Yorkshire Dales National Park Authority

Committee: Planning

Date: 23 April 2024

Applicant: Rigg End Yorkshire Dales Limited

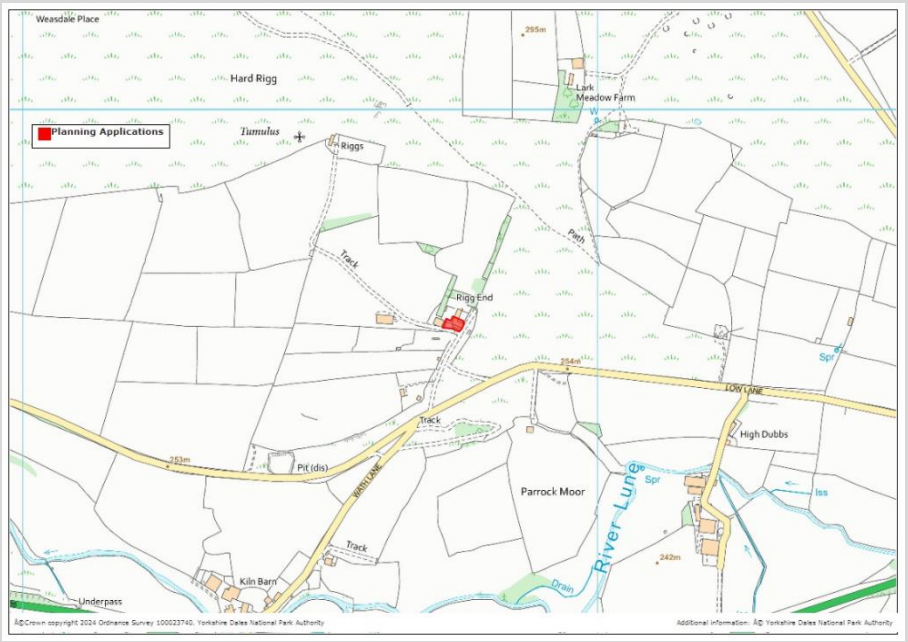
Parish: Ravenstonedale

Officer: Emma Heron

Application No: E/12/45

Site Address: Old Dairy Barn, Rigg End, Newbiggin on Lune, Kirkby Stephen, CA17 4NB

Proposal: Full planning permission for alterations to the window and door details originally approved under Planning Application reference 16/0453 and Prior Approval 14/0721 (Change of use of agricultural building to residential use), associated operational development to form steps and hardstanding for use in association with the residential use and, for the installation of 5 No. rooflights and flue, and oil tank together with change of use of the curtilage including the outbuildings to ancillary domestic use (part retrospective)



Purpose Of Report

1. That Members REFUSE planning permission for the above development in accordance with the recommendations below, and authorise enforcement action.

Reason For Committee Consideration

2. This application is reported to Committee for the following reason: in the opinion of the Head of Development Management it is in the best interests of the National Park Authority that the application is considered by the Committee.

Application Site

3. Rigg End is a former farm complex comprising a traditional farmhouse, and attached traditional barns, arranged in an elongated L-shape. To the south of the barn is a single-story outbuilding, and to the rear is a modern agricultural building which is now in a poor state of repair. The 'Old Dairy Barn' makes up the majority of the traditional barns and outbuildings.

4. Between the outbuilding and the modern agricultural building, there is a gravelled driveway, sufficient for parking two cars, a raised patio retained by a gabion wall, steps up leading to the patio, an access pathway to the rear of the site and further steps up to the rear door. The raised patio is enclosed by wooden fencing, and the fence abutting an adjoining farm access/livestock handling area is approximately 1.1 metres high (measured from the ground level of the raised patio).

5. Prior to the work taking place, what is now the driveway, was the main access into the farmyard. Where the patio now stands there was an external storage area, which photographic records indicate was at the same ground level as the main access. To the rear was a concrete slope upwards to a raised concrete apron, in front of the modern barn.

