

COMMITTEE REPORT

Committee: East Area
Date: 14 June 2007
Ward: Heslington
Parish: Heslington Parish Council

Reference: 07/00650/FUL
Application at: OS Field 0005 Langwith Stray Heslington York
For: Erection of two storey detached dwelling in association with fishing lakes
By: Mr And Mrs Dixon
Application Type: Full Application
Target Date: 15 May 2007

1.0 PROPOSAL

1.1 It is proposed to erect a permanent dwelling in association with an existing and established range of commercial fishing lakes off Langwith Lane, Heslington. Access is down this lane via Heslington village. The lakes started to become established in 2000 through the granting of planning permission for a change of use of the agricultural land to a fishing lake. Further planning permissions have been granted since then and today there are four established fishing lakes on the site with a maximum limit of 90 pegs. There is also a stock lake to the north of the main fishing lakes.

1.2 In November 2003 the applicants obtained planning permission for a temporary dwelling in order for them to manage and run the lakes. This was granted a temporary consent for 3 years which is standard practice in order to see if the business has become established before a more permanent dwelling is sought.

1.3 The site lies within the Green Belt. The proposal has been assessed against advice in Annex A of PPS7 (Sustainable Development in Rural Areas). A full detailed business appraisal has been submitted with the application in order to establish whether the business is viable and whether there is a functional need for a permanent presence on the site in connection with the business. This appraisal and assessment of need has been independently assessed on behalf of the Council by the Council's Agricultural Consultant (Company - Mouchel Parkman).

1.4 The application is before the Committee following a request by the Local Member.

2.0 POLICY CONTEXT

2.1 Development Plan Allocation:

2.2 Policies:

CYGB1

Development within the Green Belt

CYGB6

Housing devt outside settlement limits

CYGB7

Agricultural or forestry dwellings

3.0 CONSULTATIONS

3.1 INTERNAL.

3.2 Highway Network Management.

It is noted that this permanent dwelling will replace the existing temporary one and as a result it is considered that no additional traffic will result. Therefore there are no highway objections to this application.

3.3 Environmental Protection Officer.

No objections.

3.4 EXTERNAL.

3.5 Heslington Parish Council.

Object on the grounds that the proposed development is within the Green Belt.

3.6 Foss Internal Drainage Board.

Board recommends that any approval granted to the proposed development includes conditions referencing the following:

The Applicant states surface water is to be discharged to soakaway.

The suitability of new soakaways, as a means of surface water disposal, should be ascertained in accordance with BRE Digest 365 and to the satisfaction of the Approving Authority. If the suitability is not proven the Applicant should be requested to re-submit amended proposals showing how the Site is to be drained.

The suitability of any existing soakaway to accept any additional flow that could be discharged to it as a result of the proposals should be ascertained. If the suitability is not proven the Applicant should be requested to re-submit amended proposals showing how the Site is to be drained.

3.7 Third Parties.

A site notice was put up advertising the application. Heslington Village Trust commented as follows.

The enterprise is unrelated to the Local Farming Community and is not an example of economic diversification; it is a business situated in the Green Belt.

Will establish a dangerous local precedent of development in the Green Belt and will no doubt lead to further applications to develop the site.

This application is what the Parish Council feared at the time of the original application to develop the fishing lakes. The area of the lakes has grown and the number of fishing pegs has already expanded to 90 and now a permanent house is

being applied for to replace a temporary building. Traffic has increased through the village. Respect the legislation covering the Green Belt and reject the application.

4.0 APPRAISAL

4.1 KEY ISSUES.

- Policy towards new dwellings in the Green Belt.
- justification of need for the dwelling and financial security.
- physical appearance and size of the dwelling.

4.2 The issue here is simply the principle of placing a permanent dwelling on this site for use in connection with the running of this business. The principle of the fishing lakes and the number of pegs available for use has already been established as appropriate development in the Green Belt as part of previous planning permissions and cannot be reconsidered here. There is already a temporary dwelling on the site (which would be removed if this permanent dwelling was approved - see recommended condition 9) and the application does not result in any increase in the number of lakes and the maximum number of fishing pegs allowed, which is set at 90. Therefore it is not envisaged that there will be any increase in traffic down Langwith Lane as a result of this application.

4.3

Policy E9 of North Yorkshire County Structure Plan states that planning permission will normally be granted only for the erection of new buildings - which are necessary in connection with land uses including agriculture and forestry, outdoor sport and recreation and other uses appropriate in a rural area.

In terms of the City of York Draft Local Plan, Green Belt policies include GB6 which permits new housing which is essential for agriculture and forestry and Policy GB7 which refers specifically to the detailed justification against which such dwellings should be considered.

