

<b>Parish:</b>	<b>West Walton</b>	
<b>Proposal:</b>	<b>Change of use of land and stables to commercial livery yard and erection of dwelling in connection to commercial livery.</b>	
<b>Location:</b>	<b>Land North-East of Thurston Farm Common Road Walton Highway Norfolk PE14 7ER</b>	
<b>Applicant:</b>	<b>Mrs D Glover</b>	
<b>Case No:</b>	<b>21/01781/F (Full Application)</b>	
<b>Case Officer:</b>	<b>Lucy Smith</b>	<b>Date for Determination: 9 November 2021 Extension of Time Expiry Date: 11 March 2022</b>

**Reason for Referral to Planning Committee** – Called in by Cllr Kirk

**Neighbourhood Plan:** No

**Case Summary**

Full planning permission is sought for a new business tied dwelling in association with a proposed change of use of existing stables to use as a commercial livery. The site is accessed via Common Road, Walton Highway.

The site is located outside of the development boundary on land which is considered to be within the wider countryside for the purposes of planning policy.

**Key Issues**

- Principle of development
- Form and Character
- Impact on Highway Safety
- Flood Risk
- Other material considerations

**Recommendation**

**REFUSE**

**THE APPLICATION**

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## **SUPPORTING CASE**

None received at time of writing

## **PLANNING HISTORY**

08/01851/F: Application Permitted: 22/09/08 - Erection of sectional timber framed and clad stables - Land On The North East Side Of Common Road – Delegated Decision

## **RESPONSE TO CONSULTATION**

**Parish Council: NO OBJECTION** – subject to occupancy restriction

**Highways Authority: NO OBJECTION** in principle – subject to standard access/turning area condition.

**Environment Agency: NO OBJECTION** – The Flood Risk Assessment submitted with this application is acceptably, the EA recommend that the IDB are consulted with regard to flood risk associated with watercourses under their jurisdiction.

**Internal Drainage Board: NO OBJECTION** – The Board's Byelaws must be complied with.

**Environmental Health & Housing - Environmental Quality: NO OBJECTION**

## **REPRESENTATIONS**

None received

## **LDF CORE STRATEGY POLICIES**

**CS01** - Spatial Strategy

**CS02** - The Settlement Hierarchy

**CS06** - Development in Rural Areas

**CS08** - Sustainable Development

**CS10** - The Economy

**CS11** - Transport

## **SITE ALLOCATIONS AND DEVELOPMENT MANAGEMENT POLICIES PLAN 2016**

**DM1** – Presumption in Favour of Sustainable Development

**DM2** – Development Boundaries

**DM6** - Housing Needs of Rural Workers

**DM15** – Environment, Design and Amenity

## **NATIONAL GUIDANCE**

National Planning Policy Framework (NPPF)  
Planning Practice Guidance (PPG)  
National Design Guide 2019

## **PLANNING CONSIDERATIONS**

The key issues are:

Principle of Development  
Form and Character  
Impact on Neighbours  
Highway Safety  
Other Material Considerations

### **Principle of Development:**

Full planning permission is sought for a business tied dwelling associated with a change of use of existing stables to a commercial livery yard. The business has been operating contrary to the original planning consent (08/01851/F) for approximately 3 years and the new dwelling is proposed in association with the commercial livery to allow a constant on-site presence.

In relation to the change of use to commercial livery, the creation of rural enterprises is widely supported by policies at both a local and national level and the principle of development is therefore considered acceptable in accordance with Policies CS06 and CS10 of the Core Strategy (2011).

In relation to the creation of a new dwelling on site, Policy DM6 applies in this instance as the proposed dwelling is in excess of 300m outside of the development boundary for Walton Highway outlined on inset map G120 of the SADMPP (2016) and is therefore located within the wider countryside where countryside protection policies apply.

Information provided by the agent as part of this application states an intention for a permanent dwelling in connection with the business use which has been operating unlawfully since 2018.

With regards to the creation of permanent dwellings in association with an existing business, Policy DM6 sets out the following criteria:

### **New Occupational Dwellings**

1. Development proposals for occupational dwellings must demonstrate the stated intentions to engage in farming, forestry or any other rural-based enterprise, are genuine, are reasonably likely to materialise and are capable of being sustained. Proposals should show that the needs of the intended enterprise require one or more of the people engaged in it to live nearby.

