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Appeal Decision

Site visit made on 13 October 2014

by **Keith Turner LLB(Hons) DipArch(Dist) RIBA MRTPI**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 17 November 2014

Appeal Ref: APP/W9500/A/14/2223379

Land on Willow Wood Way, Stainsacre, Whitby YO22 4PX

- 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 Knaggs against the decision of North York Moors National Park.
- The application Ref NYM/2014/0009/FL, dated 3 January 2014, was refused by notice dated 17 March 2014.
- The development proposed is erection of stable block and field shelter.

Decision

1. The appeal is allowed and planning permission is granted for erection of stable block and field shelter at land on Willow Wood Way, Stainsacre, Whitby YO22 4PX in accordance with the terms of the application, Ref NYM/2014/0009/FL, dated 3 January 2014, and the plans submitted with it, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the detailed specifications and plans comprised in the application or with any variation approved in writing by the Local Planning Authority.
 - 3) The stable hereby permitted shall be used only for horses kept for leisure purposes by the occupants of the dwelling at 26 Rigg View, Stainsacre and for no other purpose.
 - 4) No external lighting shall be installed in the development hereby permitted until details of such lighting have been submitted to and approved in writing by the Local Planning Authority. Any lighting shall thereafter be installed in accordance with the scheme approved and thereafter retained in accordance with those approved details.
 - 5) No burning of manure or stable sweepings shall take place anywhere on the land and within one month of this decision full details of the proposed method of storage and disposal of waste from the permitted stable, including location of storage and frequency of disposal off the site shall be submitted to the Local Planning Authority. Waste storage and disposal shall thereafter be carried out in accordance with the details approved
 - 6) The external elevations of the stable and field shelter hereby permitted shall, within three months of first being brought into use, be clad in dark stained horizontal timber boarding which shall thereafter be retained.
 - 7) The external surface of the roofs of the stable and field shelter hereby permitted shall, within three months of first being brought into use, be coloured dark grey or dark brown and thereafter retained in such colour.
 - 8) Before the development hereby permitted is first brought into use an access track and a parking and turning area finished in stone and laid out in accordance with the details contained in drawing no. 8286/01 revision B shall be constructed and thereafter retained.

Reasons

2. The appeal must be determined in accordance with the development plan unless material considerations indicate otherwise¹. The development plan in this case comprises the North York Moors Local Development Framework Core Strategy and Development Policies. In particular, Development Policies 17 and 19 may be of some relevance to the appeal development. In addition, the appeal site lies within a National Park and so there is a statutory requirement² to have regard to the purposes of National Parks when considering whether to grant planning permission for development. The NPPF³ is also a material consideration of substantial weight.
3. From the reason given for refusal of planning permission, the representations which have been made, and the grounds of appeal, I agree with the National Park Authority [NPA] that the main issue raised by the appeal is whether the proposed location of the buildings and the associated equine use of the land would give rise to harm to the amenity of nearby residents through increased levels of pedestrian, equine or vehicular movements.
4. The lawful use of the appeal site is currently agriculture. That use expressly includes grazing of animals⁴, which can be taken to include horses. The Appellant indicates that a rule of thumb guide suggests 1 horse per 2 acres can be grazed without additional food. The appeal site comprises some 5.68 acres. Consequently, the two horses presently there could merely graze the land.
5. The actual development for which permission is being sought is the erection of a stable block and field shelter. However, the Appellant has indicated that hay bales and feed will be delivered to the site, and that manure will need to be removed from it. There was also a large water container on the land when I made my inspection, and that would require regular replenishment and attention. These and other related activities could take the use outside normal agriculture and bring it within the ambit of an equine use to which Development Policies 17 and 19 relate.
6. The first applies to commercial horse related development, which is permitted subject to 5 limitations being met. However, the Appellant contends that his use of the appeal site has no commercial basis and lies outside the ambit of Policy 17. There is reference to an instance when an additional horse belonging to a friend was kept for a time on the appeal site. That gave rise to other associated activity and resulted in complaints from neighbouring residents. The arrangement was not, according to the Appellant, anything more than temporary, the friend's horse having been displaced from its field by flooding. Also, the Appellant states that he received no payment for use of his land, it was merely a favour.
7. From the information before me I have no reason to doubt the Appellant's version of those events. The duration of that occupation is not clear from the documents, but it did create enough activity to give rise to complaints. However, I am satisfied that the use at that time had no commercial basis, and the Appellant has clearly stated that he has no intention of using the land for commercial equine use. The NPA suggest that ensuring that could be difficult,

¹ S38(6) Planning and Compulsory Purchase Act 2004

² S62(2) Environment Act 1995

³ National Planning Policy Framework – March 2012

⁴ S336(1) Town and Country Planning Act 1990, as amended

even if a planning condition were imposed. However, the Appellant has quoted instances elsewhere within the National Park where such a condition has been used. Whilst actually identifying when a use becomes commercial may not always be clear cut, the NPA rely upon the distinction in the development policies as well as conditions and so must feel able to control such matters.

8. Having regard to the above considerations, I conclude that Development Policy 17 is not applicable to this appeal. However, the facts in this instance do not fall comfortably within the terms of Development Policy 19 either. It relates to householder development and keeping of horses is not specifically dealt with in the Policy itself. Paragraph 9.24 of the explanatory text does, nevertheless, state that in order to avoid stable buildings and associated fences and jumps in isolated rural locations, permission for new buildings associated with the keeping of horses for recreational purposes will only be supported where they are closely associated with the domestic curtilage.
9. The appeal site is not contiguous with the Appellants house curtilage, nor any other residential curtilage. It is, however, only a short 2 to 3 minute walk from the Appellant's residence. In addition, the NPA, when assessing the application, considered that because the proposed stable and shelter would be located adjacent to the former railway embankment adjacent to the appeal site, the structures would not be unduly prominent in the wider landscape and would be seen in the context of the dwellings nearby. From my observations I consider that to be correct. Consequently, the proposed development, whilst not in accordance with the strict letter of the Policy, would accord with its objectives. In addition, the Appellant is willing to accept a planning condition limiting the use of the appeal site to the keeping of horses only in association with his dwellinghouse. Such a limitation would maintain the principle embodied in Development Policy 19, if not its literal terms.
10. Turning now to the impact such a use might have upon neighbouring residents, the issues raised in the representations derive from increased traffic to the appeal site, both vehicular and pedestrian. There are also fears that a riding school might develop. That derived from the activity witnessed when the additional horse was introduced when groups of children were being shown how to ride it on the adjacent highway. The complaints raised by neighbours in relation to activity with young riders appear to be limited to that one period of use. The Appellant has given an explanation for those events, which has not been challenged and which strongly suggests that such events are unlikely to be repeated.
11. Complaints also relate to the increased amount of traffic using Willow Wood Way to access the appeal site. However, the Appellant has a right of way over that highway and a right of access to his land. Whilst I understand that children from the adjacent houses may play on the shared surface road, it does provide the means of access to the houses themselves and two adjacent fields together with a route beneath the railway embankment. The levels of traffic generated by the Appellant are not clearly identified and cannot, therefore, be properly compared with other users of the road. However, the number of trips will not be generally very great, comprising delivery of some food, hay and water and removal, from time to time, of manure. If the field were used merely for grazing animals, similar trips could be generated, as they already are to the adjacent field according to residents.

12. Concerns have been expressed about vehicles visiting the appeal site being parked in the turning head at the end of Willow Wood Way. The Appellant has submitted an amended plan⁵ proposing a parking and turning area finished in stone adjacent to the site entrance. Whether this was formally considered by the NPA is not clear because the copy submitted has no official receipt stamp on it, unlike its predecessor. However, it was executed before the decision was made and was created to resolve issues raised by residents and the NPA. If incorporated, this proposal would permit vehicles to park off the street and to turn within the appeal site. The stone finish would also reduce the problems, which have been referred to by residents and the NPA, of mud having been deposited on the road. Even if that plan was not part of the application as determined, it illustrates that a solution can be achieved and that could be the subject of a planning condition and is, therefore, a material consideration.
13. Having regard to all of the above matters I conclude that the development proposed does not fully accord with the letter of Development Policy 19, but does not conflict with its objectives sufficiently to be refused only as contrary to the development plan. The associated equine use has given rise to some concerns about potential wider equine activity, but only over a temporary period. I consider it unlikely that this would recur and, if it did, then it may well fall outside the limitation of recreational development as referred to in Development Policy 19. Other issues such as traffic are inevitable to some degree given the access rights, but need not impinge unduly on neighbours if the additional measures suggested by the Appellant are incorporated into the development. For these reasons the appeal is allowed, but subject to conditions.
14. The NPA suggested 7 conditions. Condition 1 is the statutory time limit. Condition 2 seeks compliance with the submitted details which is acceptable and necessary. Condition 3 seeks to prevent commercial use of the stables and I would not grant permission in this location without that limitation for reasons set out above. It also limits the enjoyment of the development to the occupation of the Appellant's dwelling. Given the context of Development Policy 19 I consider that to be reasonable to prevent the development becoming in the future one which would be unacceptable under the terms of the letter and spirit of development plan.
15. Condition 4 seeks to maintain control over external lighting. Given the site's location on a rural fringe within a National Park, I consider that necessary to preserve the character of the surroundings. Condition 5 seeks to control disposal of waste from the site. Since it is close to houses I consider that to be appropriate and necessary to ensure protection of residential amenity. Conditions 6 and 7 seek to ensure compliance with approved materials. Again I find that necessary to preserve the character and appearance of the area.
16. I shall also include a condition to ensure that the access, parking and turning area referred to are constructed and retained as these measures are essential to overcome the concerns of neighbouring residents in relation to on street parking and other traffic issues.

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⁵ Drawing 8286/01 revision A dated 3 March 2014