4.4 The site is in the Green Belt and therefore the application should be considered against national policy in PPG2 but also PPS7 (which in this case should have significant weight attached to it), in particular Annex A which refers to the siting of permanent dwellings in connection with Agricultural, Forestry and other occupational dwellings. Advice in Annex A in paragraphs 3-11 refers specifically to permanent agricultural dwellings and establishes that the onus is on the applicant to establish that there is a clearly established existing functional need for a permanent dwelling and consequent full time occupation of this site. The unit and the activity concerned must have been established for at least 3 years, have been profitable for at least one of them and have a clear prospect of remaining so. Whilst this advice refers specifically to agricultural dwellings (fishing is not defined as agriculture in the Town and Country Planning Act), para. 15 of the same annex states as follows:

' There may be instances where special justification exists for new isolated dwellings associated with other rural-based enterprises. Local Planning Authorities should apply the same stringent levels of assessment to applications for such new occupational dwellings as they apply to applications for agricultural and forestry

workers' dwellings..... They should therefore apply the same criteria and principles in paragraphs 3-13 (3-11 in this case as paras 12 and 13 refer to temporary dwellings) of this annex, in a manner and to the extent that they are relevant to the nature of the enterprise concerned'.

4.5 It is accepted that many such isolated dwellings in connection with rural businesses may be sited in the Green Belt and new residential dwellings in connection with agriculture or forestry are defined as an appropriate form of development in the Green Belt in both PPG2 and Local Plan Policy GB1. Given the advice in para. 15 of PPS7 above, the same test is appropriate for other form of rural dwellings and therefore providing such a development meets the functional and financial tests outlined above in 4.4, such a dwelling is an appropriate form of development in the Green Belt. Fishing is considered a rural based activity.

4.6 The business plan and planning justification accompanying the application seeks to establish a functional need and makes the case for residential supervision because of

- the isolation of the site.
- the need for constant supervision and feeding of the fish and general site management.
- site security, to protect fish stocks.

The applicants accounts were also made available and these included financial statements from the period ended 5th April 2004. These have been submitted in order to show that the business is financially sound and has a clear prospect of remaining so.

4.7 The Council's consultant has visited the site and met with the applicant and has fully assessed the proposal in line with the tests in PPS7 outlined above. The site is very isolated and there are no other properties available to the applicant that are capable of fulfilling the functional needs of the site.

4.8 Given the isolated location of the site and the valuable nature of the stock, security is obviously a major concern of the applicant. There are no other properties overlooking the site. If the fish were to be stolen then his business would be significantly harmed given that they the source of income and the number of the them on the site. Officers therefore have some sympathy with these concerns. Para. 6 of Annex A of PPS7 says that 'The protection of livestock from theft or injury by intruders may contribute on animal welfare grounds to the need for a new agricultural dwelling, although it will not by itself be sufficient to justify one'. This is mainly to prevent abuse of the system by preventing people who own a handful of animals from claiming security as a primary reason for justifying a house in the Green Belt. The protection of the stock has to be a material consideration here and is generally accepted as an important consideration in such cases. In this case there are also other functional needs and the business has become firmly established. The main considerations and conclusions of the Council's consultant are as follows:

- This is a newly established fishery that has a growing reputation.
- This reputation is due in no small part to the attention to detail given to the fishery by the applicant.

- The profit and loss accounts for the years to 5th April 2006 and 2007 show increasing net profits and projections for the year to April 2008 show the potential to show a turnover substantially in excess of that generated in 2007.
- There is a strong level of future bookings and the fishery appears to have an assured future.
- The holding has a Standard Labour requirement in excess of 1 Labour Unit.
- The need for a dwelling to serve this unit is generated by the following factors:
 - The need for a presence on the holding of a fishery manager to ensure that the grass around the ponds is cut, litter is picked and the unit maintained in a good condition.
 - The need for fish husbandry - ensuring that fish are in good condition, treating them as necessary and checking and maintaining water quality, particularly levels of oxygenation.
- Security - this falls into 5 categories:
 - To ensure proper behaviour of anglers and compliance with fishery rules.
 - To check that tickets have been purchased.
 - To ensure that any children on the fishery are safe.
 - To prevent theft either of fish either by individual fisherman or on a larger scale, for example by netting, or of other items from the fishery.
 - To care for fish in the stock and breeding pond.

Conclusions

- Under the system of management the holding has an established functional need for a dwelling to serve it as set out in paragraph 4 of Annexe A of Planning Policy Statement 7 and thus fulfils the requirements of paragraph 3(i) of Annexe A of Planning Policy Statement 7.
- This need relates to three full time workers and thus the holding fulfils the requirements of paragraph 3(ii) of Annexe A of Planning Policy Statement 7.
- This holding has been established since 2003, is successful in the current financial climate and has a clear prospect of remaining so as required by paragraph 3(iii) of Annexe A of Planning Policy Statement 7.
- At the time of my inspection no other properties were available to the applicant that are capable of fulfilling the agricultural need generated at Langwith Lakes due to its isolated location. Thus the application fulfils the criteria set out in paragraph 3 (iv) of Annex A of Planning Policy 7.
- In the light of the foregoing I am of the opinion that there is a need for a dwelling to serve this holding as the business has expanded to such a size that it is essential for the proper management of the fishery for a permanent dwelling to be provided to serve it.

