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(FAO Peter Rivet)

Your ref 08/01385/CU
Our ref PG/LA/INB/PA/1/19/7612/LK
Date: 11 February 2009

Dear Mr Rivet

**APPLICATION NUMBER 08/01385
LAND ADJACENT TO MIDDLETON ROAD, MIDDLETON
GRID REFERENCE 428 586**

I refer to your consultation letter concerning the above planning application and have the following comments to make:

Introduction

A planning application has been submitted by Hazel Diviny-Day for the siting of a mobile home to provide residential accommodation in conjunction with a horse livery enterprise undertaken at the application site. I contacted the applicant with a view to discussing with her the current situation in respect of her activities undertaken from the application site, and to establish what changes were in place or are intended in respect of her equestrian enterprise run from the site. The information provided together with the written submission made in support of the application form the basis of my appraisal.

Background Information

The applicant submitted an earlier application for a mobile home at the same site in February 2008 as at the time she had obtained planning permission to erect a building and outdoor manege and a mobile home to provide residential accommodation was considered by her necessary to manage the site. That application was refused planning permission in September 2008 for the reason of lack of operational need. The applicant has implemented the planning permission she received for the erection of the building and manege and is operating a livery enterprise from this site. The current application constitutes a further attempt by the applicant to obtain living accommodation on the unit.

I N Bower

Estates Surveyor
Property Group, PO Box 26 •
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Previous Planning Application

The Property Group were consulted on application number 08/0154 for the siting of a mobile home to provide residential accommodation to which I commented by letter dated 5 August 2008. I advised I did not consider that the operational requirements of the unit did justify a dwelling to support it. I had taken into consideration the 'functional need' but felt that the scale of the enterprise was too small, and also because the enterprise was small I did not feel it would produce sufficient profit to satisfy the 'financial test'. I also felt that the location of applicant's existing dwelling was not remote from the site and also that Middleton was closer to the site than her existing dwelling and as such, I felt the location of these would be appropriate to undertake the enterprise at this site.

Existing Situation

The combined horse stabling and associated storage building which was in the course of construction at the time of my previous visit in August 2008 has been completed and the manege has also been constructed. The existing 16 stable loose boxes are fully operational accommodating three of the applicant's horses and 13 livery horses. The liveries comprise of a combination of full, part and DIY although the majority comprising of the latter. Two liveries constitute two mares in foal although are not due to foal until the summer months. I was advised that the liveries have been operational since September 2008 and I was also advised that up to present the agricultural land has been too wet for the applicant to take on grass liveries. Whilst the applicant has been operational, she has taken-in horses/ponies in transit to/from the Isle of Man and on these occasions has provided stabling through turning her own horses out into the field.

Applicant's Future Intentions

The applicant is intending to provide an additional 13 stable loose boxes in the course of this year and will be applying for planning permission accordingly. I was advised 10 stables would be provided in the form of a timber loose box built range adjoining the manege and three would be provided for within the existing building. The purpose for providing the additional stabling is because she has a waiting list of five liveries wanting to keep their horse there as well as enquiries from people wanting foaling facilities and the applicant feels that the demand for her facilities from horse owners from the Isle of Man will increase this year.

In addition, to her intention to provide 13 additional stables she also intends to position on the land two mobile field shelters each measuring 7.2m x 3.6m i.e. double loose box size. The purpose of these will be to provide shelter facilities for horses kept out on the land i.e. grass liveries. In conjunction with siting of the mobile stabling units the applicant is intending to install a new land drainage network initially in a 4 acre field with a view to improving the ground conditions for the horses kept out at grass.

Employment

The applicant employs someone to manage the enterprise during the period Monday to Friday and outside these times the applicant gets involved. In addition, there is a person who provides riding lessons utilising the applicant's facilities to those who keep their horses at this site and to others who live in the locality.

Accommodation

I was advised that the site is manned 24 hours/day and up to present the office within the building on site has provided overnight accommodation. The applicant considers that without the ability to live on site her livery clients would take their horses elsewhere.

