided on trees. Additional information was subsequently submitted as part of the appeal process. The Council has confirmed in its statement of case that following the submission of these details, there is no longer any objection on these grounds. I have therefore dealt with the appeal on that basis.
6. The appellant also submitted an updated business plan and portfolio of former racehorses retrained by the Appellant at Beckside Stables late in the appeal process. Whilst this was not submitted with the planning application, as part of the appeal process the Authority and interested parties have had the opportunity to comment on its contents. As such, I do not consider that my taking it into account would prejudice any party.

7. At the hearing I was supplied with a copy of the notification of the hearing letter. This correctly showed that any interested parties had been sent details about the hearing arrangements in line with the appeals Procedural Guide¹.
8. Since the application was determined, the National Planning Policy Framework (the Framework) has been revised. Both the main parties have had the opportunity to comment during the appeal process.
9. The appellant and the Council agreed at the hearing that two stables on site do not benefit from planning permission. Given that it was confirmed that not all the stables are lawful, I have taken this into consideration in my findings.

Main Issues

10. Given the above, the main issues are:
 - whether there is an essential need for a rural worker to live at the site for the functional requirements of an equestrian enterprise; and
 - the effect of the proposal upon the character and appearance of the surrounding area.

Reasons

Background and site context

11. At the hearing, both parties confirmed that the planning application subject to this appeal was delayed in being determined. This was due to the Lawful Development Certificate application² (LDC) at the site. The LDC was subsequently permitted, confirming the lawful use for a livery equestrian centre at the site.
12. As set out within the SoCG, the land under the appellant's ownership covers an area of approximately 5.2 hectares. I also heard how the appellant had operated the stables on-site for a period of roughly 6 years.
13. At present, the appeal site comprises a mix of equestrian buildings of varying scales and design, many of which are in use as stables set around a livery yard. A small summer house is also located on this part of the site. The wider site sits within a rural location, and much of the surrounding land is used as part of the business, such as manèges, training fields, or paddocks. The livery yard and stables are partially screened from view along Wood Lane by a belt of trees/hedges. The nearby locality of the site includes residential properties with open fields beyond the small settlement of Kersall.

Policy context

14. Newark and Sherwood Core Strategy (NSCS) Spatial Policy 3 (SP3) sets out the approach to development in rural areas. The application site is not located within any defined settlement boundary and is therefore considered to be within the open countryside for the purposes of SP3. Amongst other matters Policy SP3 identifies development not in villages or settlements, in the open countryside, will be strictly controlled and restricted to uses which require a

¹ Guidance Procedural Guide: Planning appeals – England Updated 17 September 2024

² Ref: 23/00498/LDCE.

rural setting. Policies to deal with such applications are set out in the Newark and Sherwood Allocations and Development Management Document (DPD).

15. DPD Policy DM8 clarifies that development in the open countryside will be limited to specific types of development, including at criterion 2 for new and replacement rural workers dwellings. In order for new dwellings to be supported, proposals must demonstrate, amongst other things, a functional and financial need in relation to the operation being served. DM8 also requires the visual impact of the proposal on the surrounding countryside to be taken into account.
16. In terms of consistency between national and local policy, the Framework does not require that regard must be had to financial considerations. However, there is nothing to preclude local policies from setting out how the question of essential need is to be judged.
17. The LDC confirms the lawfulness of an equestrian centre use on site. It was agreed at the hearing that this lawful use allows for various equestrian-related activities to take place. As such, the relevant subtext to DM8 in consideration of this appeal is 7.42 'dwellings to serve existing businesses on well-established units' and not the subtext at 7.40 'dwellings to serve new businesses or new activities within established businesses'.
18. It was further agreed by the parties at the hearing that criterion i. of subtext 7.42, which refers to a clearly established existing functional need as described at 7.35ii, should be considered 7.40ii.