Proposal

6. Full planning permission for alterations to the window and door details originally approved under Planning Application reference 16/0453 and Prior Approval 14/0721 (Change of use of agricultural building to residential use), associated operational development to form steps and hardstanding for use in association with the residential use and, for the installation of 5 No. rooflights and flue, and oil tank together with change of use of the curtilage including the outbuildings to ancillary domestic use (part retrospective).

7. The majority of the proposal seeks to retain development that has already been carried out. It also includes a proposed increase in height, to 1.8 metres, to the fencing abutting the adjoining farm access/livestock handling area. This has not yet been installed.

Relevant Planning History

8. The barn had approval to be converted to a dwelling as a prior notification under permitted development rights in 2014, by Eden District Council. This occurred before the National Park boundary was extended. Approval was subsequently obtained for window and door details in 2016 as part of a larger planning application. During construction the conversion to a dwelling was the subject of an enforcement investigation, the conclusion of this was that the conversion to a dwelling had consent, and that the development had commenced within the legal timeframe. It also concluded that the as-built window and door arrangements were different to those on the approved plans, and a residential curtilage with raised patio had been created. Other development that had taken place without planning permission were, the installation of rooflights, a flue, oil tank and hot tub. This application is the result of the enforcement investigation.

9. The following applications are relevant:

S/2014/721 – Prior notification of change of use of agricultural building to dwelling with associated building operations.
No objection September 2014.

S/2016/227 – New windows to barn and single storey extension to existing dwelling house. Refused May 2016.

S/2016/453 – new windows to barn and single storey extension to existing dwelling house. Approved July 2016.

E/12/103 – Full planning permission for change of use of land and siting of 7no, non-permanent holiday cabins with associated access, parking and landscaping at Rigg End. Withdrawn January 2023.

E/12/103A – Full planning permission for change of use of land from agricultural to holiday letting and siting of 5no. non-permanent holiday cabins with associated access, parking and landscaping at Rigg End.
Pending decision.

Consultations

Consultees:

10. The comments of statutory and non-statutory consultees are summarised below:

Ravenstonedale PC - Objection on the following grounds:
Insufficient information in the application, as per Environmental Health comments. The hot tub has been removed from the application description but remains on the plan drawings and we believe that this should be removed from the drawings as well for the avoidance of any doubt. For information the hot tub remains in use and is still being

advertised on the 'Companies' website as a feature of the property. The Parish Council has also been made aware of litter being thrown into neighbouring properties (including broken glass into livestock pens) and being disposed on the fell land adjacent to the property.

Chief Technical Officer - No comments

Chief Environmental Health Officer CEHO - Objection. Insufficient drainage detail has been provided to show how foul drainage for the development including the chlorinated water from hot tub will be provided. The concern to Environmental Protection and the Environment Agency is that pollution may be caused to the environment and wildlife. As we know nothing to how final effluent is to be discharged then it would seem negligent to add chlorinated water to an unknown system.

Area Ranger (Western Dales) - The proposed development does not affect a Public Right of Way

Wildlife Conservation Officer - No objection

Natural England - No objection

Public responses:

Neighbour/interested parties' responses received: 18

11. The application was advertised by site notice on 28th September 2023, and neighbours notified. Four individual responses from the landowner support the proposal and offer points of clarification. 14 individual objections from five households object to the proposal on the following grounds:

- Rooflights and flue (and solar panels) out of character with local heritage and highly visible in the landscape.
- Concerns about the wider expansion of development at the site to form a holiday campus
- Lack of clarity about aspects such as foul drainage, and the fact that development has been ongoing without the benefit of planning permission
- Health and safety, concerning the raised patio overlooking an enclosed livestock handling area relating to a neighbouring farm (including information from the NFU & HSE in respect of the handling of livestock.
- Increased noise, disturbance and activity from the holiday accommodation and patio use in relation to neighbour amenity and also the working practices of the adjoining farm.
- Overlooking from rear window.
- Smoke from flue.
- Light pollution.
- Littering of the livestock handling area, and farm main entrance.
- Insufficient parking causing issues with farm and land access.

