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## Appeal Decision

Site visit made on 8 January 2019

**by Roy Merrett BSc(Hons) DipTP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 04 February 2019**

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**Appeal Ref: APP/Y2736/C/18/3207694**

**Land at Scackleton Lane, Scackleton, North Yorkshire**

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
  - The appeal is made by Mrs Ruth Spellacy against an enforcement notice issued by Ryedale District Council.
  - The enforcement notice was issued on 18 June 2018.
  - The breach of planning control as alleged in the notice is Without Planning permission the siting of a mobile home for residential use which comprises the material change of use of the Land from agriculture to a mixed use for agriculture and residential use with associated dog kennel, buildings, vehicles, hard standing and operational development.
  - The requirements of the notice are (i) Discontinue the use of the Land for residential use; (ii) Remove the mobile home from the land; (iii) Remove the domestic paraphernalia from the Land; (iv) Remove any hard standings, dog kennels and associated compounds from the Land and (v) Restore the Land to its condition prior to the unauthorised development commenced.
  - The period for compliance with the requirements is six months.
  - The appeal is proceeding on the ground set out in section 174(2)(a) of the Town and Country Planning Act 1990 as amended.
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### Decision

1. The appeal is dismissed and the enforcement notice is upheld. Planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

### Main Issues

2. The main issues are whether there is an essential need to accommodate a rural worker on the site and the financial viability of the appellant's business; the effect of the development on the character and appearance of the surrounding countryside and highway safety matters.

### Background

3. The appeal site is a roughly rectangular field, which has been sub-divided with a post and wire fence. The area within which the residential use and associated paraphernalia is situated is part of a grassed paddock. The mobile home, which comprises a light green coloured caravan, is sited adjacent to the hedge which forms the north-western boundary of the site. A relatively small kennel, roughly constructed from timber, is situated adjacent to the mobile home. Coarse aggregate has been placed near the access to the site to form a hardstanding for the parking of vehicles. Other than the appellant's dogs it

was apparent from my visit that there are no other animals currently kept at the site. The appellant proposes to keep alpacas at the site and to derive an income from amongst other things, breeding the animals; through the sale of various by-products including manure and as a tourist attraction offering accompanied walks in the local area.

## **Reasons**

### *Need and Viability*

4. The National Planning Policy Framework (the Framework) states that isolated homes in the countryside should be avoided unless certain circumstances apply, including that there is an essential need for a rural worker to live permanently at or near their place of work in the countryside. This position is reflected in Policy SP1 of the Ryedale District Local Plan 2013 (LP), which seeks to restrict development in the open countryside to that necessary to support a sustainable, vibrant and healthy rural economy. Furthermore Policy SP2 of the LP identifies that new build dwellings in the open countryside will be appropriate in principle where they are necessary to support a land-based economy, where an essential need for such development in that location can be justified.
5. I acknowledge that alpaca farming can present challenges in terms of safeguarding the welfare of the animals due to unpredictable birthing. However irrespective of the inherent demands of the proposed rural business, an important part of the assessment as to whether residential occupation of the site would be essential in order to support that business, is the question of whether there is already suitable alternative existing accommodation.
6. The site is close to and within reasonable walking distance of the village of Scackleton to the south. I have no reason to doubt that buying a house in this quiet and attractive rural location would be prohibitively expensive for many people. However from the various representations and my visit it is apparent that property is available to rent within the village and I have not been informed that this is no longer the case. The appellant has not set out why renting nearby accommodation, either in Scackleton or further afield, would not present a feasible alternative to living on the site, therefore overcoming the need for a mobile home there. A compelling case has not been made that the need for permanent residential occupation on the site is essential. Accordingly there is conflict in this regard with the Policies SP1 and SP2 of the LP and with the Framework.
7. In terms of viability it is apparent from the appellant's business plan that a majority of income is expected to derive from sales of manure (beans) and from alpaca walking for tourists. However there is little detailed information provided to support the projected levels of manure sales, in terms of marketing possibilities and the time taken, strategy and cost for collecting and distributing the product.
8. With regard to alpaca walking, the appellant has cited the nearby village of Terrington as a possible destination and the use of a tearoom there as a component of the business plan. However, even if there is a well-established network of bridleways in the locality, it is unclear whether this would necessitate walking, in part, along roads and therefore how attractive this would be to potential clients. Evidence that the projected income from this

element of the business would be achievable is lacking, as is also the case in relation to breeding and visits.

9. Furthermore, in the absence of evidence to the contrary, it seems to me that the development of the alpaca waking element of the business as a tourist attraction would necessitate the provision of basic ancillary facilities at the site, such as shelter and toilets for clients, which do not appear to have been factored into the plan and which may require planning permission in their own right.
10. In addition, the absence of livestock on the site and the very limited investment in infrastructure to contain any animals, including fenced enclosures, serves to cast further doubt over the robustness of the business plan. Therefore, whilst the proposed business may benefit the local economy should it commence and develop, based on the information before me, the questionable soundness of the business plan weakens the case for permitting residential occupation of the site at the present time. Neither does the proposal represent the appropriate diversification of an existing rural enterprise that would help to sustain that business. However, even if there was a more convincing case regarding the viability of the proposal this would still not overcome the aforementioned issue regarding the availability of alternative accommodation.

