

<b>Agenda Item</b> A8	<b>Committee Date</b> 29 June 2009	<b>Application Number</b> 09/00373/VCN
<b>Application Site</b> Blackthorne Cottage, Borwick Road, Capernwray, Over Kellet	<b>Proposal</b> Variation of condition 3 of planning consent 02/01203/REM from agricultural occupation to occupancy in association with the equestrian enterprise on the site	
<b>Name of Applicant</b> John McCarthy	<b>Name of Agent</b> Anthony Atkinson, Lincoln House, Lincoln Way, Sherburn-in-Elmet, Leeds, W Yorks LS25 6PJ	
<b>Decision Target Date</b> 24 June 2009	<b>Reason For Delay</b> Awaiting consultation replies.	
<b>Case Officer</b>	Peter Rivet	
<b>Departure</b>	No	
<b>Summary of Recommendation</b>	Approval	

### **1.0 The Site and its Surroundings**

- 1.1 Blackthorne Cottage is a two storey house of traditional appearance on the west side of the road from Borwick to Arkholme, opposite Capernwray Hall. It is accessed off the road at the same point as the owner's holiday caravan site.
- 1.2 The surrounding area is open countryside, though the house and stables are concealed from the road by a wall and a belt of trees.

### **2.0 The Proposal**

- 2.1 The dwelling was originally approved subject to an agricultural occupancy restriction, which the applicant wishes to see replaced by one restricting it to occupation in association with the adjoining riding stables. Permission has been granted for its use by the manager of the stables to live there, but only on a temporary basis.
- 2.2 Mr McCarthy wishes the temporary consent to be replaced by a permanent one. He has provided financial information from his accountants with the application in order to demonstrate that the business is profitable.

### **3.0 Site History**

- 3.1 The house was built as accommodation for a chicken farmer who, unfortunately, died before it was completed. Subsequently it and the adjoining farm buildings were acquired by Mr McCarthy who converted them into an equestrian centre.
- 3.2 In 2007 the City Council granted consent, retrospectively, for the use of the house by "a person solely or mainly employed in the management of the adjoining stables, or a widow or widower of such a person", it being specified that the dwelling should revert to agricultural or forestry use on or before 31 March 2010 unless a further consent was granted.

Application Number	Proposal	Decision
01/00634/OUT	Outline application for one agricultural worker's dwelling	Approval
02/01203/REM	Reserved matters application for one agricultural worker's dwelling	Approval
06/01419/CU	Change of use of agricultural buildings to equestrian use, and the provision of a midden and a ménage	Approval
07/00056/FUL	Variation of occupancy condition no. 3 of 02/01203/REM	Limited period consent

#### **4.0 Consultation Responses**

4.1 The following responses have been received from statutory consultees:

Statutory Consultee	Response
Over Kellet Parish Council	Have reservations about the proposal. They are concerned that should the equestrian enterprise cease to exist, there may be proposals for further holiday accommodation on the site. They suggest that permanent consent should be granted only in 2010, when the present temporary consent expires.
County Council highways	No highway observations on the proposal.
County Council Rural Estates	Does not support the application, on the basis that it is premature. A copy of the letter setting out their reasoning appears at the end of this report.
Environmental Health	No objections.

#### **5.0 Neighbour Representations**

5.1 None.

#### **6.0 Principal Development Plan Policies**

6.1 Policy SC1 of the Core Strategy sets out criteria for sustainable development and encourages the use of existing buildings.

6.2 The policies in the Lancaster District Local Plan most relevant to the proposal are H8, which states that new dwellings in the countryside outside identified settlements must be essential to the needs of agriculture, forestry or other uses appropriate to a rural area; and H9, which says that proposals for the removal of agricultural occupancy restrictions will not be permitted, unless it can be shown that the dwelling is not required to meet the needs of any agricultural or forestry enterprise in the locality for key worker housing.

6.3 Account has also to be taken of central government advice as set out in PPS7 (Planning Policy Statement: Sustainable Development in Rural Areas).

#### **7.0 Comment and Analysis**

7.1 In most cases of this kind, an application for permanent consent is only submitted towards the end of the three year trial period, once the viability of the business has been established. This one is unusual as the stables have only operated for a relatively short period.

7.2 The County Council's Land Agent confirms that the business has, so far, made a profit. However he argues that central government advice as set out in PPS7 requires that in cases like this one the enterprise has to have been established for three years, in order to demonstrate that it is viable. This is not just a matter of showing that it is capable of making a profit; it has to be shown that the business is financially sound and has a clear prospect of remaining so. He does not consider that the 15 month period for which accounts are available is sufficient to demonstrate that this is the case. In this instance the business did not commence trading in its present form until August 2007. He regards the proposal as premature, and does not feel able to support it.

- 7.3 The implication of this is that the applicant should wait another eighteen months before applying for a permanent consent. However if he were to do this he would still be able to argue, regardless of what happens during that period, that the business been profitable for one of the three years. On that basis, he would be able to fulfil the requirements of PPS7.
- 7.4 This application does not involve a caravan or a chalet providing temporary accommodation. Blackthorne Cottage is a permanent dwelling, which will continue to be there regardless of who is allowed to occupy it.
- 7.5 Members will note the reservations of Over Kellet Parish Council about the possibility of the applicant wishing, in the long term, to use the site for additional holiday accommodation. However they are based on hypothetical circumstances. Any proposal for holiday caravans or chalets, if one were to be submitted, would have to be considered on its merits.

## **8.0 Conclusions**

- 8.1 On the basis of the information supplied, the equestrian business is profitable. While it is difficult to predict the effects of the current recession on the demand for stable facilities, there is no obvious reason why it should not remain so.
- 8.2 It is therefore recommended that despite the reservations set out in the letter from the County Council's Land Agent, permission should be granted.

## **Recommendation**

That Planning Permission **BE GRANTED** subject to the following condition:

1. Dwelling to be occupied by a person or persons involved in the adjoining equestrian business.

## **Human Rights Act**

This recommendation has been reached after consideration of the provisions of The Human Rights Act. Unless otherwise stated in this report, the issues arising do not appear to be of such magnitude 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.

## **Background Papers**

1. Letter from County Council Property Services dated 10 June 2009.