

## COMMITTEE REPORT

**Date:** 13 October 2021      **Ward:** Wheldrake  
**Team:** East Area      **Parish:** Deighton Parish Council

**Reference:** 21/00902/FUL  
**Application at:** Deighton Lodge Limited Rush Farm (Game Farm) York Road  
Deighton York  
**For:** Variation of condition 4 of planning permission 16/00267/FUL to  
increase the number of weddings that can be held in 2022 and  
2023 from 15 per year to 19 per year.  
**By:** Carla Mitchell  
**Application Type:** Full Application  
**Target Date:** 26 October 2021  
**Recommendation:** Approve

### 1.0 PROPOSAL

1.1 The appeal site comprises a farmhouse which is used as guest accommodation and a barn which is used for wedding functions. The functions are licensed for 200 guests. There are other outbuildings and a walled garden to the east of the complex of buildings. It is in open countryside within the general extent of the Green Belt and is accessed via an unsurfaced track from the A19. The field to the west of the buildings is used for guest car parking. There are residential properties nearby at Deighton House, Nursery Cottage and Rush House to the south.

1.2 The number of wedding related events at the site is restricted by planning condition to 15. The planning permission for the use of the site restricts the hours of operation to 01.00 and non-resident guests must leave the site by 01:30.

1.3 The current application is to increase the number of events that can be held at the site from 15 to 19 per year in 2022 and 2023. In 2024 the number of events would return to 15. It should be noted that the application would also entail the walled garden being used in association with the events on 19 occasions a year during 2022 and 2023 instead of the current 15.

#### Sub-Committee Call-in

Application Reference Number: 21/00902/FUL

Item No: 4f

1.4 The application has been brought to Area Planning Sub-Committee at the request of Councillor Vassie. This is because the previous application in 2017(17/02380/FUL) relating to a permanent increase in the number of events per year to 25 was also determined at Area Planning Sub-Committee.

## **Relevant History**

16/00267/FUL - Change of use of a guest house (use class C1) and agricultural barn to a mixed use guest house and wedding venue - Approved June 2016. Condition 4 of this Permission restricts the number of events a calendar year to 15.

16/01827/FUL - Removal of conditions 3 and 4 of permitted application 16/00267/FUL to allow use of surrounding fields for camping and associated outdoor activities and allow an unlimited number of events - Refused October 2016 due to the impact of noise and disturbance on nearby residents.

17/02380/FUL - Variation of conditions 3 and 4 of permitted application 16/00267/FUL (for the change of use from guesthouse to mixed use guesthouse and wedding venue) to increase number of weddings from 15 to 25 in total in any calendar year and to allow the side garden to be used for wedding ceremonies - Refused December 2017 due to the impact of noise and disturbance on nearby residents. The applicant appealed against the decision. The appeal was dismissed in June 2018.

17/02907/FUL - Variation of Condition 3 of permitted application 16/00267/FUL (change of use from guest house to mixed use guest house and wedding venue) to allow for the side garden to be used for wedding ceremonies - Approved January 2018. Condition 4 of this Permission restricts the use of the garden for wedding ceremonies to between 09:00 – 19:00 and Condition 6 states that no amplified music shall be played outside.

## **2.0 POLICY CONTEXT**

2.1 The City of York Draft Local Plan Incorporating the Fourth Set of Changes was approved for Development Management purposes in April 2005:

SP2 Green Belt  
GP1 Design

2.2 The Publication Draft York Local Plan (2018)

Application Reference Number: 21/00902/FUL

Item No: 4f

SS2 The Role of York's Green Belt  
D1 Placemaking  
GB1 Development in the Green Belt  
ENV2 Managing Environmental Quality

### **3.0CONSULTATIONS**

#### INTERNAL

#### PUBLIC PROTECTION

3.1 When officers have attended no noise nuisance or loss of amenity has been witnessed and on some occasions officers have requested to visit and the complainants did not wish a visit. Overall this would suggest that since the insulation works the premises is running without causing a nuisance or loss of amenity to neighbouring properties. By supporting this application we would be supporting business through exceptional times whilst maintaining the safeguard against intensification of use for Deighton Lodge by reverting to the original allowance as previously agreed through the planning process.

3.2 Due to the lack of evidence to demonstrate a nuisance or loss of amenity, the small increase in events, the financial justification due to Covid-19 and the fact that the applicants have only applied for a 2 year variation this application would be supported by Public Protection.

3.3 In order to ensure that the events are evenly balanced and any impact from the increased number is minimised over the two year period I would advise that the events are limited to 19 events in 2022 and 19 in 2023.