2. Agricultural or rural based occupancy conditions will be placed on any new permanent or temporary occupational dwellings specifying the terms of occupation.
3. New permanent dwellings should only be allowed to support existing rural based activities on well-established rural based enterprises, providing:
  - a. there is a clearly established existing functional need, requiring occupants to be adjacent to their enterprises in the day and at night,
  - b. The need could not be met by existing dwellings within the locality,
  - c. The application meets the requirements of a financial test demonstrating that:
  - d. the enterprise(s) and the rural based activity concerned have been established for at least three years, have been profitable for at least one of them and;
    - i. are currently financially sound, and have a clear prospect of remaining so and;
    - ii. the rural based enterprise can sustain the size of the proposed dwelling;
    - iii. acceptable in all other respects
4. If a new dwelling is essential to support a new rural based activity, it should normally, for the first three years, be provided by a caravan, or other temporary accommodation.
5. New temporary dwellings should only be allowed to support rural based activities providing:
  - a. The proposal satisfies criteria 3a and 3b above
  - b. The application is supported by clear evidence of a firm intention and ability to develop the enterprise concerned (for example significant investment in new farm buildings is often a good indication of intentions);
  - c. The application is supported by clear evidence that the proposed enterprise has been planned on a sound financial basis.'

#### *Need For A Permanent Dwelling*

In order to comply with Policy DM6, applications must demonstrate a clearly established functional need for an on-site presence in connection with a rural enterprise.

The site is located down a part of Common Road with only 1 permanent dwelling (a farmhouse to the immediate west of the application site). Vehicular access is to the south with the A47 to the west and St Pauls Road South to the east. A footpath (not a Public Right of Way) is available north across the A47. The Agent states the site's positioning leads to a lack of natural surveillance and therefore, to opportunities for crime if the site is not occupied. CCTV is available on site however this is not considered adequate to protect the site due to the care requirements for some of the animals. The agent states that whilst other methods of security are existing on site, including security cameras and flood lighting, these are not fit for their intended purposes due to false alarms and causing distress to animals.

Information from the applicant states the business provides three types of care: DIY Livery, Part Livery and Full Livery (including the provision of livery care at other yards). The site can cater for ten/eleven animals at any one time however five of the Applicant's own animals are on site which reduces the total capacity in connection with the business to a maximum of six. Of these six, a maximum of two animals could be on site for medical reasons/recovery – it is primarily these animals that would require on-site attendance for 24 hours a day.

#### *Financial Information and Business Viability*

In order to comply with Policy DM6, applications for permanent dwellings must demonstrate the business is currently financially sound and has a clear prospect of remaining so and that the business can support the occupation of the dwelling in perpetuity.

Tax records submitted with this application suggest that the applicant has made a very limited amount of profit from self-income for the three years it has been established for (2018-2021) although no full financial reports have been provided to outline the precise source of the income or costs/outgoings of the business. Whilst it is stated that the applicant has full ownership of the land and therefore limited outgoing costs associated with the day to day operations of the business, the LPA consider that there is lack of justification to support a new dwelling in association with a business of this scale.

There is also a lack of evidence that such a business could support a new dwelling of this size in perpetuity. No detailed business plan has been provided to demonstrate any significant investment in the business or site and no evidence of an intent to expand or grow the business above its current scale, other than an intent to advertise livery services once the livery use is deemed lawful.

### *Existing Dwellings in The Locality*

At the time of the application, the Applicant's address is listed as St Pauls Road South - less than five minutes' drive from the business premises. Whilst the Agent has put forward potential unreliability of vehicles as a reason why this existing address is not suitable, the LPA do not consider that 3b above has been met.

Overall, whilst the Applicant states the site has been at maximum capacity site for the past 3 years, from the information available it is evident that the business is of a very limited scale. The LPA do not therefore consider that criteria 1, 3a, 3b and 3dii above have been met. Only very limited evidence has been provided to demonstrate that the business is of a suitable scale to justify and sustain a new dwelling in this position and that the applicant's existing address is not a viable alternative.

The application is therefore considered to represent the construction of a new dwelling in the countryside, contrary to Policy CS08 of the Core Strategy (2011) and Policies DM2 and dM6 of the SADMPP (2016).

### **Form and Character:**

No external changes are proposed to the existing stable building and therefore the impact of the change of use to commercial livery on the surrounding area is limited. The proposed dwelling has the appearance of a static caravan and will be visible from the wider street scene. The dwelling's appearance and the appearance of any associated domestic paraphernalia and the extent of hardstanding proposed will lead to some impact on the countryside. However, on balance with regard to the existing use of the site and surrounding hedgerows proposed to be retained, the visual impact of the new dwelling is not considered to warrant refusal of the application, although members will need to consider the potential impact on the countryside in line with Policies CS06 and CS08 of the Core Strategy (2011) and Policy DM2 of the SADMPP (2016).

### **Impact on Neighbours**

The closest dwelling to the site is located to the south-west of the site's access point on Common Road. This existing dwelling is remote from other neighbours and there will be some existing impact as a result of vehicle movements to/from the application. The use as a commercial livery is considered unlikely to lead to significant increased impacts on this adjoining dwelling and the use could be suitably conditioned to protect dis-amenity to this residential unit.

The proposed dwelling is sited to the east of this adjoining dwelling and is considered to be sufficiently distanced to limit any opportunity for overlooking, overbearing or overshadowing impacts.

The application is therefore considered to comply with policies CS08 and DM15 of the Local Plan.

