Allerdale Borough Council

Planning Application

Reference No: 2/2012/0451
Received: 28 May 2012

Proposed Development: Variation of condition 1 of planning approval 2/2003/0832 to remove the occupancy restriction relating to the Manager’s house (the detached dwelling)

Location: Cumberland Lodge
Winscales
Workington

Applicant: Mr G Campbell

Drawing Numbers: Site Location Plan

Constraints: British Coal Area

Policies: National Planning Policy Framework

Allerdale Local Plan
Policy EN25 - Protecting the open countryside, Allerdale Local Plan, Adopted 1999 (Saved)

Allerdale Local Plan – First Alteration
Policy HS4 - New housing in open countryside, Allerdale Local Plan First Alteration, June 2006 (Saved)

Concurrent applications:

2/2012/0575 – Change of use of existing stable block to holiday lets (Phase 1, four units).

Relevant Planning History:

2/1997/0895 – Stables (28) and a trainer’s flat.

2/1999/0213 – Outline application for a dwelling (Withdrawn).

2/1999/0475 – Outline application for a dwelling.

2/2000/0038 – Outline application for a proposed hotel and horse racing stables development including manager’s house and accommodation for stable hands, approved 12 May 2000.


2/2006/1240 - Erection of hotel, as amended by letter and plan received on 19 February 2007 – 21st February 2007

2/2008/0098 – Change of use of an approved hotel site to caravan site (100 caravans) – refused 3rd November 2008.


The application has been advertised by press advert and site notice. No representations have been received to date.

Report Proposal

The application seeks variation of condition 1 of planning approval 2/2003/0832 for removal of the occupancy condition insofar as it relates to the Manager’s house, Cumberland Lodge. The Manager’s house is the large detached dwelling towards the rear of the site.

The original condition stated:

The occupation of the manager’s house and gatehouse hereby permitted shall be limited to persons solely or mainly employed at the stable block hereby permitted (including the dependents of such persons residing with them).

Reason: The site is located outside the Workington settlement limits defined within the Allerdale Local Plan and is in an area of open countryside where residential development would not normally be permitted but for special circumstances.
The varied condition would state:

The occupation of the ‘Gatehouse’ only, approved under application 2/2003/0832, (the first floor flat within the stables) shall be limited to persons solely or mainly employed at the stable block hereby permitted (including the dependents of such persons residing with them or a widow or widower of such a person).

Reason: The site is located outside the Workington settlement limits defined within the Allerdale Local Plan and is in an area of open countryside where residential development would not normally be permitted but for special circumstances.

The application would remove any control over who occupies the detached dwelling at Cumberland Lodge, whereas to date, it has been tied to someone working at the related stabling business. Effectively, this would create an open market dwelling within the open countryside.

An application is also being considered for a partial change of use of the existing stable block to four holiday lets. This is indicated as phase 1 and it is understood that four further holiday lets may be sought.

Site

The application site relates to an established development of commercial stables and gallops originally intended for training racehorses, along with a detached dwelling and second integral dwelling unit within the stables. The development is known as Cumberland Lodge. The site is located just off the A596 (T) within open countryside to the east of Workington. The development is accessed off a long and gated entrance and is set back from the trunk road by approx. 250 metres. It is understood that the development was completed in 2005.

The detached dwelling to which the application relates is a large, five bedroom property, and is of a relatively grand scale and appearance, located towards the rear of the site. It has a render finish and tiled roof and contains integral garaging.

A second residential unit is located on site within the stables (the ‘Gatehouse’). The stables themselves can accommodate up to 50 horses. The gallops are positioned to the southwest of the stables.

A third residential unit is understood to exist within the stables building. This third unit does not benefit from planning permission and has been investigated. No enforcement action has been taken to date. No lawful development certificate has been applied for.
Policy

Planning Policy Statements have now been replaced by the planning guidance within the National Planning Policy Framework (NPPF), published March 2012. At the heart of the NPPF is a presumption in favour of sustainable development.

The newly published NPPF specifies that for the purposes of decision-taking, the policies in the Local Plan should not be considered out-of-date simply because they were adopted prior to the publication of this Framework. However, the policies contained in the NPPF are material considerations which local planning authorities should take into account.

For 12 months from the day of publication, decision-takers may continue to give full weight to relevant policies adopted since 2004 even if there is a limited degree of conflict with the Framework, for Allerdale, this gives full weight to policies contained within the Joint Structure Plan. For Allerdale Local Plan policies, due weight should be given to relevant policies according to their degree of consistency with the NPPF.

The National Planning Policy Framework has replaced the relevant guidance within PPS7 on new dwellings within the open countryside. It retains the requirement for Local Planning Authorities to avoid new isolated homes in the countryside unless there are special circumstances such as the essential need for a rural worker to live permanently at or near their place of work in the countryside. As such, it is considered that policy HS4 of the Allerdale Local Plan First Alteration, which seeks to control new housing in the open countryside to that which is essential, remains generally consistent with the NPPF. The NPPF makes no detailed comment on the use of occupancy conditions or the relevant considerations, where removal is sought. However, such conditions remain the only mechanism to control future occupancy of those dwellings approved for essential workers.

