

RYEDALE DISTRICT COUNCIL

PLANNING COMMITTEE - 10 NOVEMBER 2015

Report of the Head of Planning

Change of use of agricultural land for motor cross events together with operational development at
Land West Of Partings Farm, Allerston, Pickering

Purpose of the Report

To advise Members of alleged breaches of planning control and recommend an appropriate course of action.

1. SITE LOCATION

- 1.1 The site lies to the west of an existing farmstead known as Partings Farm North east of the village of Allerston off the A170. The farmstead is still operational, the land the subject of this report was previously used for the rearing of pigs.

2. BREACHES OF PLANNING CONTROL

- 2.1 The breaches of planning control comprises :

Without planning permission, the material change of use of the land known as Partings Farm, to a mixed use for the purposes of agriculture and motorcycle riding, including trials of skill; motorcycle racing, including trials of speed; and practising for such activities; together with the construction of a permanent track including the formation of jumps, man-made hollows, berms, corner banking, all to facilitate some or all of those activities.

These are described below.

2.2 Change of Use

The above site is agricultural land which has been used as a motocross track. Users of the site range from small children on 50 cc bikes to teenagers/ adults on 125cc+ . Officers of the Local Planning Authority understand that the site is only used on Sundays between the hours of 10:00 - 16:00 with an average of 30 users.

2.2 Engineering operations

In order to implement the above use, the operators of the site have also carried out engineering operations as defined by Section 55 of the Town and Country Planning Act1990. The development carried out is in the form of a track, including obstacles, jumps and car parking. A static caravan has also been sited which is used as an office, tuck shop and shop.

3. WHAT BREACHES HAVE OCCURRED

3.1 The site was investigated by the Council's Enforcement Officer after complaints had been received from a District Councillor regarding the operation of the site. This was received by the Local Planning Authority on the 16 June 2015.

3.2 The Development Management Enforcement Officer and Environmental Health Officer visited the site and noted that there had been significant engineering works on the site to create the race track and to construct a number of jumps and obstacles, as well as the formation of a parking area and siting of a static caravan, used as a shop and office. Due to the level of work carried out and the operations required to carry it out, officers were satisfied that the works carried out would have required the benefit of planning permission as defined by Section 55 of the Town and Country Planning Act 1990

3.3 The operators of the site are known as a collective called 'Mud in Your Blood'. Representatives of this organisation have confirmed how the site had been operating:

- *once a week on a Sunday between the hours of 10:00 - 16:00*
- *three sessions at 15 minute intervals throughout the day. The intervals are split into the following; 50cc bikes, 65- 85 cc bikes and 125+cc bikes.*
- *On average there would be approximately 30 users of the course this would approximately be broke down as follows; 5 users of the 50cc, 15 users of the 65/ 85cc and 20 users of the 125+ cc bikes*

3.4 It was the operators understanding that they had been operating in compliance with Schedule 3 Part 4 Class B of the Town and Country Planning (General Permitted Development) (England) Order, which stipulates;

The use of any land for any purpose for not more than 28 days in total in any calendar year, of which not more than 14 days in total may be for the purposes of—

(a) the holding of a market;

(b) motor car and motorcycle racing including trials of speed, and practising for these activities,

and the provision on the land of any moveable structure for the purposes of the permitted use.

However Officers confirmed that because of the aforementioned engineering operations, the change of the use of the land for the purpose of motor cross was not 'permitted development'. The development therefore should have had the benefit of planning permission to change the use of the land to D2.

