

## COMMITTEE REPORT

**Date:** 30 November 2017      **Ward:** Wheldrake  
**Team:** Major and      **Parish:** Deighton Parish Council  
Commercial Team

**Reference:** 17/02380/FUL  
**Application at:** Deighton Lodge Limited Rush Farm (Game Farm) York Road  
Deighton York  
**For:** Variation of condition 4 of permitted application  
16/00267/FUL to increase number of events from 15 to 25 in  
total in any calendar year and condition 3 to allow the side  
garden to be used for wedding ceremonies.  
**By:** Mrs Carla Mitchell  
**Application Type:** Full Application  
**Target Date:** 29 November 2017  
**Recommendation:** Approve

### 1.0 PROPOSAL

1.1 The application seeks permission to vary two planning conditions of permission 16/00267/FUL which was approved on 15 June 2016 and allowed the change of use of a guest house (use class C1) and agricultural barn to a mixed use guest house and wedding venue. The amendment are to condition 3, to allow the side garden to be used for wedding ceremonies, and condition 4, to increase the number of events from 15 to 25 in total in any calendar year.

1.2 The conditions state:

Condition 3: Notwithstanding the provisions of Part 4, Temporary Use of Land, Class B of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking or re-enacting that Order), once the hereby approved used has been implemented 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.

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.

Condition 4: Notwithstanding the information contained within the application forms the site shall be used for no more than 15 events in total in any calendar year.

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

## RELEVANT HISTORY

16/00267/FUL - Change of use from guesthouse (use class C1) to mixed use guesthouse and wedding venue Approved 15th June 2016

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 Refused October 2016 for the following reason:

'The local planning authority considers that the removal of conditions 3 and 4 of planning permission 16/00267/FUL would result in an unacceptable level of disturbance to the nearby residential properties by way of noise generated by vehicular movements to and from the site and by visitors utilising the adjacent field for activities taking place in association with the approved use of the barn. As such, the removal of the conditions would be contrary to paragraph 17 of the National Planning Policy Framework, 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 Policy GP1 of the Development Control Local Plan, which states that development proposals will be expected to ensure that residents living nearby are not unduly affected by noise and disturbance.'

1.3 The application has been called-in to committee at the by Councillor S Mercer.

## 2.0 POLICY CONTEXT

2.1 Development Plan Allocation: York Green Belt

2.2 Policies:

### City of York Local Plan Deposit Draft 2005

CYGP1	Design
CYGB1	Development within the Green Belt
CYGB3	Reuse of buildings

### Emerging Local Plan Pre-Publication Draft September 2017

GB1	Development within the Green Belt
GB3	Reuse of buildings

## 3.0 CONSULTATIONS

### INTERNAL

#### Public Protection - Environmental Health Manager

3.1 The conditions on the permission 16/00267/FUL are still relevant in particular condition 5 which limits the hours during which recorded music can be played and when guests need to leave the site. Concerns are raised that there could be a loss of amenity due to noise from the use of the garden area and from noise breakout from the barn when doors are opened. To address these concerns, should permission be granted conditions be placed on any permission. These should include:

- limiting the use of the garden to wedding ceremonies only and between the hours of 9am to 7pm
- unamplified music only in the external area for 2 hours at a time between 9am and 7pm
- no amplified music played externally
- live music inside the barn limited from 9am to 11pm
- details of secondary doors to create a lobby to the doors to the western elevation.

#### Highway Network Management

3.2 No objections in principle. Verified accident data, showing personal injury accidents including figures for 2016, shows no accidents at the access. This does not cover the newly operating venue with the widened entrance as approved, but includes the use permitted under permitted development rights for the marquees, and camping which would have attracted similar number of traffic movements at any one event.