Assessment

I refer to Annex A of PPS 7 as the basis of my assessment of this application. The Annex sets out advice and criteria to assess planning application for Agricultural, Forestry and other Occupational Dwellings. Paragraph 12 of the Annex provides specific advice/criteria to assess planning applications for *temporary dwellings* as is being applied for under this application and I refer to the contents of this below:-

If a new dwelling is essential to support a new farming activity, whether on a newly-created agricultural unit or an established one, it should normally, for the first three years, be provided by a caravan, a wooden structure which can be easily dismantled, or other temporary accommodation. It should satisfy the following criteria:

- (i) clear evidence of a firm intention and ability to develop the enterprise concerned (significant investment in new farm buildings is often a good indication of intentions);
- (ii) functional need;
- (iii) clear evidence that the proposed enterprise has been planned on a sound financial basis;
- (iv) the functional need could not be fulfilled by another existing dwelling on the unit, or any other existing accommodation in the area which is suitable and available for occupation by the workers concerned; and
- (v) other normal planning requirements, eg on siting and access, are satisfied.

I applied the above criteria when I assessed the applicant's earlier application for a mobile home i.e. 08/0154. At that time I felt that the nature and scale of the business was not sufficient to demonstrate a functional need and also I did not consider that projected financial accounts for the enterprise appropriately reflected the nature and scale of enterprise which the facilities could sustain.

With the submission of the current application, the applicant has identified a number of changes to the business which includes additional stabling and shelters to accommodate the planned number of horses for this site. In addition, a revised projected business profit/loss account has been prepared by an accountant to represent the annual incomes and expenditures associated with the nature and scale of enterprise to be undertaken by the applicant.

I am of the opinion that the increased scale of activity identified by the applicant in the course of her submissions for this application should constitute a sustainable enterprise. I feel though the provision of 30 loose box stables would be a maximum ratio of stables to the area of land available. I am aware that typically one acre of land per horse is a recognised land to horse ratio to constitute a sustainable use of that land. I was advised by the applicant that the nature of her business would not rely upon regular grazing for each horse she keeps and in view of the varying aspects to her enterprise I would share this view. I feel though her identified uses of the land i.e. all year round grass liveries over part of the land and production of haylage as feed for the horses she keeps is ambitious and I feel in practice would need to be refined by either supplementing the land she owns with additional land or buying in haylage to feed to her horses.

I feel at the proposed scale of business activity this would constitute a '*functional need*' for someone to be "readily available at most times" to manage the operations. In view of the nature of the applicant's activities I would advise that the functional need would be best served by the person managing the operations living on the premises as opposed to in the locality as I had advised previously.

With reference to the financial information submitted in support of the application, I note the incomes of the enterprise are essentially the same as identified previously although the costs have increased and I feel are more representative of the nature of the business, although I feel some costs most particularly feed will be higher than identified. The Profit/Loss account submitted with the application is not representative of the scale of enterprise the applicant has identified undertaking and as such, I would expect that the profit will be higher than that identified although this is on the proviso that the applicant can demonstrate the operation is sustainable.

11 February 2009

I feel a temporary consent for a period of up to three years would enable the applicant to go forward with her business intentions. I consider it will provide sufficient time assuming these intentions are implemented in by the end of her first year of the temporary period to demonstrate this is sustainable and whether it is capable of producing sufficient profit to satisfy the *financial test* assuming that the applicant intends to apply for a permanent dwelling in due course.

I would be obliged to receive a copy of your Decision Notice in due course.

Yours sincerely

Estates Surveyor
On behalf of the Director of Property

DECISION DATE 28 July 2008	APPLICATION NO. 08/00154/CU A5	PLANNING COMMITTEE: 1 September 2008
DEVELOPMENT PROPOSED SITING OF CARAVAN ADJACENT TO STABLE		SITE ADDRESS LAND ADJACENT TO MIDDLETON ROAD MIDDLETON LANCASHIRE
APPLICANT: Miss Hazel Diviny-Day Heaton Park House Lancaster Road Overton Morecambe LA3 3EX		AGENT:

REASON FOR DELAY

Awaiting consultation replies.

PARISH NOTIFICATION

Middleton Parish Council - Concerned that through an oversight they did not have an opportunity to comment on the original proposal for the stables. They would like to see additional tree planting around the site.

Overton Parish Council - No objections.

LAND USE ALLOCATION/DEPARTURE

Countryside area.

STATUTORY CONSULTATIONS

County Council Highways - No objections.