Essential need

19. From the evidence provided the business initially focused on the provision of 'mixed livery', where the care for the horses was undertaken on a full or part livery between the appellant and by other owners of horses stabled on site. The appellant also keeps their own horses at the site. More recently, the business has switched to more full-time liveries, whereby the appellant looks after the day-to-day needs of the horses/ponies, including foals. Subsequently, the evidence presented at application stage and the outset of the appeal is no longer up to date and has been superseded, given the changes to how the liveries are managed.
20. Nevertheless, the appellant's justification that there is a functional requirement for a residential presence on the appeal site remains. This onsite presence is based mainly on the need to secure animal welfare and to a lesser extent site security. In regard to welfare, a veterinary letter³ cites incidents that occurred previously, including a recurrent condition, 'Equine lymphangitis'. This requires not only medications but also a rigorous exercise of the affected horse every 3-4 hours, including during the night.
21. Additionally, the letter cites an example of a medical call-out and the need for veterinary attention due to acute colic to a horse. The letter also identifies where a late diagnosis resulted in a horse being euthanised at the appeal site.
22. At the hearing, the appellant advised of subsequent medical callouts, the need for veterinary attention, outside normal working hours, and subsequent monitoring through the night also occurred. Additionally, the appellant advised

³ Letter by Darrowby Veterinary Services dated 31 August 2022.

that former racehorses are unpredictable and will attempt to jump field hedges and gates, resulting in horses being trapped, injured, or escaping.

23. The unexpected incidents requiring immediate attention appear to have been relatively few in recent years. However, illnesses such as colic or equine lymphangitis may rapidly become very serious, or even life-threatening, if not attended to quickly or adequately managed. Additionally, if the welfare of horses on the site was seen to be compromised or vulnerable, particularly in the context of the appellant not being on-site, this is likely to adversely affect confidence in and therefore the reputation of a company with a business ethos based on animal care and rehabilitation. The severity of impact on a developing business of this nature and in these circumstances would be considerable.
24. The appellants confirmed they live some six miles from the appeal site, and it takes about 15 minutes, including getting ready to reach the site or longer if traffic or weather conditions are bad. At the hearing, it was agreed that there is a lack of reasonably affordable alternative accommodation near the site, and I have no reason to take a contrary view. I find that the commute time is not necessarily conducive to checking and monitoring the welfare of animals on site.
25. I have had regard to the appellant's provided examples of thefts within the area. It was, however, confirmed at the hearing that no thefts have taken place on the site while under the appellant's ownership. As such, I am not persuaded that alternative security measures cannot be investigated further.
26. The Council raised concerns at the hearing in relation to functional need and the two unauthorised stables. However, based on my findings above, a functional need would still exist should these be removed from the site.
27. Notwithstanding my findings on security, for the above reasons, there is a functional need for the appellant to be on-site day and night in case the animals require essential care at short notice or to deal quickly with emergencies that could otherwise cause serious harm or death outside normal working hours.
28. I now turn to the economic viability of the business. The supporting text to DPD Policy DM8 states at criterion iii. the unit and activity concerned need to have been established for at least three years, have been profitable for at least one of them, are currently financially sound, and have a clear prospect of remaining so.
29. The appellant, at the time the application was submitted to the Council, presented financial statements for the business. This information was reviewed by the Council's consultants⁴ (Kernon). Within this letter, it is accepted that the financial statements are indicative of an already viable business. Later letters⁵ from Kernon raise concern over the changing nature of the business, putting these figures into doubt. However, as discussed at the hearing, intensifying an activity that is already taking place is not a new activity. Therefore, I am persuaded that the unit and activity concerned has been established for at least three years, has been profitable for at least one of them and is currently financially sound. Notwithstanding the above, there is

⁴ Letter ref: KCC3502/ac dated 11 July 2023

⁵ Letter refs: KCC3502/hr dated 26 April 24 and KCC3502/hr dated 26 July 2024

also a requirement for the business to have a clear prospect of remaining financially sound.