4. HISTORY

4.1 The land the subject of this report has no previous Planning History.

5. PLANNING POLICY CONTEXT

5.1 The relevant planning policy considerations are:

National Planning Policy Framework (NPPF)

Paragraph 17 - Core Planning Principles
Section 3 - Supporting a prosperous rural economy

Ryedale Plan - Local Plan Strategy

Policy SP 1 - General Location of Development and Settlement Hierarchy
Policy SP 11 - Community Facilities and Services
Policy SP 13 - Landscapes
Policy SP 19 - Presumption in Favour of Sustainable Development
Policy SP 20 - Generic Development Management Issues

6. APPRAISAL

6.1 The site is located within the Fringe of the Moors Area of High Landscape Value, the wider landscape setting of site is therefore highly significant. Although undisputedly engineering operations have taken place from the key public vantage point from Allerston Lane. The works carried out on the site assimilates into the wider landscape. From distant views the site still appears in the landscape as an agricultural field. Views from the A170 which runs south of the site are limited due to the topography. Officers do not consider that the development impacts significantly on the landscape character of the area.

6.2 A starting point is to consider that Under Schedule 3 Part 4 Class B of the Town and Country Planning (General Permitted Development) (England) Order temporary consent is given The use of any land for any purpose for not more than 28 days in total in any calendar year, of which not more than 14 days in total may be for the purposes of—

(a) the holding of a market;

(b) motor car and motorcycle racing including trials of speed, and practising for these activities,

and the provision on the land of any moveable structure for the purposes of the permitted use.

However as previously stated the works carried out in terms of the creation of the track and the obstacles on it constitute engineering operations under Section 55 of the Town and Country Planning Act 1990. The site therefore does not benefit from the temporary change of use permitted by Part 4 of the GPDO. It should be noted that if the land was reverted back to its former condition, come the 1st January 2016, the site could be operated, with temporary structures for up to 14 days with that calendar year without requiring planning permission

6.3 The main concern with the development is considered to be the impact on the amenity of the occupiers of the neighbouring properties and adjacent land uses. The initial correspondence with the land owner and operator indicated that the main purpose of the site was training of children on small bikes as a way of 'keeping them off the street'. A similar initiative is operating in Scarborough. However following the meeting on site it was confirmed that the main users of this site are teenagers and adults on larger 125+cc bikes. The site operates on a Sunday between the hours of 10:00 and 16:00. The three different categories of bikes use the track in 15 minute intervals. Due to this operation the track is almost continually in use throughout the opening times.

- 6.4 The high pitch buzzing and revving created by the motor cross bikes negotiating the track and obstacles is a highly intrusive noise. The obstacles and jumps (which are as a direct result of the engineering operations) increase noise levels as the bikes attempt to scramble up them.
- 6.5 This impact is further exacerbated because the site is located within the open countryside, and whilst the background noise levels from the A170, farming operations and adjacent dog kennels do raise background noise levels it is officers opinion that the type of noise as described adversely affects the amenity of the occupiers of neighbouring properties.
- 6.6 The site operates most Sundays. However this can be intermittent due to bad weather conditions and events being held elsewhere.
- 6.7 The second key concern over the use of the site is the impact on highway safety. Officers have been in discussion with the Highways Authority, over whether the use of the existing access to Partings Farm would pose harm to the safe functioning of the A170. The views offered by the Highway Authority is that it would be unlikely that the use of the access, (albeit with some alterations) would pose a risk to Highway Safety. It must be stressed that these views represents an informal, officer opinion only, and do not commit either the Highway Authority or the Local Planning Authority in any way or prejudice any decision that a Planning Committee may reach if a formal application was made.
- 6.8 In view of the nature of the complaints received, and the evidence of the clear breaches of planning control, it is considered that the Local Planning Authority should take action to remedy the situation.