Environmental Health - No objections, but they point out that a caravan site licence will be required if consent is granted.

County Council Property Services - The nature and scale of the operation does not satisfy the functional test and the financial information submitted is not representative of the scale of operation which is sustainable at this site. They do not consider that the business has been planned on a sound financial basis. A copy of the letter setting out their views appears at the end of this report.

Environment Agency - The site is within an area considered to be at risk from flooding. As the proposal is accompanied by a Flood Risk Assessment, no objections in principle provided that a condition is attached to any consent covering the arrangements for foul and surface water drainage.

OTHER OBSERVATIONS RECEIVED

None at the time this report was drafted.

REPORT

This site is on the west side of the road between Middleton and Overton, immediately to the north of the "Lanquestrian" stables. At its meeting on 2 June Committee granted a limited period consent for a residential caravan to serve Lanquestrian. In that instance the view of the County Council's Property Services was that the enterprise was large enough to justify on-site living accommodation.

The present development is broadly similar, in so far as permission has been granted for an American style barn with 16 stables, one of them a double size "mother and foal" one, and hay storage (application 07/01551). This building is at present under construction. The applicant wishes to site a caravan measuring 8.9 x 3.7m on the site. The position proposed for it is to the south east of the barn, but in a letter the applicant indicates that she would be prepared to amend its precise location if an alternative location is considered more appropriate.

The applicant argues that the provision of on site living accommodation would enable her to provide 24 hour supervision of the horses. It would be particularly useful for mares with young foals, and would take account of the security needs associated with high value horses. It would also make it easier to provide overnight accommodation for horses being ferried via Heysham to and from Ireland and the Isle of Man. Reference is made to vandalism problems which have been experienced in the area.

The Lancaster District Local Plan policies most relevant to the proposal are:

- **E4**, which deals with development in areas identified as Countryside
- **H8**, which allows for residential accommodation in the countryside where it is essential for the needs of agriculture, forestry or other uses appropriate to the rural area.

Both of these are 'saved' policies for the purpose of the new development framework and are carried forward into the Core Strategy.

The application has also to be assessed in relation to the criteria in the central government advice note PPS7 (Planning Policy Statement: Sustainable Development in Rural Areas). This sets out financial and functional criteria which have to be met in order to justify a new dwelling in the countryside. Where, as in this case, a new business is established it advises that a caravan or other form of temporary accommodation should be provided in the first instance, to allow the operator a chance to establish the enterprise and show that it is capable of being profitable. Although the advice relates primarily to the needs of agriculture, mention is made of the significant contribution made by equestrian activities to the rural economy.

It should be noted that the City Council's licensing requirements for stables do not require on site living accommodation. All that is needed is a notice on the stable building giving a contact telephone number for emergencies. The relevant criteria are therefore those set out in Annex A of PPS7. These are a functional test - a need for somebody to live on site - and a financial one, that the enterprise should generate sufficient income to pay a full time worker the minimum agricultural wage.

From the County Council's comments on the proposal it is clear that they do not consider that the business is of sufficient size to meet the functional and financial tests set out in PPS7. They do not believe that the business plan provided is sound for the scale of operation involved. It should be noted that the capacity of the stabling under construction is roughly half that envisaged at the adjoining Lanquestrian enterprise.

While the applicant has mentioned security as one of the arguments in favour of the proposal, PPS7 makes it clear that this by itself does not provide a justification for somebody living on a site. In the circumstances it would be difficult to justify granting planning permission for on site living accommodation.

It is therefore recommended that permission should be refused.

HUMAN RIGHTS IMPLICATIONS

This application has to be considered in relation to two sections of the Human Rights Act: Article 8 (privacy/family life), and Article 1 of the First Protocol (protection of property). There are no issues arising from the proposal which appear to override the responsibility of the City Council to regulate land use for the benefit of the community as a whole, in accordance with national law.

RECOMMENDATIONS

That **PERMISSION BE REFUSED** for the following reasons:

1. Contrary to Policy H8 of the Lancaster District Local Plan and PPS7 - it has not been satisfactorily demonstrated that on site living accommodation is needed to meet the operational needs of the stables.
2. Precedent for provision of living accommodation in other small stable complexes in the area, making such proposals progressively more difficult to resist.