

<b>DECISION DATE</b> 19 January 2009	<b>APPLICATION NO.</b> 08/01288/RCN A12	<b>PLANNING COMMITTEE:</b> 12 January 2009
<b>DEVELOPMENT PROPOSED</b>  REMOVAL OF CONDITION 3 (REQUIREMENT TO PROVIDE TWO PASSING PLACES) ON APPLICATION NO. 08/00393/FUL		<b>SITE ADDRESS</b>  SWARTHDALE COTTAGE SWARTHDALE ROAD OVER KELLET CARNFORTH LANCASHIRE LA6 1DY
<b>APPLICANT:</b>  Mr Terry Billington Swarthdale Cottage Nether Kellet Lancs LA6 1DY		<b>AGENT:</b>  Mr Greg Gilding

#### REASON FOR DELAY

N/A.

#### PARISH NOTIFICATION

None to date, any comment will be reported verbally to committee.

#### LAND USE ALLOCATION/DEPARTURE

Within the Countryside Area - Lancaster District Local Plan

#### STATUTORY CONSULTATIONS

**County Highways** – They do not wish to change the Highway Authority's stance (from the previous application). Whilst they note the supporting statement submitted with the application, it remains a highway concern that the development will increase movements of horse boxes along Swarthdale Road and that it is these movements that make the development unacceptable without improvement in the form of passing places.

They originally requested 6 passing places along Swarthdale Road, but this was reduced to 2 on the basis of what the development could reasonably be asked to provide and they consider these to be a minimum requirement. From a highway point of view any future developments that will lead to an intensification of use of Swarthdale Road are likely to lead to requests for additional passing places. They conclude that to allow this application and set aside the requirement for the developer to provide the passing places would undermine the case for attaching similar conditions to any future development. They therefore recommend refusal on highway safety grounds.

**Environmental Health** – Views awaited and will be verbally reported to committee.

## **OTHER OBSERVATIONS RECEIVED**

None at the time of compiling this report. Any comments can be verbally reported to committee.

## **REPORT**

### **Site and its Surroundings**

The application site is located within the hamlet of Swarthdale, which is a small group of dwellings situated approximately 1.0 mile from the village of Over Kellet. The overall site comprises of 27 acres of pastoral land, a dwelling known as Swarthdale Cottage, a number of agricultural style buildings used to livery up to ten horses and a small stable block to the rear of the dwelling.

Swarthdale Cottage was historically the laundry building to Swarthdale Hall long since demolished. The building has been extended to increase the living accommodation but still retains the large walled kitchen garden immediately to the east of the cottage. The walls are approximately 2.5m high and form an historical feature within the hamlet. Access to the site is gained via an improved access arrangement, located between the wall of the kitchen garden and Swarthdale house a neighbouring dwelling.

### **Planning History**

The site has been the subject of a number of recent applications developing the equestrian use of the site-

**04/01474/CU** - Continuation of use of buildings as 10 livery units and retention of ménage area. Condition 4 on the approval states – “The development hereby permitted shall provide for a commercial livery for a maximum of 10 horses only. In particular the site shall not be used as a riding school without the express consent of the local planning authority”.

The site has been the subject of complaint over the activities taking place including the extension of the ménage, the construction of and exercise ring, teaching/instruction being given and the holding of ‘events’ in the ménage and the surrounding field.

**07/01366/FUL** - Retrospective application for the development of the exercise ring and the extension of the ménage. Additionally the removal/modification of the restrictive condition to allow teaching/instruction to take place within the site and ménage. This application was approved.

**08/00393/FUL** - Change of use of livery stable to dual use of livery stables and equestrian training centre and hire of facilities. The application was approved at the committee meeting held on 28 July 2008, and it reduced the number of livery stables from 10 to 5 and attached a number of restricted conditions over the development and use of the site, the most pertinent of which are as follows:

**3.** No development shall be undertaken until a scheme for the provision of two passing places (at the developer's expense) within Swarthdale Road has been undertaken in accordance with an agreed scheme.

Reason; In the interest of highway safety and convenience

**4.** The use of the ménage and exercise ring shall be limited for training/teaching purposes to a maximum of 12 hours per week. The training/teaching can be provided in whole or part by the applicant and independent teachers.

Reason: to ensure that an inappropriate level and nature of activity does not take place in respect of the amenity of neighbouring residential occupiers and highway safety.

5. The hours of teaching/training shall be limited to between 9am to 8pm (weekdays) and 9am to 6pm (weekends) only.

Reason: in the interests of the amenity of nearby residential properties

6. The lighting scheme for the ménage and exercise areas shall only be used between 09.00 and 21.00 hours daily.

Reason: in the interests of the amenity of nearby residential properties and the visual amenity of the area.