Relevant Background

The original development for the stables, gallops and dwellings was considered under the advice of PPG7 and its successor PPS7 which made clear that isolated new houses within the open countryside required special justification to obtain planning permission. One of the few circumstances in which isolated residential development may be justified, is when accommodation is required to enable agricultural, forestry and certain other full time workers, to live at, or in the immediate vicinity of their place of work. PPS7 further advised on the use of occupancy conditions to ensure that any dwelling permitted remains available for meeting
the identified need for as long as it exists. The occupancy restriction now existing on the detached dwelling at Cumberland Lodge is a result of this advice.

When considering applications for the removal of occupancy conditions, the test is whether sufficient evidence has been provided to demonstrate that the functional need for a dwelling for an essential worker at the enterprise concerned, no longer exists.

Numerous planning approvals have been granted in relation to this site. It is understood that the full application ref. 2/2003/0832 was subsequently implemented, and completed in 2005. However, consent for stable development was originally granted in 1997 (28 stables) along with a single residential worker’s flat. The principle of a second residential unit was accepted by the Local Planning Authority under a separate application in 1999. In subsequent applications, the number of stables forming part of the proposal increased to 50, after the principle of two residential units on site had already been accepted by the Local Planning Authority.

The 1999 application which accepted that there was a functional need at the premises for a second dwelling was accompanied by a report prepared by ADAS’s Equine Unit. The report was prepared on the basis of a racehorse training establishment and a racehorse breeding enterprise. The assessment was based on an average number of bloodstock at the property of between 23-31 (it was expected that a further application was to be submitted to increase stable accommodation to 34 with 82% occupancy, plus two broodmares and 3-6 youngstock). The consultant determined that there was an ‘essential’ need for at least two suitably experienced and responsible persons to be accommodated on site, (one of which would normally be the trainer) based on the bloodstock units involved and the appropriate level of welfare and management required. A further response from ADAS confirmed that the functional requirement for two suitably skilled persons would remain in the absence of the broodmare enterprise (which at the time did not benefit from planning permission).

Planning application 2/2011/0362 for removal of the occupancy condition relating to the detached Manager’s dwelling at Cumberland Lodge was refused last year on the following grounds:

*Insufficient information has been submitted with the application to adequately demonstrate that the functional need for a second dwelling at the enterprise concerned, no longer exists. The proposal would result in the creation of an unrestricted property within the open countryside, contrary to saved policy EN25 of the Allerdale Local Plan, saved policy HS4 of the Allerdale Local Plan First*
Alteration, and the advice contained within PPS7 – Sustainable development within Rural Areas.

In relation to the appropriate test, the assessment for this previous application reached the following conclusions:

- the commercial enterprise for stabling and training horses remains operational, although occupancy figures are not at their maximum. Nevertheless, the enterprise retains stables for 50 horses, gallops and an associated landholding, which would suggest all the necessary components for a successful equine business.
- Some limited information has been provided on occupancy levels (16 horses at present, 12 horses stabled over the last 4 years on average). Whilst the suggested occupancy levels appear low at approximately 25%, the potential remains for the business to develop further, albeit the agent’s comments in respect to the current economic climate were noted.
- The application forms suggest that the development was only completed in 2005, it is not clear if this relates to the housing or the stables. If this relates to the stables, it would suggest that the business has only been operational for as little as six years and therefore to develop the business to its full potential may take longer, particularly in the current economic climate.
- No information has been provided to indicate that the enterprise is having trading difficulties or that the enterprise is not viable or has no potential for growth.
- It is considered that insufficient evidence has been provided to demonstrate that the functional need for the second dwelling at the enterprise concerned, no longer exists.

Assessment

The Supporting Statement submitted with the current planning application and provided to justify the removal of the occupancy condition relating to the detached dwelling at Cumberland Lodge is summarised as follows:

- The applicant does not intend to dispose of the property if the application is successful.
- The essential need for two dwellings (application 2/2003/0832) was based on the stabling and training or racehorses. To function as a business dedicated to racehorses, a suitably qualified trainer was required to live on site in order to satisfy licensing requirements of the British Horseracing Authority.
- The business has not had the benefit of a licensed trainer since the beginning of the year.
• The business commenced trading in September 2006, since that time, the maximum number of racehorses stabled was 20, with the average number being 12.
• Accounts provided to the Local Planning Authority demonstrate that the business has made a significant loss each year until it ceased to trade at the beginning of the year.
• The business has been marketed for almost 12 months with little interest being shown. The applicant does not wish to sell, but is seeking to diversify the business, subject of a separate application. Some stabling continues, within the southern half of the block only.
• Despite the best endeavours of the owner, the business has failed and can no longer occur. Limited stabling does now occur but these do not require the same level of care and supervision as racehorses therefore the functional need for two dwellings no longer exists.
• The diversification proposals put forward under separate application halves the stabling capacity and it follows that it halves the essential number of dwellings required.
• Should the change of use of the stables be deemed unacceptable, the need for the two dwellings is still not essential given the changed circumstances at the site.