#### EXTERNAL

##### Deighton Parish Council

4.1 The Parish Council object. A decision has already been made on previous planning applications and this Council can see no overriding reason why this should now be amended. It would appear to be for purely financial reasons. 38 weddings over the course of two years could mean one or more functions every weekend during the summer months which we believe would be unacceptable and unfair to local residents. Soundproofing does not prevent users from leaving the barn doors open when the party is in full swing.

## **4.0 REPRESENTATIONS**

### Neighbour Notification and Publicity

4.1 Objections have been received from the occupiers of Rush House. The following issues have been raised:

- o Noise from events is clearly audible and impacts on the enjoyment of our property. The events almost every summer weekend in an otherwise peaceful area make it too noisy to sit outside our property in the evenings.
- o Approving more events goes against the very reason for applying the condition.
- o The current approval is for 15 events rather than 15 weddings and additional events such as stag and hen parties are held.
- o They have had weddings during lockdown and financial support and insurance is available to offset losses. The variation of the condition is profit driven.

## **5.0 APPRAISAL**

5.1 Section 38(6) of the Planning and Compensation Act 2004 requires that determinations be made in accordance with the development plan unless material considerations indicate otherwise. The development plan comprises the saved policies of the Yorkshire and Humber Regional Spatial Strategy (RSS) relating to the general extent of the York Green Belt. These are policies YH9(C) and Y1 (C1 and C2) which relate to York's Green Belt and the key diagram insofar as it illustrates general extent of the Green Belt. The policies state that the detailed inner and the rest of the outer boundaries of the Green Belt around York should be defined to protect and enhance the nationally significant historical and environmental character of York, including its historic setting, views of the Minster and important open areas. The RSS defines the outer boundary of the Green Belt as being "about six miles" (10km) from York city centre. The site is approximately 6.4 km from the city centre.

### **NATIONAL PLANNING POLICY FRAMEWORK (NPPF)**

5.2 Central Government planning policy is contained in the National Planning Policy Framework (NPPF). It is a material consideration in the determination of this application. Paragraph 11 establishes the presumption in favour of sustainable development, which runs through both plan-making and decision-taking. In decision taking this means approving development proposals without delay that accord with an up-to-date development plan. In the absence of relevant development plan

policies or where they are out-of-date, permission should be granted unless policies in the Framework that protect areas or assets of particular importance provide a clear reason for refusing the proposed development, or any adverse impacts of doing so would significantly or demonstrably outweigh the benefits when assessed against the policies in the Framework as a whole.

## PUBLICATION DRAFT LOCAL PLAN

5.3 The Publication Draft City of York Local Plan 2018 ('2018 Draft Plan') was submitted to the Secretary of State for examination on 25 May 2018. Consultation on proposed modifications to the plan were also held in June/July 2019 and May-July 2021. Phase 1 of the hearings into the examination of the Local Plan took place in December 2019. In accordance with the NPPF its policies can be afforded weight according to:

- The stage of preparation of the emerging plan (the more advanced the preparation, the greater the weight that may be given);
- The extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and
- The degree of consistency of the relevant policies in the emerging plan to the policies in the previous NPPF published in March 2012.

## DEVELOPMENT CONTROL LOCAL PLAN (2005)

5.4 The Development Control Local Plan (DCLP) was approved for development management purposes in April 2005. Whilst the DCLP does not form part of the statutory development plan, its policies are considered to be capable of being material considerations in the determination of planning applications where policies relevant to the application are consistent with those in the NPPF albeit with limited weight.

## APPRAISAL

5.5 The key issues are:

- The Site Planning History
- Noise Disturbance to Residential Occupiers
- Economic Impact of Covid-19 restrictions on the business and their suppliers.
- Impact of Covid-19 on ability to meet demand for wedding ceremonies

## The Site Planning History

5.6 In December 2017 planning application reference 17/02380/FUL to increase the number of events from 15 to 25 per year permanently was refused by committee for the following reason:

“The proposed additional events would result in an intensification of the use of the site and increased noise and disturbance from guests outside of the venue building and from additional comings and goings of guests and delivery vehicles including late at night and during the summer months when nearby residents may expect to be able to keep their windows open. This would result in significant harm to the existing living conditions of neighbouring properties in this rural area contrary to policy GP1 of the Draft Development Control Local Plan 2005 which states that development proposals will be expected to ensure that residents living nearby are not unduly affected by noise or disturbance, National Planning Policy Framework paragraph 17 which states that planning should always seek to secure a good standard of amenity for all existing and future occupants of land and buildings and paragraph 123 which states that planning decisions should aim to avoid noise from giving rise to significant adverse impacts on quality of life as a result of new development.”

