

DECISION DATE 13 March 2007	APPLICATION NO. 07/00056/FUL A6	PLANNING COMMITTEE: 19 March 2007
DEVELOPMENT PROPOSED VARIATION OF OCCUPANCY CONDITION NUMBER 3 OF PLANNING CONSENT 02/01203/REM		SITE ADDRESS BLACKTHORNE COTTAGE BORWICK ROAD OVER KELLET CARNFORTH LANCASHIRE LA6 1AD
APPLICANT: Mr J McCarthy Castle View Caravan Park Capernwray Carnforth LA6 1AW		AGENT: Acorus Rural Property Services

REASON FOR DELAY

Awaiting consultation replies.

PARISH NOTIFICATION

Over Kellet Parish Council - Observations awaited.

LAND USE ALLOCATION/DEPARTURE

Countryside area.

STATUTORY CONSULTATIONS

County Council Highways - Observations awaited.

County Council Property Services - Support the application, provided that occupation of the dwelling is restricted to people engaged in the management of the stables. A copy of the letter setting out their reasons for this appears at the end of this report.

OTHER OBSERVATIONS RECEIVED

None, at the time this report was drafted.

REPORT

At its February meeting Committee considered an application for the conversion and extension of the former farm buildings at Blackthorne Cottage to provide riding stables. The report on this (06/01419) pointed out that the house associated with the farm was being occupied in contravention of the agricultural occupancy condition attached when it was approved, and that preliminary steps were being taken with a view to instigating enforcement action. The present application has been submitted as a response.

The house concerned is a substantial two storey one on the eastern site boundary. It is of traditional design, with stone walls and a slate roof. It is close to the former farm buildings, which are now used as stables. Most are of modern construction although there is a one relatively small stone barn.

The applicant's intention is that the stables are to be supervised by his employee Mrs Tippett, who is one of the current tenants of the farmhouse. According to the information supplied by him she manages the land adjoining the property, provides hay and carries out maintenance of the site drains and fencing. She is also responsible for a small flock of hens. Her husband is self employed as a taxi driver.

Policy H8 of the Lancaster District Local Plan 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; sited to minimise their impact; consistent with meeting the essential employment needs; appropriate in design, materials and landscaping; and make adequate provision for the disposal of sewage and waste water. The existing house was approved in line with this policy, but only after several applications as the previous owner of the site had some difficulty in establishing a viable agricultural enterprise on a relatively small holding.

Policy H9, which follows this, indicates that: "Proposals for the removal of agricultural or other key worker occupancy conditions from dwellings in the countryside will not be permitted. Exceptions will only be considered where it can be shown that the dwelling is not required to meet the existing and future needs of any agricultural or forestry enterprise in the locality for key worker housing".

Central government advice on criteria for the approval of agricultural and forestry dwellings in rural areas is set out in Annex A of PPS7 (Planning Policy Statement: Sustainable Development in Rural Areas). This states that where a new agricultural enterprise is established only temporary accommodation should be permitted in the first instance, to allow the business time to demonstrate that it is financially viable. It further notes that: "There may also be instances where special justification exists for other rural based dwellings. In these cases the enterprise itself... must be acceptable in planning terms and permitted in that rural location."

In this case what is proposed is not the complete removal of the agricultural occupancy condition, but a variation of it to tie occupation of the dwelling to something which while not agriculture or forestry, is still appropriate to a rural area. This is not without precedent locally. The house at Capernwray Diving Centre was approved on the basis that there were strong safety arguments for having somebody living on the site to prevent unauthorised access at times when the site was closed.

The range of activities carried out by Mrs Tippett is too limited for her to qualify as a farm worker for the purposes of the existing planning condition as it would not by itself provide a sufficient living to meet the financial test set out in PPS7. It is logical to vary the condition to allow the property to be occupied by a person engaged in the management of the stables, and their immediate family.

It is however recommended that the consent should be granted for a three year period in the first instance, to allow the equestrian business to be established to the point where it can be shown that it is financially viable. This is consistent with the advice on new rural enterprises contained in Annex A of PPS7.

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 GRANTED** subject to conditions as follows:

1. Three year limited period consent - to expire 31 March 2010.
2. Dwelling to be occupied only by a person or persons involved in the management of the adjoining stables and their immediate family.