Assessment

Key Issues:

- Principle of development
- Landscape and visual impact
- Neighbour amenity
- Impact on the function of the adjoining farm enterprise
- Sustainability
- Nature recovery
- Parish Council comments
- Equality Act

Principle Of Development

12. Section 38(6) of the Planning and Compulsory Purchase Act 2004 places a duty on Local Planning Authorities to determine planning applications in accordance with the development plan unless there are material reasons to do otherwise. The development plan for this area is the adopted Eden Local Plan (2015-2032), and the National Planning Policy Framework is a material consideration in planning decisions.

13. The National Park has two statutory purposes set out in the 1995 Environment Act:
    - To conserve and enhance natural beauty, wildlife and cultural heritage; and
    - To promote opportunities for the understanding and enjoyment of the special qualities of the National Park by the public.

14. Paragraph 182 of the National Planning Policy Framework (2023) makes clear that great weight should be given to conserving and enhancing the scenic and natural beauty in National Parks.

15. The National Park Authority also has a duty to seek to foster the economic and social well-being of local communities within the National Park.

16. Policies DEV5 and RUR3 of the adopted Eden Local Plan (2014-2032) are the pertinent policies. DEV5 sets out the criteria for design of new development, including respecting local character and landscape, and respecting neighbour amenity. RUR3 sets out the design criterion for the conversion of traditional buildings, including conversion without significant alteration, high quality design, the building and curtilage can be developed without an adverse effect on the historic environment, the character of the local landscape or its setting amongst other things.

17. The principle of the use of the building for a residential (C3 use class) purpose is established by virtue of the decisions in 2014 and 2016 outlined in the Planning History section above. This means that the use of the barn, does not form part of the assessment of this application. The application is limited to the design changes on the building that have deviated from the approved plans, a flue, oil tank and rooflights, and operational development to form steps and hardstanding for use in association with the

accommodation and change of use of the curtilage including the outbuildings, to ancillary domestic use.

Landscape And Visual Impact

18. The site is prominent from wide ranging public vantage points as it is in an elevated and isolated position. It is also viewed in the context of a slightly more sprawling agricultural development as it is adjacent to a farm access/livestock handling enclosure, farm paraphernalia, a static caravan and other buildings that are under separate ownerships.

19. The position of some of the as-built window and door details are a minor deviation from the 2014 and 2016 approved drawings. Whilst Local Plan policy RUR3 requires conversions to take place without significant alterations, it is noted that the originally approved drawings are simplistic and poor quality. There is a high probability that the as-built window and door details better represent the location of the original openings. In addition, the fenestration changes include the opening up of an additional doorway, and small changes to the size of some larger windows. The rooflights, whilst large, are all contained within the inner roof slope facing a small courtyard. Two are not visible from outside of the site, and three are visible only from longer distance vantage points, within the context of the wider complex of buildings. The oil tank is also contained within the small courtyard and not visible. The flue, whilst on the most prominent gable elevation is matt black, and recessive in wider views. The raised patio, and both sets of steps are contained within the site and have no wider landscape impact. These elements of the proposal are therefore considered visually acceptable and compliant with policies DEV5 and RUR3.

20. The raised patio is bounded on all sides by a fenced enclosure. The majority of which is not widely visible from public vantage points. A 1.8 metre high fence along the southern boundary would be elevated such that it is level with the ridge of the adjoining outbuilding, is visible from the road (also the Dales Highway), and from closer range public vantage points within the access land (which includes the track to Rigg End). From these views it would appear as a blunt domestic enclosure, at odds with the agricultural appearance of the surroundings.

21. It is noted that the southern elevation of the fencing is currently masked from view by a fence of corrugated metal sheeting which in itself is unsightly. This has been erected recently by the neighbour when the patio came into use, and since it is taller than permitted development allowances and is unauthorised, it is likely to need to be removed in the near future.

22. The proposed fence is therefore considered to be visually harmful and would not accord with policy RUR3 of the Eden Local Plan (2014-2032), and paragraph 182 of the National Planning Policy Framework.

Neighbour Amenity

23. Paragraph 135 (f) seeks to ensure that new developments are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.

24. Paragraph 193 of the NPPF requires new development to be "integrated effectively with existing businesses and community facilities. Existing businesses and facilities should not have unreasonable restrictions placed on them as a result of development permitted after they were established …" The remainder of the paragraph refers to the 'agent of change' principle.

