



PLANNING COMMITTEE

Tuesday 18 November 2014 at 6.00 pm

Council Chamber, Ryedale House, Malton

Agenda

21 Late Observations

(Pages 2 - 10)

Agenda Item 21

RYEDALE
DISTRICT
COUNCIL



Please Contact: Mrs Karen Hood

Extension 386

Email: karen.hood@ryedale.gov.uk

All Members of the Planning Committee
Council Solicitor
Head of Planning & Housing
Managing Development Team Leader
Development Management Officer

Ref: Agendas/Planning/2014/2015

14 November 2014

Dear Councillor

Meeting of the Planning Committee - 18 November 2014

With reference to the above meeting I enclose for your attention the late observations received since despatch of the agenda.

Yours sincerely



Mrs Karen Hood
Managing Development Team Leader

Enc



Tracey Hubbard
Malcolm Scott Consultants Ltd
Grove House
1 Loves Grove
Worcester
WR1 3BU

Our Ref: AW/PDEV-14-000001

Your Ref: G1332/TH/ST

Please Ask For: Mr Winship

Ext: 267

E-mail: anthony.winship@ryedale.gov.uk

DX 723621 MALTON 2

14 November 2014

Dear Ms Hubbard

HOPKINSON AND SONS LTD, STEAM AND MOORLAND GARDEN CENTRE, MALTON ROAD, PICKERING, YO18 7JW : ENFORCEMENT REPORT 10/00156/BC

Thank you for your letter dated 13 November 2014.

I can confirm that your letter will be reported to Members of the Planning Committee.

My comments on the issues raised in your letter are as follows:-

- (i) If the Planning Committee meeting on 18 November 2014 authorises enforcement action and the enforcement notice is issued, your client will have a right of appeal. In these circumstances the enforcement appeal could be joined with the CLEUD appeal and both appeals could be heard together at the same inquiry;
- (ii) The issue of DIY sales in the machinery building should be no surprise to either you or your client because it had been the subject of previous correspondence in connection with your clients application for a Certificate of Lawfulness.
- (iii) Your clients have made a clear admission in the statement of case for the CLEUD appeal that DIY sales take place in the machinery building. This is also consistent with correspondence with you on this point. Your explanation that it is personal DIY is not consistent with the correspondence on this issue and is not accepted.
- (iv) Your client company is fully aware that an enforcement investigation has been ongoing on this case.



Against this background it is entirely reasonable for the Planning Committee meeting on 18 November 2014 to authorise enforcement action in respect of the breaches of planning control at the Steam and Moorland Garden Centre.

Yours sincerely

A handwritten signature in black ink that reads "K A Winship".

K A Winship
Council Solicitor







CONSULTANTS LTD



G1332/TH/ST

Ryedale District Council
Ryedale House
Malton
North Yorkshire
YO17 7HH

13 November 2014

Dear Sirs

**HOPKINSON AND SONS LTD, STEAM AND MOORLAND GARDEN CENTRE,
MALTON ROAD, PICKERING YO18 7JW: ENFORCEMENT REPORT 10/00156/BC**

The committee report alleges breaches of conditions attached to two planning permissions at the above site. One attached to the Garden Centre and one to the Machinery Centre.

The issuing of an Enforcement Notice against breach of conditions 06 of permission 00/00400/OUT and condition 06 of permission 02/00880/FUL will result in an appeal being lodged against this notice. The nature of the alleged breaches will require the appeal to be heard at a public inquiry, which has cost implications for both the appellant and the LPA.

Councillors will be aware that an appeal has been lodged against Ryedale District Council's refusal to issue a Certificate of Lawfulness, confirming that goods have been sold in breach of condition 06 of permission 00/00400/OUT from the garden centre building for a period in excess of 10 years. This appeal is scheduled to be heard at a two day inquiry in March 2015. The Inspector will determine whether or not these sales have become lawful through the passage of time. If he concludes against the appellants, the Council will have a *bona fide* case for service of an enforcement notice.

The inclusion of the garden machinery building into the enforcement report and proposed notice is somewhat surprising. To the owners' knowledge, until publication of the committee report on 10 November 2014, the use of this building has never been the subject of any enforcement inquiry, nor complaint. There is no indication in the committee report as to the exact nature of the items for sale allegedly in breach of condition, nor an indication that a site investigation has been undertaken in this regard.

We draw the Council's attention to national Planning Practice Guidance with regards to enforcement. Paragraph 008 sets out why early engagement is important. It states "*When investigating an alleged or apparent breach of planning control, a crucial first step is for the local planning authority to attempt to contact the owner or occupier of the site in question*". This will allow the local planning authority to establish whether there is a breach of planning control and the degree of harm which may be resulting". Paragraph 003 provides that when dealing with issues of enforcement "*Local planning authorities should act in a proportionate way*". There has been no such early engagement with the owners of the site in this case. It is not clear that officers have evidence of any such

breach, or that if such a breach is occurring, that consideration has been given to whether that could be overcome by less formal and therefore less costly action.