5.7 The applicant appealed to overturn the decision however the appeal was dismissed on 27 June 2018. The Inspector did not raise any concerns regarding the increase in the number of events on the openness of the Green Belt or highway safety. In her appeal decision she stated that noise surveys indicated that noise from the wedding venue and garden would not have an adverse impact on neighbours, however she was aware of complaints from residents. She considered that noise issues probably resulted from doors in the venue being propped open to achieve adequate ventilation and she considered as such that noise disturbance from the building could not be ruled out.

5.8 She also raised the issue of noise from potentially in excess of 100 guests leaving the venue after 1 a.m. Issues could relate to people gathering, car doors slamming etc. There are homes within ear-shot of the site and the access route between the venue and the A19 runs close to Deighton House and Nursery Cottage. It was considered that background noise levels would be very low early in the morning and in the context leaving guests could adversely affect living conditions. She accepted that noise being occasionally audible does not constitute a nuisance, however, she stated that, noise and disturbance does not have to be a statutory nuisance in order to adversely affect living conditions and quality of life.

5.9 She concluded that “I am satisfied that the existing condition limiting the number of events to 15 is required and justified. I therefore conclude that the condition in dispute is reasonable and necessary in the interests of protecting the living conditions of nearby occupiers. Its variation to allow the number of events to be increased to 30 (or to 25) would be contrary to Policy GP1 of the City of York Draft Development Control Local Plan which seeks to ensure that residents living nearby are not unduly affected by noise or disturbance.”

5.10 It is considered that the above statements are unambiguous in setting out the Inspector’s view and it is considered that the Inspector’s reasoning and the Local Planning Authority’s previous decision should be given significant weight when assessing the current application.

5.11 Current advice on how planning can manage potential noise impacts from development is contained in the National Planning Guidance on Noise (updated 2019). This states that noise can override other policy concerns. In assessing the impact it states that a number of factors come into play, including, the number of noise events, the time of day and background noise levels. Paragraph 130 of the NPPF states that planning decisions should ensure that developments will function well and add to the overall quality of an area.

#### Noise Disturbance to Residential Occupiers

5.12 The City Council’s Public Protection Team do not consider the increase in the number of events would create a statutory noise nuisance or have an unacceptable impact on residential amenity. However, the Planning Inspector in their 2018 decision considered that the restriction to 15 events was necessary in protecting the living conditions of nearby occupiers. This report does not seek to question the validity of the Inspector’s assessment of the appeal. It is considered that the additional 4 weddings a year will have the potential to cause disturbance to near neighbours on 4 additional nights of the year in 2022 and 2023.

#### Economic Impact of Covid-19 restrictions on the business and their suppliers.

5.13 The applicant has stated the reason to request permission for an extra 8 events over two years is to meet the high demand for weddings due to cancellations resulting from the pandemic and to help the business recover some of the losses resulting from the enforced cancellation of larger wedding ceremonies. The owner has stated that in 2020 only two wedding ceremonies were held and the number of guests at these events was limited to 30. Twelve events are currently proposed for 2021. The owner has stated that a venue is often booked at least 18 months before

a wedding is planned. The owner states that losses over the pandemic amount to in excess of £120,000. The owner has received a grant of £25,000 to partly off-set the losses. Compensation for the enforced cancellation of events is not covered by the owner's insurance.

5.14 Planning law does not define the scope of material considerations and consequently they have to be derived from a number of sources. Paragraph 2 of the NPPF states that the NPPF must be taken into account in preparing the development plan, and is a material consideration in planning decisions.

5.15 Chapter 6 of the NPPF relates to building a strong, competitive economy. Paragraph 81 of the NPPF states that "Planning policies should help create the conditions in which businesses can invest, expand and adapt. Significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development. The approach taken should allow each area to build on its strengths, counter any weaknesses and address the challenges of the future".

5.16 Clearly the pandemic has put very significant economic pressure on the wedding business. The Local Planning Authority has restricted the number of weddings to be held at the location each year to 15. A significant reduction in events in a year can have a very significant impact on the viability of a business – particularly one that has only recently been established. The condition restricts the ability of the business to recover from the pandemic by increasing the number of weddings in future years. To help off-set the significant losses in 2020 (and potentially in 2021) an increase in events is sought for two years. The increase in the number of events per year (4) is relatively modest and the number of additional events is less than the number that were lost in 2020. Whilst it is recognised that there will be an impact, or potential impact on neighbours living conditions, the overall impact in terms of scale and extent by the temporary increase in events is likely to be relatively modest and would be temporary.

5.17 It is considered that allowing the increase would allow the business to adapt and would be in line with guidance in paragraph 81 of the NPPF. Furthermore as the number of events at the site from 2020 – 2023 would still not exceed those that would have occurred had there not been a pandemic and the cancellation of events was due to events outside the control of the business it is considered that approving the application would not be considered unreasonable.