A full copy of the report is attached to this agenda item.

### **The Proposal**

The current application is seeking consent for the removal of Condition Number 3 to allow the development of the training centre without the demands for the provision of two passing places (at the developer's expense) within Swarthdale Road.

### **Planning Policy**

Policy E4 of the Lancaster District Local Plan relates to development in the Countryside Area. Policy R10 relates specifically to Equestrian Development. In respect to both of these policies satisfactory highway arrangements are considered to be essential to allowing development. In particular, it is essential that does not have an adverse impact upon the rural highways and make satisfactory provision for access.

### **Assessment**

The applicant has provided a statement detailing his grounds for removal of the condition. The applicant considered that the imposition of the condition to demand the provision of passing places is unjustified, unfair and unreasonable in the context of the additional equestrian activity permitted by planning consent, 08/00393/FUL. The arguments centre around two main areas

#### *1. The reduction in the number of vehicle movements to the site.*

The applicant has argued that the development will result in the net reduction of a large number of individual car movements as the livery numbers have been reduced from 10 to 5. In addition, it is contended that many of the recipients of the training will arrive on site on horseback and will not increase the number of horse boxes and car/trailers visiting the site. In addition it is contended that the direction of approach to the site will be predominantly by the wider section of Swarthdale Road rather than the restricted section of the highway.

#### *2. The lack of consistency over the local planning authority and highway authority approach to considering simultaneous application at neighbouring sites.*

The applicant makes direct reference and comparison with a neighbouring equestrian facility, Swarthdale Farm. He states that an application for further development of this site was being considered at the same time as the application to increase the training facilities at Swarthdale Cottage. The application at Swarthdale Farm was seeking consent for bulk feed stuffs to be delivered to the site by wagon and deliveries to take place from the site by the developer's own vehicle.

The applicant argues that the LPA and County Highways have not shown a consistent approach in determining the application at Swarthdale Cottage as no demand was attached to the planning consent for the bulk feed deliveries for the provision of passing places on Swarthdale Road despite the use of the highway by large delivery vehicles.

The County Highways response acknowledges the background to the application and the planning history relating to the previous application. However, the issue of concern is not directly related to the numbers of cars visiting the site but the larger vehicles, horse boxes and cars which tow trailers, bringing horses and riders for tuition at Swarthdale Cottage. Swarthdale Road is generally restricted in width and particularly so on approach from the north. Control over the approach to the site cannot be suitably conditioned and whilst the applicant considers that many riders will approach on horseback and other will approach the site from the south, any planning consent could not be conditioned in such a way to dictate these particular set of circumstances. The servicing of the site must be considered in a wider context within the remit of the rider numbers and hours of use.

The applicant has also indicated that the applications at Swarthdale Farm and Cottage were being considered simultaneously, this is not the case. The application for the importation of feed stuffs at Swarthdale Farm was determined on 8 April 2008. The application for the equestrian training centre at Swarthdale Cottage was received on 27 March 2008 and determined on 28 July 2008. In addition, the deliveries associated with Swarthdale Farm application is expected to be one wagon every six weeks and at this level of servicing would not have demanded an improvement to the highway network in itself but clearly added to the scale, intensity and numbers of vehicle of all forms using Swarthdale Road.

The level and nature of vehicles using Swarthdale Road was considered to be at such a level that the demand for passing places was attached to the later application at Swarthdale Cottage. This position is further strengthened in the recent response from County Highways which raised the comment that from a highway point of view any future developments that will lead to an intensification of use of Swarthdale Road are likely to lead to requests for additional passing places.

It is considered that for the reasons set out above, the removal of Condition 3 of 08/00393/FUL would be detrimental to highway safety and would undermine the case for further improvement to Swarthdale Road and should be resisted.

## **HUMAN RIGHTS IMPLICATIONS**

It is recognised that a recommendation of refusal may result in an interference with the applicant's right to develop their land in accordance with the Human Rights Act. However, on the facts of this case it is considered both necessary and proportionate to control development in the public interest in light of the concerns set out in this report and for the stated reasons.

## **RECOMMENDATIONS**

That **PERMISSION BE REFUSED** for the following reason: -

1. In the opinion of the local planning authority the development of the equine training centre and hire facilities, with its associated increase in movement of horse trailers and horse boxes, would, without the improvement to the local highway network by the provision of passing places, be detrimental to highway safety and highway convenience due to the potential conflict between such vehicles. As such the removal of condition 3 attached to planning consent 08/00393/FUL is considered to be contrary to saved policies E4 and R10 of the Lancaster District Local Plan.