25. Policy DEV5 requires developments to respect the amenities of neighbours.

26. Abutting the raised patio area is the entrance track to a working farm. The track is enclosed on both sides by blockwork walling and makeshift panelling. This part of the access track is also used as a livestock handling area, where several metal gates are used to provide temporary pens for cattle entering and leaving the site. Previously, livestock handling took place adjacent to Rigg End as a working farm, where the adjoining space was innocuously used for storage.

27. The Health and Safety Executive provides guidance in relation to livestock handling, including:
    - "Handling cattle always involves a risk of injury from crushing, kicking, butting or goring."
    - "You should never underestimate the risk from cattle, even with good precautions in place."
    - "Everyone handling cattle should be … able to work calmly with the cattle, with a minimum of shouting, impatience or unnecessary force."
    - "Many incidents involving cattle happen to people beyond normal retirement age when they are less agile. Consider the risks carefully before anyone over 65 works with cattle, and if so, what they can safely do."
    - (Handling and Housing Cattle: Agricultural Information Sheet No. 35 Rev 1, HSE).

28. Additionally, a letter from NFU Mutual Insurance, accompanying a neighbour objection letter raises safety concerns, citing the number of deaths caused by cattle per year, and goes onto explain why the use of the patio is a danger to both livestock and the neighbouring farmers. They ask that that as a minimum the patio should be lowered to ground level, with a better solution being to move the socialising area to another part of the site.

29. The Old Dairy Barn is now used solely as a holiday let, providing five double bedrooms and accommodating up to ten guests in a large group. The raised patio adjacent to the

farm access track and livestock handling area is the main amenity space for the holiday let, incorporating a picnic table, barbeque area and a large hot tub. Such a use for large groups can give rise to sudden noises such as shouting, laughing or the playing of amplified music at any time of day. This is exacerbated by the presence of a hot tub, which is an obvious focal point for socialising. A neighbour has also stated that littering has occurred, with broken glass being found in the lane/livestock handling area. Furthermore, livestock handling is likely to be very unfamiliar to holidaymakers, who may have a degree of curiosity to peer over the fence to watch the activity at close range.

30. These unexpected disturbances and interruptions present a safety hazard to the adjoining farmers (one of whom is at greater risk due to age), at times when the access track is used for livestock handling. Whilst it cannot be said that these disturbances are inevitable every time the livestock are handled, it is important to emphasise that the risk relates to the safety and welfare of the workers rather than an amenity or privacy concern. Furthermore, due to the restricted access and turning space associated with this neighbouring farm, the access track is operationally, the only space available for the handling process, since large animal trucks cannot readily turn down into the access. In accordance with the advice at paragraph 193 of the NPPF, it is unreasonable to expect the adjoining landowners to alter their current operations, in order to avoid livestock handling when the accommodation is occupied.

31. There are other areas within the outside space associated with the barn that are set away from the neighbouring track and livestock handling space, that could serve equally well as the Old Dairy Barn's main amenity space, and this is likely to have been the advice had the application not been submitted retrospectively.

32. Efforts have been made within the application process to find a solution to the issue, in the interests of working positively and proactively. This resulted in the amended plans showing a 1.8 metre high close boarded fence, instead of the existing 1.1 metre high fence, along the boundary with the access track/livestock handling area. Discussion has also been held in respect of an acoustic fence, although no amended plans for this have been forthcoming despite chasing requests. However, such amendments to the scheme are unlikely to overcome the significant concerns in respect of unexpected noise and disturbance, since the patio is significantly raised above the level of the track/livestock handling space. A 1.8 metre fence of any type can be knocked, and looked over, and a standard fence would not block out noises. Furthermore, there would be visual impact concerns in respect of a much taller and more substantial fence which would be widely visible from public vantage points and would appear as an elevated alien domestic feature in an otherwise traditional building complex.

33. There are no issues with the proposal in respect of loss of privacy, overshadowing or overbearing of any properties since there are no neighbouring dwellings close enough to be affected by the development in this regard and the use of the outbuildings for ancillary domestic use is considered acceptable, had permission been recommended a condition would have been imposed restricting the use of these buildings such that no

new bedrooms could be created. The reason for this is that the property is already large accommodating 10 people, there is insufficient parking, and the foul drainage arrangements for the property are unsatisfactory.

34. The proposal is harmful to the safe operations associated with the adjoining land, and as such is contrary to policies DEV5 and paragraphs 135 and 193 of the National Planning Policy Framework.

Nature Recovery

35. The application is confined to minor alterations to an approved barn conversion, and external works to a former farmyard. The development has no impact on biodiversity. In the interests of planning for nature recovery, should the application have been recommended for approval, a condition would include the requirement for the installation of bat or wild bird boxes to be installed at the site. This would accord with the requirements of paragraph 180 of the National Planning Policy Framework, and policy ENV1 of the Eden Local Plan (2014 – 2032).

Other Matters

36. Several concerns have been raised by third parties and also the Parish Council in respect of parking, general littering, an inadequate foul drainage system including the hot tub use. These concerns are fully appreciated; however they are not within the scope of this application. The residential use of the barn benefits from permission through a former permitted development process that did not take account of parking and drainage needs. Environmental Health (Westmorland and Furness) are taking their own actions in respect of the inadequate existing foul drainage system at the site (an existing septic tank), which is unsuitable for this large holiday accommodation dwelling, and for the chlorinated water from the hot tub.

37. The hot tub is the subject of an enforcement investigation but is not within the scope of this application. It is likely to be development requiring planning permission as it is a fixed installation (plumbed in, and mounted on its own foundation, and does not benefit from Permitted Development rights because it falls within Class E, condition E.1(a) (permission to use the dwellinghouse has been granted by prior approval under Class M). Since its use and siting is dependent on the raised patio, enforcement action is also recommended for this element of the development (see recommendation).

Equality Act

38. The Authority has a duty under s.149 of the Equality Act 2010 to have regard to the need to eliminate discrimination and advance equality of opportunity between persons who share a relevant characteristic and persons who do not share it. The relevant characteristics are: age; disability; gender reassignment; marriage and civil partnership; pregnancy and maternity; race; religion or belief; sex and sexual orientation.

39. It is considered that there are no overt reasons why this proposal would affect anyone with the protected characteristics such that the application should be permitted or refused on equality grounds.

Conclusion

40. Whilst several aspects of the proposal are acceptable in planning terms, the raised patio for use by large groups using the premises as short stay holiday accommodation is harmful to the health and safety of the workers using the adjoining livestock handling area. The proposed mitigatory fence would also be visually harmful, due to its height and in itself would not overcome the health and safety concerns. The proposal fails to accord with policies DEV5 and RUR3 of the Eden Local Plan (2014-2032) and the National Planning Policy Framework. Because of the harm that has been identified in the report by the use of the patio area, it is also considered expedient to take enforcement action.

Recommendation

41. It is recommended that permission be REFUSED for the following reasons:

- In the opinion of the Local Planning Authority the raised patio, by reason of its elevated position and use as the main external amenity space for a 10 person short stay holiday let, is considered to prejudice the safe management of livestock in the adjoining handling area, posing a significant safety risk to workers handling livestock, contrary to policy DEV5 of the Eden Local Plan (2014-2032), and paragraphs 135 and 193 of the National Planning Policy Framework.

- The fencing enclosing the raised patio area on the southern elevation, by way of its appearance, height and elevated position, is considered to be an intrusive domestic feature that is incongruous with the agricultural and rural character of the area. As such it is considered to be contrary to policy RUR3 of the Eden Local Plan (2014-2032), and paragraph 182 of the National Planning Policy Framework.

42. That the following action is agreed by the Committee:

a) That the Authority's solicitor be authorised to serve an enforcement notice to secure:

I. Cessation of the use of the area comprising the raised patio for ancillary residential purposes;
II. Removal of the hot tub and fencing;
III. Removal of the patio and reinstatement of ground levels to those existing before the unauthorised works;
IV. A period of compliance of 1 month be specified to cease the use, and 3 months to remove fencing, hot tub and ground levelling works.

a) In the event if non-compliance with the requirements of the enforcement notice the Authority's Solicitor be authorised to commence prosecution proceedings.