4.8 Upon establishing the above factors, one has to establish whether the size of the property is acceptable. Para. 9 of Annex A off PPS7 says that 'agricultural dwellings should be of a size commensurate with the established functional requirement of the site / business..... It is the requirements of the enterprise, rather than those of the owner or occupier, that are relevant in determining the size of the dwelling that is appropriate to a particular holding'. This is particularly relevant when the site is in the Green Belt as in this case. The proposed house is two storey and has a main footprint of 100sqm (11 wide x 9.3 deep) with a single storey double garage/store measuring 6m x 5m projecting off the side. This will apparently double up as secure store for fishing tackle etc. Officers do not consider this to be excessively large

although it is always difficult to quantify when this is commensurate with the needs of the holding. The floor plan shows a two bedroom home although at first floor level a large room has been set aside and is annotated as an 'upper lounge' - the reasoning for which is given as additional security as a two storey dwelling will allow surveillance over the lakes which a single storey dwelling would not do. This is not considered unreasonable. It is acknowledged that this 'upper lounge' could be converted into a bedroom but officers do not consider that even if this were to happen, a fairly standard 3 bedroom family home would be unreasonable in size. The purpose of para. 9 of Annex A is predominantly to ensure that large 5 / 6 bedroom mansions are not built in inappropriate locations. It is recommended that all permitted development rights are removed for the property in order to prevent the uncontrolled expansion of the property in the future. This is recommended in para. 10 of Annex A so as to prevent proposed extensions which could result in a dwelling whose size exceeds the functional requirement, and affect the continued viability of maintaining the property for its intended use, given the income that the agricultural unit can sustain.

5.0 CONCLUSION

5.1 Given the advice and guidance in both PPG2 and Annex A of PPS7 a house in connection with this rural based activity is considered to be an appropriate form of development in the Green Belt providing it meets both the functional and financial tests outlined in Annex A. The applicant maintains a well run and seemingly popular enterprise and this is reflected in the functional and financial report prepared by the applicant's agent submitted in support of the application and the conclusions of the Council's agricultural consultant. Therefore, officers support the application subject to conditions tying the house to the business and the removal of all permitted development rights.

6.0 RECOMMENDATION: Approve

1 TIME2

2 The development hereby permitted shall be carried out only in accordance with the following plans received 20th March 2007:-

- Proposed site plan.
- Proposed elevations.
- Proposed layout.

or any plans or details subsequently agreed in writing by the Local Planning Authority as amendment to the approved plans.

Reason: For the avoidance of doubt and to ensure that the development is carried out only as approved by the Local Planning Authority.

3 VISQ8

- 4 Development shall not begin until details of foul and surface water drainage works have been submitted to and approved in writing by the Local Planning Authority, and carried out in accordance with these approved details.

Reason: So that the Local Planning Authority may be satisfied with these details for the proper drainage of the site.

Informative: You are reminded of the need for a Discharge Consent from the Environment Agency for discharge from any sewage treatment plant agreed under Condition 7 above.

- 5 Notwithstanding the information contained on the approved plans, the height of the approved development shall not exceed 8.6 metres, as measured from existing ground level. Before any works commence on the site, a means of identifying the existing ground level on the site shall be agreed in writing, and any works required on site to mark that ground level accurately during the construction works shall be implemented prior to any disturbance of the existing ground level. Any such physical works or marker shall be retained at all times during the construction period.

Reason: To establish existing ground level and therefore to avoid confusion in measuring the height of the approved development in the interests of visual amenity and the openness of the Green Belt.

- 6 Notwithstanding the provisions of Article 3 of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking or re-enacting that Order), development of the type described in Classes A and E of Schedule 2 Part 1 of that Order shall not be carried out without the prior written consent of the Local Planning Authority.

Reason: The Local Planning Authority considers that it should exercise control over any future extensions or new buildings 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 1995 and which could further harm the openness of the Green Belt and may result in a size of property not commensurate with the functional requirements of the business.

- 7 The occupation of this dwelling hereby permitted shall be limited to a person solely or mainly employed in the management of the fishing lakes on this site.

Reason: The development hereby approved would be an inappropriate form of development in the Green belt unless justified by the functional needs of the fishing lakes.

- 8 The dwelling hereby permitted and any of the fishing lakes shall not be sold separately from each other.

Reason. The Local Planning Authority would not have approved consent for a dwelling in this location without the applicant demonstrating a functional need for the dwelling in connection with the existing fishing business.

- 9 The existing temporary dwelling on the site shall be permanently removed from the site when the dwelling hereby permitted is brought into use.

Reason. The siting of the caravan in this location is not considered acceptable on a permanent basis.

7.0 INFORMATIVES:

Notes to Applicant

1. REASON FOR APPROVAL

In the opinion of the Local Planning Authority the proposal, subject to the conditions listed above, would not cause undue harm to interests of acknowledged importance, with particular reference to the Green Belt and the functional and financial appraisal of the site. As such the proposal complies with National Guidance in PPG2 (Green Belts) and Annex A of PPS7 (Sustainable development in Rural Areas), Policy E9 of the North Yorkshire County Structure Plan (Alteration No.3 Adopted 1995) and Policies GB1, GB6 and GB7 of the City of York Draft Local Plan incorporating the 4th set of changes (approved April 2005).

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