### **Highway Safety**

The commercial use of the land and the creation of a new dwelling has raised no objections from the Local Highway Authority. The application site has an existing level of traffic which can be balanced against the proposal and the application is not considered likely to lead to conditions to the detriment of highway safety.

The application therefore accords with Para. 110 of the NPPF (2021), Policy CS08, CS10 and CS11 of the Core Strategy (2011) and Policy DM15 of the SADMPP (2016).

### **Other Material Considerations**

#### *Crime and Disorder*

The Applicant suggests that the existing site is not secure and there are existing crime and disorder impacts. An instance of theft from site has been referred to within supporting information however this has not been evidenced and other methods of security such as CCTV, silent alarms, secure fencing and lighting or other sensors have not been fully considered or ruled out. Therefore, whilst the security of the site is noted and it is a requirement to take these impacts into account, the security issues associated with the extant use of the site are not considered sufficient to justify the creation of a new dwelling in the countryside in a location which is fundamentally contrary to the Local Plan.

#### *Flood Risk and Drainage*

The application has drawn no objections from the Environment Agency in regards to Flood Risk. As a result of comments from the IDB, conditions would be required to ensure the proposed foul and surface water drainage strategies are viable and will not lead to adverse impacts elsewhere.

In relation to flood risk, the site is within Flood Zone 3 of the Borough Council's SFRA (2018). The sequential test is passed in this instance as the dwelling is stated to be required on site in association with the business and therefore cannot reasonably be relocated elsewhere in an area of less flood risk, although it should also be noted that the vast majority of the built extent of Walton Highway is also at the same level of flood risk which would also satisfy this element.

In regards to the exceptions test, the submitted Flood Risk Assessment states that flood levels should be no lower than 500mm above adjacent ground level to ensure mitigation against extreme events. The second part of the exceptions test (Para 164a) requires development to provide sustainability benefits to the wider community to outweigh flood risk. As discussed above, in light of the conflicts with Policy DM6, the proposal represents the creation of a new dwelling on land which is contrary to the local plan and the very limited benefits of a single new dwelling in this position is not considered to outweigh the impact of flood risk. The exceptions test is therefore failed.

The proposal therefore fails to comply with Paragraph 164 of the NPPF (2021) and Policies CS08 and DM15 of the Local Plan.

Planning Committee  
7 March 2022

## *Contamination*

The application has drawn no objections from the Environmental Quality team with regard to contamination. A screening assessment was provided as part of this application and suggests there is no likely impact on the proposed residential use. The application therefore complies with the NPPF (2021) and CS08 of the Core Strategy (2011).

## **CONCLUSION**

The application seeks consent for the retrospective change of use of an existing stables and paddock land to use as a commercial livery and the subsequent creation of an associated business-tied dwelling.

The principle of the livery business in a countryside location such as this is considered acceptable, and is supported by both national and local policy.

However, whilst some information has been provided to outline the need for a dwelling in this location, the information provided falls well short of what is required, and officers do not consider the proposal meets the criteria set out in Policy DM6 of the SADMPP (2016).

In summary, insufficient justification has been put forward to demonstrate a clearly established functional need for a new dwelling in this location or to demonstrate that the business use is capable of sustaining a new dwelling on site.

The application is therefore considered to constitute the construction of a new dwelling in the countryside contrary to the NPPF (2021), Policies CS02 and CS08 of the Core Strategy (2011) and Policies DM2 and DM6 of the SADMPP (2016).

The application is therefore considered to constitute the construction of a new dwelling in the countryside with insufficient justification, contrary to the NPPF (2021), Policies CS02 and CS08 of the Core Strategy (2011) and Policies DM2 and DM6 of the SADMPP (2016).

The application is recommended refusal for the following reason.

## **RECOMMENDATION:**

**REFUSE** for the following reason(s):

- 1 Insufficient justification has been put forward to demonstrate a clearly identifiable need for a new dwelling in association with the proposed business use. It is considered the proposal fails criteria 1, 3a, 3b and 3dii of Policy DM6 of the SADMPP (2016), in so far as only very limited evidence has been provided to demonstrate that the business is of a suitable scale to justify and sustain a new dwelling in this position and that the applicant's existing address is not a viable alternative. The application is therefore considered to represent the construction of a new dwelling on land which is outside of any development boundary and in the wider countryside for the purposes of planning policy. The proposal is therefore contrary to Policies CS01, CS02 and CS08 of the Core Strategy (2011) and Policy DM2 and DM6 of the SADMPP (2016).
- 2 The application site is located within Flood Zone 3 of the Borough Council's SFRA (2018). Paragraph 164 of the NPPF (2021) requires development to pass both parts of the exceptions test. In light of the lack of justification put forward for a new dwelling in this position, the proposal is considered to constitute the construction of a new dwelling in an unsustainable location for the purposes of planning policy. The benefits of a single dwelling in this location are not considered sufficient to outweigh the risk of

flooding and the application is therefore considered contrary to Paragraphs 163-165 of the NPPF (2021) and Policy CS08 of the Core Strategy (2011).