#### *Character and Appearance*

11. The appeal site is within the Howardian Hills Area of Outstanding Natural Beauty (AONB). This area is characterised by wooded undulating countryside, over which there are attractive long-distance views. The mobile home is of typical rectangular shape and is functional in appearance. It is visible from the the western end of the village of Scackleton. Though relatively small, when viewed from distance, and set against a tall boundary hedge, its simple, functional form and uncharacteristic light green colouring appears as an incongruous feature in the landscape. The reflective quality of the green external cladding also serves to draw the eye to this point.
12. Planting trees with the intention of screening the mobile home would take considerable time to become effective and so would not offer a realistic solution. In any event the argument that a mobile home would be out of public view for this reason would not be compelling in principle, as it could be repeated too often to the overall detriment of the character and appearance of the countryside. The appellant has confirmed that they would be willing to clad the mobile home with the intention of making its visual appearance more acceptable. However, I have been provided with no detail as to what would be possible in terms of the finished appearance. In any event it would not address the question of whether suitable alternative existing accommodation could be used instead, as set out above.
13. The dog kennel has been coarsely constructed with timber panels. Although it is relatively small and squat in form and is a more recessive feature in the wider landscape, compared with the mobile home, it nevertheless adds, to a small extent, to the visual harm to the landscape. Furthermore the appellant indicates that to support the business, at least a further building would be required, to provide a shelter, no details of which have been provided.

14. Whilst from the north-west, the site is substantially screened by the adjacent mature boundary hedge, the mobile home, including its white upvc windows and doors, is visible at close range, albeit fleetingly, via the site entrance. From this perspective the design details of the mobile home also appear incongruous, with the visual impact compounded by the roughly laid area of hardstanding.
15. I am mindful that the Framework states that great weight should be given to conserving and enhancing landscape and scenic beauty in Areas of Outstanding Natural Beauty and that the scale and extent of development within these designated areas should be limited. I consider, for the above reasons, that the development fails to conserve the landscape and scenic beauty of the AONB. Whilst the visual change is relatively minor, and may not be permanent, there is still real and serious harm in the context of the Framework objective, which is a consideration of significant weight. I conclude that the development results in harm to the character and appearance of the surrounding countryside and is therefore in conflict with Policies SP13, SP16 and SP20 of the LP insofar as they seek development to reinforce local distinctiveness, the quality of its surroundings and in particular the special qualities and scenic natural beauty of the AONB.

#### *Highway Safety*

16. The Highway Authority and various third parties have raised the concern that the development of the business would result in highway safety related issues. The appeal site is located along a single lane track leading northwards away from the village. The lane in question is not a through road and culminates some distance further away. It therefore seems to me that the quantity of traffic using this road would not be great. Indeed this finding is supported by my observations of very few vehicles during the site visit.
17. When considering the nature of the proposed business, I would not anticipate a significant number of vehicle movements to and from the site, in connection with the proposed tourist operation and other general comings and goings, over the course of a typical day. Therefore given these circumstances and despite the limited width of the road and the adjacent hedge line causing sub-standard visibility for drivers emerging from the site, I am not satisfied that highway safety concerns, in terms of vehicles travelling to and from the site, would amount to a robust reason on which to refuse the proposal in this case.
18. However it cannot be ruled out that the alpaca walking element of the business would involve a route, partly incorporating a busy road as referenced in the Highway Authority representations. Accordingly I am unable to discount, from the information before me, that this would result in highway safety issues.

#### *Other Matters*

19. The appellant has cited a number of appeal decisions where residential occupation was allowed in relation to businesses involving alpacas. In the Haddenham case<sup>1</sup>, no evidence had been provided of potentially suitable alternative accommodation in the vicinity and there was also evidence of considerable investment in the business there. Furthermore that site was not located within a designated sensitive landscape. In the other appeal cases,

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<sup>1</sup> Ref APP/V0510/W/17/3182345

there appear to have been sizable herds already present and no findings of significant landscape harm<sup>2</sup>. Accordingly the circumstances of these cases are not comparable to the present case and it does not therefore follow that planning permission would be justified. Although an extensive list of further appeal cases has been provided, some of which are relatively dated now, the appellant has not set out how they consider the circumstances of those cases are in any way similar to the present case and weigh in favour of the granting of planning permission.

20. The enforcement notice which will be upheld will interfere with the occupiers' rights under Article 8 of the Human Rights Act 1998, which states that everyone has a right to respect for private and family life, their home and correspondence. This is a qualified right, whereby interference may be justified in the public interest, but the concept of proportionality is crucial. I conclude, taking into account the Council's reasons for issuing the notice and the aforementioned considerations, that the time available to occupiers to seek alternative accommodation would be reasonable and would not result in a disproportionate burden.

### **Conclusion**

21. I have found harm in terms of the impact of the development on the countryside. Based on the evidence before me, this harm is not outweighed in terms of a demonstrable need for a residential presence on the site. Indeed the harm could be further exacerbated for highway safety reasons as set out above. For the aforementioned reasons I conclude that the appeal should not succeed. I shall uphold the enforcement notice and refuse to grant planning permission on the deemed application.

*Roy Merrett*

INSPECTOR

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<sup>2</sup> Refs APP/Z6950/C/14/2221179 and APP/W1145/A/14/2218039