### EXTERNAL

#### Deighton Parish Council

3.3 Object to the application. An alcohol license has been submitted requesting that alcohol can be served and live music can be played until 01:30. This is unacceptable to the amenities of nearby residents. Historically the applicants have not complied with the conditions attached to previous applications with high late night noise levels being audible. It is noted that the barn has been soundproofed but this is of little use if the doors are propped open. The amenity of residents will be significantly worsened if the applicants were permitted to use their outside spaces and then double the number of events

### 3.4 Three objections received on the following grounds:

- Doubling the number of events would double the nuisance
- The barn is only operating at 66% capacity
- The sound proof barn is not soundproof when the doors are jammed open
- Unable to sit outside in the evening when a wedding is taking place
- The existing noise level varies depending on wind direction
- Live music has been played outside
- If noise level tests are arranged by the site manager then these can be manipulated by simply turning down the sound when the test is undertaken
- Poor vehicular access
- Have previously had fireworks as part of the wedding creating additional noise disturbance
- The events reduce the quality of life of neighbours
- Have applied for a licence for live music and alcohol until 01:30

## 4.0 APPRAISAL

### 4.1 The Key Issues are:

- Site history
- Walled garden - Condition 3
- Noise disturbance - Condition 4
- Highway implications

4.2 The National Planning Policy Framework 2012 (NPPF) sets out the Government's overarching planning policies. At its heart is a presumption in favour of sustainable development. The framework states that the Government attaches great importance to the design of the built environment. Paragraph 187 states that Local Planning Authorities should look for solutions rather than problems and decision takers at every level should seek to approve applications for sustainable development where possible. Paragraph 17 of the National Planning Policy Framework, states that planning should always seek to secure a good standard of amenity for all existing and future occupants of land and buildings

4.3 The site falls within the general extent of the Green Belt as shown on the Key Diagram of the RSS (the Yorkshire and Humber Plan) saved under The Regional Strategy for Yorkshire and Humber (Partial Revocation) Order 2013. Policy YH9 and Y1 of the Yorkshire and Humber Plan - Regional Spatial Strategy to 2026 defines the general extent of the Green Belt around York with an outer boundary about 6 miles from the city centre and although the RSS has now been withdrawn, these policies relating to York's Green Belt have been saved.

4.4 The protection of the Green Belt is one of the core planning principles of the NPPF (Para 17). The NPPF states the types of development that are appropriate within Green Belts. All other development is deemed inappropriate and by definition harmful to the Green Belt. The NPPF states that the local planning authority should ensure that substantial weight is given to any harm to the Green Belt. The NPPF sets out the 5 purposes of the Green Belt (Para 80) these are: to check unrestricted sprawl of large built up areas; to prevent neighbouring towns merging into one another; to assist in safeguarding the countryside from encroachment; to preserve the setting and special character of historic towns; and to assist in urban regeneration, by encouraging the recycling of derelict and other urban land.

4.5 Policy SP2 'The York Green Belt' in the City of York Council Development Control Local Plan (2005) states that the primary purpose of the York Green Belt is to safeguard the setting and historic character of the City of York.

4.6 The Development Control Local Plan was approved for Development Control purposes in April 2005; its policies are material considerations although it is considered that their weight is limited except where in accordance with the content of the NPPF. Policy GP1 states that development proposals will be expected, amongst other things, to ensure that residents living nearby are not unduly affected by noise and disturbance.

4.7 The Pre - Publication Draft Local Plan finished its consultation on October 30th 2017. It is considered that the draft Local Plan policies carry very little weight in the decision making process (in accordance with paragraph 216 of the NPPF). However, the evidence base that underpins the proposed emerging policies is capable of being a material consideration in the determination of planning applications.

4.8 Policies contained within the Emerging Local Plan include GB1 and GB3 which are concerned with appropriate development within the green belt and the re-use of buildings.

4.9 Whilst the site is located within the Green Belt, the reason for the two conditions in dispute was to protect the amenities of nearby residential properties, hence the key issue in this case is the potential for noise disturbance to arise as a result of the additional activity that could take place if the conditions were to be removed.