Reference to the sale of "DIY goods" from the building in the appeal statement refers to smaller hand held garden and agricultural machinery and associated accessories one would expect to use on a "Do It Yourself" project on one's property. It does not clearly indicate a breach of condition 06 of permission 02/00880/FUL as stated in the committee report, but sought to clarify the nature and history of sales of "DIY Goods" from the Garden Centre building.

The committee are therefore urged to consider whether the serving of the proposed enforcement notice at this time is in the public interest, or whether awaiting the outcome of the pending appeal regarding the garden centre and dialogue regarding the machinery centre would better serve the public interest.

I would be grateful if you would confirm that the above will be fully reported to the members planning committee.

Yours faithfully
for MALCOLM SCOTT CONSULTANTS LTD



TRACY HUBBARD
tracyh@malcolmscottcons.co.uk
www.malcolmscottcons.co.uk

cc: Mr C Hopkinson, Steam and Moorland Garden Centre

(131114.ltr.rdc.th)

Subject: FW: Canadian Fields, Nawton

From: Stephen Boyne [mailto:Stephen.Boyne@northyorks.gov.uk]

Sent: 13 November 2014 13:37

To: Matthew Mortonson

Cc: Area4 KirbyMisperton

Subject: RE: Canadian Fields, Nawton

Hi Matthew,

If the proposals are considered on the basis of NOT being ancillary to the use of the site, then this would bring two highways issues into play :-

1. The effect on on-site parking provision. As you are aware the site is not currently fully developed and therefore grassed areas on the site, depending upon weather conditions, may well be available for parking. However, the site has a consent which shows the layout and parking as a fully-developed enterprise, and therefore it would require a modification to accommodate extra parking provision for non-staying patrons of the restaurant, plus additional staff parking if the demands of the restaurant. Please refer to my letter dated 13 August 2014 in respect of application ref. 14/00777/FUL. It is difficult to predict what ratio of patrons would be relative to those on-site and those specifically visiting, but my letter indicates a requirement of 1 space per 4 diners being recommended overall.
2. The effect on additional traffic along Gale Lane. I initially had concerns on the ability of the lane to cater for the traffic likely to be generated under application ref. 11/00173/MFUL (26 units), as per my consultation response dated 6 April 2011. The subsequent application ref. 11/00686/MFUL reduced the number of units to 19, and in that respect the development was considered acceptable. Consequently an additional activity will again raise concerns, and I would therefore look to see some improvements provided along the lane by way of passing places.

However, in the absence of any information being submitted that addresses these concerns, I would recommend refusal for the following reasons :-

- A. In the context of the existing approved development, the local planning authority considers that in the absence of adequate on-site parking space the proposed development would be likely to result in vehicles being parked outside the site on the county highway to the detriment of safety and the free flow of traffic.
- B. The local planning authority considers that the roads leading to the site are not of a sufficient width and layout to cater for the traffic which would be likely to be generated by this proposal.

Steve

RSS.

COMMITTEE

SUPPORT.

Rachel Smith
Planning Department
Ryedale District Council
Ryedale House
Old Malton Road
Malton
N.Yorks
YO17 7HH

PLANNING DM

13 NOV 2014

DEVELOPMENT
MANAGEMENT

9/1
13/11

11th November 2014

Dear Rachel

Planning Application - Piercy End, Kirkbymoorside – Ref 14/01081/OUT

I am writing on behalf of Ryedale Special Families in support of the above application. The reasons for that support are set out in more detail in a letter from our charity dated 15th September, which accompanied the application. I would be grateful if those comments could form part of this submission and I will just update you on the family situation which has changed since our original letter.

My understanding is that the improvements to wheelchair access to Mr Paul Strickland's existing house at 42 Keld Head Orchard are now eligible for funding from the Disabilities Facilities Grant. The administration of the Grant fund is undertaken for Ryedale District Council by the White Rose Home Improvement Agency. However, there is a requirement for owner occupiers to live in the property for at least 5 years after the work is undertaken. Regrettably, Mia's condition is deteriorating at a faster rate than previously thought. It is likely that she will be using a wheelchair permanently well within that period. This would preclude her accessing the upstairs of her house and the layout of the property precludes wheelchair access being made available to that floor. As a result the family will be forced to move from their present property in a relatively short time period.

Accessible properties suitable for the family are in extremely short supply in Kirkbymoorside. If the family had to leave the community it would sever the vital support ties with family and friends. Given the severe and deteriorating nature of Mia's disability it would become very challenging and stressful to meet those needs without ready access to that support. Therefore the family has little option but to apply for planning permission for an accessible bungalow on its land at Piercy End and Ryedale Special Families strongly supports that application.

Yours sincerely,

David Brewster
Chief Officer