30. The appellant has submitted a letter from Jack Atherton of Bratwa Racing Syndicate. This letter indicates horses are to be sent to the stables for various reasons, including rehabilitation or to become broodmares. However, no formally signed contract to this effect has been provided as part of the appeal or at the hearing. Therefore, the likelihood of this revenue stream continuing to the business remains at risk. As such, while a comfortable margin is projected, this is not secured.
31. The appellant's most recent business plan identifies additional land and stables that will be needed to support the expansion of the business. There is no substantive evidence before me to conclude there is a reasonable prospect of these being secured. This is because no planning permission for the stables or cogent evidence of the additional land being secured has been presented.
32. I also have some concerns with regard to the projected finances presented in the updated business plan. The figures provided do not take into account the expenditure of the purchase of the proposed temporary dwelling. The figures also fail to show expenditure costs for the proposed additional land and stables. Moreover, the limited accounting information does not provide a detailed breakdown of income and costs associated with individual horses/ponies stabled on site, including those owned by the appellant and those privately owned.
33. The appellant advises there is no financial liability attached to the land or buildings at Beckside Stables. Additionally, they have another source of income from rented properties which could assist in the purchase of the temporary dwelling. However, it is for the existing business to demonstrate it would have a clear prospect of remaining financially stable. As such, funded from privately held capital or the sale of property owned by the appellant would not demonstrate the future viability of the business.
34. Moreover, there remains a clear prospect that the unauthorised stables cannot be retained on-site. Given the limited financial breakdown of how the business operates, I cannot be sure how the loss of these stables would impact the future financial security of the stables.
35. It was discussed at the hearing how the appellant had managed their own accounts, which has, in part, resulted in less detailed accounts. However, this does not overcome the need to clearly demonstrate the future financial soundness of the business.
36. For the reasons above, it has not been demonstrated that the business has a clear prospect of remaining financially sound. In the absence of a compelling business plan with a detailed financial breakdown of the operation or future expenditure, including how the loss of the two unauthorised stables might impact profitability, I am unconvinced that the business is likely to remain financially sound in the future. As such, it would conflict with NSCS Policy SP3 and DPD Policy DM8.

Character and appearance

37. The appeal site is located within Mid Nottinghamshire Farmlands Landscape Character Area and the Cauntun Meadowlands policy zone as identified within

the Newark & Sherwood Landscape Character Assessment Supplementary Planning Document (LCSPD). The LCSPD identifies the appeal site as an area highly sensitive to change. Based on my site visit and walking around the area, I see no reason to disagree

38. During the hearing, the appellant accepted the Council's view that the design of the temporary dwelling is that of a readymade product. As such, the appellant agreed the temporary dwelling in its proposed form would harm the character and appearance of the surrounding area.
39. Following further discussion, the Council accepted that a building of the size and scale proposed in this location could assimilate with the immediate and wider area subject to acceptable materials and details on residential curtilage. Subject to a suitably worded condition to require these details to be agreed upon before the dwelling is erected, I see no reason to disagree with the main parties. Therefore, I find that any harm to the character and appearance of the area through the introduction of a temporary dwelling can be acceptably mitigated, and there is no harm in this regard.
40. For the above reason, the development would accord with Core Policies 9 and 13 of the NSCS and Policies DM5 and DM8 of the DPD. These policies, together and in so far as they relate to character and appearance, seek to achieve a high standard of sustainable design that is in keeping with the landscape and countryside. For the same reasons, it would also accord with the Newark & Sherwood Landscape Character Assessment Supplementary Planning Document.

Other Matters

41. My attention has been brought to an appeal at Grasslands Equestrian Centre⁶. I have not been provided with the full details of the case to establish a direct comparison. In any event, I have considered the appeal on its own merits and found conflict with the development plan as set out above.
42. The appellant has stated that significant investment in the enterprise has taken place, and there is support for enhancing the equestrian industry and improving access to horse riding as a sport. I find no reason to disagree. However, this does not overcome the need to demonstrate the future financial viability of the business.
43. The proposal would provide a dwelling within the rural area as supported by the Framework. It would also result in a building that is built to modern efficiency and energy standards. Nonetheless, given the proposal seeks temporary consent, these benefits would be limited.
44. The appellant also states the existing business provides economic benefits. The onsite presence would potentially allow some further economic benefits through expansion. Given the small scale of the proposal, I attribute little weight to this benefit.

Conclusion

45. Subject to a suitably worded condition, the appeal scheme would not harm the character and appearance of the area. Nonetheless, it has not been

⁶ Appeal ref: APP/JO540/A/05/1183752

demonstrated that the business will remain financially sound in the future even on a temporary basis. As such, the proposal conflicts with the development plan when considered as a whole and there are no other considerations, either individually or in combination, that outweighs the identified harm and associated development plan conflict.

46. Accordingly, I conclude that the appeal should be dismissed.

A Hickey

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Anna Speir

George Machin (Agent)

Matthew Smith (Partner of appellant)

Shruti Trivedi (Devello Legal)

Matilda Brothers-Martinez (Solicitor Apprentice)

FOR THE LOCAL PLANNING AUTHORITY:

Laura Gardner (Senior Planner)

Amy Davies (Planner)

Verity Drewett (Kernon Countryside Consultants)

Kevin McDonald (Planning Support)

DOCUMENTS submitted at the hearing:

- 1 Notification letter corrected date 16 August 2024
- 2 Newark & Sherwood District Council costs application