## SITE HISTORY

4.10 Planning permission was granted in June 2016 for the change of use of an existing barn to a wedding venue with a number of restrictive conditions attached. The site has been used during 2015/2016 for weddings which were allowed under a Temporary Events Notice (TEN) and under Part 4 'Temporary Use of Land' Class B

of the Town and Country Planning (General Permitted Development) (England) Order 2015 which allows land to be used for any purpose for up to 28 days a year, dependant on certain restrictions. In order to hold the wedding the applicant erected a large marquee in the adjacent field within their ownership. Guests were able to camp within the site over the weekend and music was played during the evening. A number of noise complaints were received in connection with noise disturbance arising as a result of the weddings taking place.

4.11 When assessing that previous application it was considered that in allowing the change of use, the local planning authority could control and restrict the level of noise emitting from the site which could otherwise continue unrestricted under permitted development rights. The applicant stated that if planning permission were not granted they would continue holding weddings at the site in the marquee under a TEN for up to the 28 days allowed and under Part 4 'Temporary Use of Land' Class B of the Town and Country Planning (General Permitted Development) (England) Order 2015. In assessing the application it was considered that the noise emitting from the marquee would result in a higher level of disturbance than that which could be controlled from the barn conversion. The applicant agreed to restrictive conditions being placed on any approval preventing the adjacent field being used for any purpose other than car parking, to limit the number of events to 15 and to sound proofing the barn. The works to the barn have been completed and weddings have been held within the barn during the summer of 2017.

#### Walled Garden - Condition 3

4.12 The purpose of condition 3 of the original permission was to prevent the land around the barn from being used for any purpose other than the parking of vehicles. When the site operated with the marquee it was apparent that music played at the event was audible for some distance and fairground rides were occasionally present, which increased the level of disturbance to nearby residential properties, which lie approximately 150 away. Preventing the use of the land was aimed at removing any external use of the land that could result in additional noise which could otherwise take place under permitted development rights, including the use of a marquee or the use of the field for camping.

4.13 It was always the intention of the applicant to utilise the walled garden to the side of the barn for wedding ceremonies, although the condition imposed would not allow this. The amendment to condition 3 is to allow for the use of the walled garden only for ceremonies with the remainder of the site still being restricted. Additional conditions are proposed which would only allow unamplified music to be played within this area between the hours of 9am and 7pm and only for a maximum of two hours.

4.14 It is considered that the use of this area for wedding ceremonies only would be unlikely to result in an unacceptable level of noise disturbance to nearby residential properties.

## NOISE DISTURBANCE

4.15 At present the use of the barn is restricted to 15 events per calendar year. The application seeks to increase this to 25 events. As originally submitted the applicant sought to increase this number to 30 but has agreed to reduce this level. As part of the previous permission conditions were imposed stating that the barn had to be made soundproof prior to the use commencing. The applicant has undertaken this work and Public Protection officers have visited the site and inspected the insulation used and agreed that the work is adequate to prevent noise breakout. However, objections have been received stating that music is still audible during the evenings.

4.16 As the barn is soundproof it appears that the noise break out is arising when the door located to the southern side of the western elevation is being propped open to allow ventilation into the building or when guests are entering or leaving. No mechanical ventilation is present within the building and as such this is an event which is likely to occur. It is considered that a condition can be attached to any approval stating that a second set of doors should be installed at this location to create a lobby which would act as a barrier to the noise. The doors would be sufficiently spaced to allow for one door to close before the second door is opened. It is considered that this would reduce the noise breaking out from the building and reduce the loss of amenity to nearby residential properties. Additional conditions are proposed limiting the playing of live music until 23:00.

4.17 As part of a licensing application the applicant undertook a noise survey. The survey date was chosen as the wedding taking place was large and had live music being played during the afternoon and evening and as such could be considered as a worse case scenario. The survey was carried out from 15:00 until 01:00. The report concluded that noise from the barn was inaudible at distances greater than 20m away and that the primary noise source at all times was from traffic on the A19. This supports the issue that noise breakout is occurring when the doors are being propped open.