5.18 In addition, to benefitting the wedding venue an increase in wedding numbers would also support local businesses to recover more promptly, including for example, florists, musicians, photographers, hairdressers, taxi firms, caterers and so forth.



## Impact of Covid-19 on ability to meet demand for wedding ceremonies

5.19 The applicant has submitted information from the UK Weddings Taskforce to highlight the issues faced by the wedding industry. The Taskforce is a body that represents the range of businesses involved in the wedding industry. They calculate that over 260,000 weddings in the UK were cancelled in 2020 alone. It would be expected that most people would wish to have a wedding function on a Saturday and that the limited number of attractive venues where they can be held would limit the ability for the wedding 'backlog' to be addressed.

### **6.0 CONCLUSION**

6.1 It is important that there is consistency in decision making. The proposal to increase the number of events at the site to 25 in 2017 was refused at Area Planning Sub-Committee and the decision upheld at appeal. The current application is to increase the number of events that can be held at the venue from 15 to 19 for two years only. The justification for this solely relates to the financial impact of restrictions related to the pandemic and the desire to try and accommodate some of the weddings that have been cancelled since 2020. The NPPF whilst emphasising the need to ensure that people have good living environments also requires decisions to create conditions in which businesses can invest and adapt (Paragraph 81) and places where social, cultural and recreational facilities are provided to meet community needs (paragraph (93).

6.2 The increase in the number of events from 15 to 19 will increase the number of nights on which noise could impact on neighbours. It is considered, however, that this impact should be balanced against the economic and social benefits that will result from allowing the business to temporarily vary the planning condition. It is noted that the addition of 8 wedding ceremonies over 2 years does not exceed the number of events that have been cancelled to comply with covid-19 regulations.

### **7.0 RECOMMENDATION:** Approve

1 Notwithstanding the provisions of Part 4, Temporary Use of Land, Class B, BA and BB of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking or re-enacting that Order), the associated land shall not be used for any temporary use, other than the parking of vehicles associated with the events taking place on site, which would otherwise be classed as permitted development. This excludes the side garden subject to planning permission 17/02907/FUL which can be used for wedding ceremonies.

Reason: In the interests of the amenities of the adjoining residents the Local Planning Authority considers that it should exercise control over any future uses which, without this condition, may have been carried out as "permitted development" under the above classes of the Town and Country Planning (General Permitted Development) Order 2015.

2 The site shall be used for no more than 19 events in total in 2022 and 19 events in total in 2023 and for every year thereafter the site shall be used for no more than 15 events in any calendar year.

Reason: In order to protect the amenities of nearby residential properties

3 Notwithstanding the information contained within the application the playing of music associated with the use hereby approved shall cease at 01:00 and the site shall be vacated by staff and guests not residing in the guest house by 01:30

Reason: In order to protect the amenities of the nearby residential properties.

4 The enclosed outdoor garden area adjacent to the barn shall only be used for wedding ceremonies between 09:00 and 19:00 and shall be used for no more than 19 events in total in 2022 and 19 events in total in 2023 and for every year thereafter the site shall be used for no more than 15 events in any calendar year.

Reason: To protect the amenity of local residents

5 Unamplified music played outside the barn in association with wedding ceremonies shall only be played in the enclosed garden to the east of the barn between 09:00 and 19:00 for a maximum time of 2 hours on any day.

Reason: To protect the amenity of local residents

6 No amplified music shall be played outside the barn.

Reason: To protect the amenity of local residents

7 Details of all machinery, plant and equipment to be installed which would be audible either outside of the site boundary or within the residential apartments when in use shall be submitted to the local planning authority for approval.

The details shall include the location, maximum sound levels (L<sub>Amax</sub>(f)), average sound levels (L<sub>Aeq</sub>), octave band noise levels and any proposed noise mitigation measures. The report shall be undertaken by a specialist noise consultant or

suitably qualified person and it shall be conducted in accordance with BS4142:1997. The report shall assess the impact of the additional noise sources on residential properties and include any mitigation measures that are required. The approved mitigation measures shall be implemented prior occupation of the development and maintained accordingly thereafter.

Reason: In the interests of the amenity of future occupants and those of surrounding premises.

Note: Any external plant not shown on the approved plans may require separate planning permission.

## **8.0 INFORMATIVES:**

### **Notes to Applicant**

#### 1. Statement of the Council's Positive and Proactive Approach

In considering the application, the Local Planning Authority has implemented the requirements set out within the National Planning Policy Framework (paragraph 38) in seeking solutions to problems identified during the processing of the application. The Local Planning Authority took the following steps in order to achieve an acceptable outcome:

Number of additional events limited to 4 per year for 2022 and 2023 rather than 8 over a two year period.

#### **Contact details:**

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