7. WHY IS IT CONSIDERED EXPEDIENT TO SERVE A NOTICE?

- 7.1 The site is located in open countryside outside the development limits of Allerston. The breach was first reported to the Local Planning Authority in June 2015, although the complaints state the operations commenced in June. The operators of the site have ignored the Councils request to cease operations of the site. Whilst it is understood that they are in the process of submitting a full planning application in an attempt to regularise the use and engineering operations, it has been confirmed by the applicant that this would not be ready for submission by the deadline set by the Local Planning Authority. Since the site first started operating, the complainants have reported that the activities are increasingly impacting on their amenity and adversely affecting the operations of their business.
- 7.2 The developer has failed to demonstrate that the site can be operated without adversely affecting the amenity of the occupiers of the neighbouring properties. This can only be properly demonstrated through the submission of a rigorous Noise Impact Assessment required as part of a formal planning application. It is therefore the conclusion of Officers that the use of the land, and the engineering operations are contrary to national planning advice contained in the NPPF and NPPG. This use would adversely impact on the amenity of neighbouring properties and nearby businesses contrary to the requirements of Para. 17 of the NPPF and Policy SP20 of the Ryedale Plan - Local Plan Strategy. In this instance, with a clear breach of a planning control, it is considered expedient to authorise enforcement action.

7.3 The expediency reason to serve an enforcement notice is outlined below:

1. The unauthorised breach of planning control is contrary to Policy SP20 (Generic Development management Issues) of the Ryedale Plan - Local Plan Strategy which requires that new development should not have a material adverse impact on the amenity of present or future occupants, the users or occupants of neighbouring land and buildings or the wider community by virtue of the ... 'use, location and proximity to neighbouring uses'. The National Planning Policy Framework Paragraph 17 seeks to secure ... a good standard of amenity for all existing and future occupants of land and buildings. As is evident from the complaints received and what officers observed from visiting the site the current unauthorised operations are having an adverse impact on the amenity of neighbouring properties, as a direct result of the use for the purpose of motor cross.

In the absence of a Noise Impact Assessment it has not been demonstrated to the Local Planning Authority that the site can operate in a manner which does not adversely affect the amenity of the occupiers of neighbouring properties. The development is thereby contrary to Para. 17 of the NPPF, and Policy S20 of the Ryedale Local Plan Strategy.

8. STEPS NECESSARY TO REMEDY THE BREACH

8.1 This report seeks authorisation to serve a formal enforcement notice to remedy the breach of planning control. In order to achieve compliance the necessary steps include:

1. Cease the mixed use of the land known as Partings Farm including use of the permanent track within the area of land identified on the plan attached to the report , by the cessation of motorcycle riding including trials of skill; motorcycle racing including trials of speed; and practising for such activities, other than as specified in Schedule 2, Part 4, Class B (B1) of the *Town and Country Planning (General Permitted Development) (England) Order 2015* as amended, or any order revoking and reenacting that Order with or without modification.
2. Remove from the land the 'motor cross' track and the car park , together with all jumps, man-made hollows, berms, corner banking,
3. Restoration of the land to its former condition, through the removal/ levelling of the 'motor cross course' and car parking area.
4. Cultivate and seed the land to a condition fit for agricultural use.
5. Restoration of the land to its former condition, through the removal/ levelling of the 'motor cross course' and car parking area.
6. The removal from the land of the static caravan.

9. SUGGESTED PERIOD FOR COMPLIANCE

9.1 The suggested period for compliance is one month in respect of an Enforcement Notice.

Recommendation

The Council Solicitor be authorised in consultation with the Head of Planning and Housing Services to issue an enforcement notice pursuant to section 172 of the Town and Country Planning Act 1990 (as amended) requiring :

1. Cease the mixed use of the land known as Partings Farm including use of the permanent track within the area of land identified on the plan attached to the report , by the cessation of motorcycle riding including trials of skill; motorcycle racing including trials of speed; and practising for such activities, other than as specified in Schedule 2, Part 4, Class B (B1) of the *Town and Country Planning (General Permitted Development) (England) Order 2015* as amended, or any order revoking and reenacting that Order with or without modification.
2. Remove from the land the 'motor cross' track and the car park , together with all jumps, man-made hollows, berms, corner banking,
3. Restoration of the land to its former condition, through the removal/ levelling of the 'motor cross course' and car parking area.
4. Cultivate and seed the land to a condition fit for agricultural use.
5. Restoration of the land to its former condition, through the removal/ levelling of the 'motor cross course' and car parking area.
6. The removal from the land of the static caravan.

Background Papers

Investigation file 15/00054/UD