4.18 The previous application 16/01827/FUL was refused on the grounds of loss of amenity to nearby residential properties. The application differed as it sought to remove the restrictive condition to allow unlimited events and also allow the use of the land for camping. The potential for noise generation was considered to be unacceptable.

## HIGHWAY IMPLICATIONS

4.19 The site is accessed along an unmade track directly off the A19. Improvements to the access were required as part of the previous approval to allow for two vehicles to pass at the junction with the A19. This work has been undertaken to the satisfaction of the highway authority. Concerns have been raised that the junction is dangerous and accidents are likely to happen due to the increased number of vehicles accessing the site. However, the junction is located on a long straight with wide verges allowing for clear unrestricted views for a considerable distance in both directions.

4.20 The applicant has stated that there are usually in the region of 30 vehicles associated with the guests and staff at the events, with the majority of these being guests that are staying over in the guesthouse on site, which caters for 19 guests. The majority of guests travel by taxi, minibus or car share and the applicant has a contract with York cars for £10 taxis and £15 mini-buses to York centre. As such the majority of movements would take place during daylight hours when guests staying in the guesthouse are arriving or by taxi drivers that are familiar with the locality.

## 5.0 CONCLUSION

5.1 The noise survey submitted indicates that the noise generated by events taking place on site is inaudible at nearby residential properties. The existing situation of noise breakout occurring when the door is opened can be controlled by the insertion of a second set of doors secured by planning condition. It is considered that use of the walled garden and the increase in 10 events a year would not have a detrimental impact upon residential amenity. As such the application accords with policies contained within the Draft Local Plan, the Emerging Local plan and the NPPF.

## COMMITTEE TO VISIT

### 6.0 RECOMMENDATION: Approve

1 Notwithstanding the provisions of Part 4, Temporary Use of Land, Class B 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 land edged green on plan received 24th October 2017 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 Notwithstanding the information contained within the application forms the site shall be used for no more than 25 events in total 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 outdoor garden area as outlined in green shall only be used for wedding ceremonies between 09:00 and 19:00.

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 garden to the east of the barn as outlined in green 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 Whilst live or recorded music is played inside the barn, all doors and windows shall be kept closed with the door on the northern elevation used for ingress and egress. The door on the southern end of the western elevation shall not be used for ingress or egress at anytime, except in the event of an emergency, until such time as a scheme for a second set of doors fitted with a self-closing mechanism and an intervening lobby area has been submitted to and approved by the local planning authority and the scheme installed as approved. After installation of the second set of doors, this door may be used for ingress and egress.

Reason: To protect the amenity of local residents

8 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 (LA<sub>max</sub>(f)), average sound levels (LA<sub>eq</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.

9 Details of any external lighting associated with the use hereby approved shall be submitted to and approved in writing by the local planning authority prior to the first event taking place on site and shall be implemented in accordance with the approved details thereafter.

Reason: In order to control external light spillage that may have a detrimental impact upon foraging bats and result in a loss of amenity to nearby residential properties

10 The applicant shall install a three pin 13 amp external electrical socket which is suitable for outdoor use. The socket shall be located in a suitable position to enable the charging of an electric vehicle on the driveway using a 3m length cable.

Note: A basic electric vehicle recharging solution for the site could involve the installation of a three pin 13 amp external electrical socket, to enable the charging of an electric vehicle, whilst parked in the bay, using a 3m length cable. Any socket provided must comply with BS1363, or an equivalent standard, Building Regulations and be suitable for charging electric vehicles. It should also have a weatherproof cover and an internal switch should be also provided in the building to enable the socket to be turned off if necessary. The council's Low Emission Officer can provide further advice on suitable technologies for the site.

Reason: To promote sustainable transport through the provision of recharging facilities for electric vehicles

## **7.0 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 (paragraphs 186 and 187) in seeking solutions to problems identified during the processing of the application. The Local Planning Authority took the following steps in order to achieve a positive outcome:

Reduced the number of events from 30 to 25

Attached appropriate conditions

**Contact details:**

**Author:** Heather Fairy Development Management Officer

**Tel No:** 01904 552217