It is understood that the racehorse stabling and training business for which the complex was constructed is no longer operating. The current application has been supported by additional financial information demonstrating that the business has made losses from the year ending March 2007 to the year ending March 2010 and that the stables have never operated at capacity. No financial information has been provided for year ends 2011 and 2012.

It is considered that for any new business, losses might be anticipated in the first few years as the business becomes established and requires substantial investment. For a specialised business such as racehorse training, which requires the building up of a client base and a successful reputation, this time period could potentially be longer. The information provided indicates that the business has only operated from September 2006 to the end of 2011, which does not seem a significant period of time, given the level of investment that would have been required to construct the premises in the first instance. It is accepted that the current economic climate will not have been of benefit to the business.

Under normal circumstances, the Local Planning Authority would require the appropriate marketing of the property to demonstrate that there was no interest in continuing the approved land based equine activity, which would in turn justify retention of the occupancy condition for the related dwellings. Whilst the applicant has undertaken some marketing of the property (the house,
stables and land), the details of this marketing have not been agreed with the Local Planning Authority in terms of whether the marketing price was realistic, the necessary duration of the marketing or whether the method of marketing was appropriate (i.e. such a business may require marketing with a specialist agent).

As such, there are concerns that the business retains the components for a potentially successful equine business, but that the investment necessary to achieve this to date has been underestimated and that the appropriate marketing has not been agreed to ascertain whether any other party would be interested in continuing with the venture.

Instead, the applicant maintains an intention to remain at the site and a concurrent application seeks to diversify the use of the stables, by partial conversion to holiday lets. In the meantime, it is understood that the remaining stables are being used for stabling/livery not associated with racehorses. The merits of this diversification have been considered under application 2/2012/0451 and are generally considered to be acceptable in relation to policy and are recommended for approval.

Essentially, approving the current application for removal of the occupancy condition insofar as it relates to the detached manager’s dwelling will create an unrestricted dwelling within the open countryside. Whilst the change of use of part of the stables to holiday lets may be granted, it may not be implemented. Should this be the case, then the stables could continue to operate with a capacity for 50 horses (racehorses or otherwise), thereby retaining the originally identified need for two essential workers and justifying the retention of the occupancy condition.

As such, the requirement for a legal agreement restricting the number of horses accommodated at the premises to approx. 25 or half of that existing (as well as a concurrent application demonstrating an alternative and viable use for part of the stables) has been discussed with the applicant. The legal agreement would ensure that should the change of use application not be implemented, it would not be possible for current or subsequent owners at the site to accommodate a level of horses that would exceed one essential on site worker.

The applicant agent has indicated willingness to enter into this legal agreement.

There remain a number of concerns with this site, as discussed above, in particular, (a) that the relevant marketing of the premises to establish whether any third party may wish to continue with this land based business in its current form, along with the
restricted occupancy properties, has not been undertaken satisfactorily and (b) that the business has not yet operated for a sufficient period of time to accept that it is unviable. However, this must be balanced against the current owner’s desire to stay at the premises and develop an alternative venture.

It is considered that the approval of this application with an appropriate legal agreement restricting the number of horses at the stables would safeguard against the continued use of the site for a number of horses that would genuinely need two essential on site workers. The partial change of use of the stables to holiday accommodation would offer a possible diversification to a currently unprofitable business. To a degree, this would seem to be in the spirit of the NPPF, which contains the presumption in favour of sustainable development and which promotes the development and diversification of agricultural and other land-based rural businesses; albeit at the same time, the approval would effectively result in a unrestricted dwelling within the open countryside, which the NPPF seeks to restrict.

The stabling complex and associated dwellings are now built and evidence provided suggests that the business has been unsuccessful to date. Taking into consideration the applicant’s desire to stay at the premises, the concurrent application for a change of use, and the need to find a viable ongoing use of the site as a whole, on balance, the proposal is considered to be acceptable, subject to the legal agreement discussed above.

**Conclusion**

The approval of the proposal will effectively create an unrestricted open market dwelling within the open countryside, contrary to local and national policy. (The application has been advertised as a departure) Whilst there are concerns expressed above relating to whether the potential continuation of the equine business as originally intended has been fully exhausted, this has to be balanced by the applicant’s desire to continue at the premises and diversify the use. On balance, approval is recommended, subject to a legal agreement restricting the number of horses on site to reflect one essential worker rather than two (approx. 25).

(As the development is retrospective should members be of the alternative opinion that the proposal should be refused, they will need to consider the expediency of implementing enforcement proceedings)

**Recommendation:** Approval subject to receipt of a unilateral undertaking restricting the number of horses to be accommodated on site.

**Conditions/**

1. The occupation of the ‘Gatehouse’ only, approved under...
Reasons: application 2/2003/0832, (the first floor flat within the stables) shall be limited to persons solely or mainly employed at the stable block hereby permitted (including the dependents of such persons residing with them or a widow or widower of such a person).
Reason: The site is located outside the Workington settlement limits defined within the Allerdale Local Plan and is in an area of open countryside where residential development would not normally be permitted but for special circumstances.

Notes to Applicant: