



Fennell, Green & Bates

MINING ENGINEERS, SURVEYORS & ENVIRONMENTAL CONSULTANTS

**WENTWORTH GRANGE FARM
STAINBOROUGH LANE
HOOD GREEN
BARNSELY
S75 3HA**

**MRS C SAYNOR
Agricultural Holding No: 49/522/0003**

SUPPORTING STATEMENT

TOWN & COUNTRY PLANNING ACT 1990 -APPLICATION UNDER S73

**PROPOSAL TO REMOVE CONDITIONS 3, 4 and 5 OF PLANNING PERMISSION
2023/0684**

1 REASON FOR APPLICATION

This statement is submitted in support of an application for the removal (or partial amendment) of Planning Conditions 3, 4 and 5 attached to the planning consent to allow an unencumbered, permanent dwelling on the above-named holding to remain in perpetuity.

Planning Conditions 3 and 5 impose limitations on the approved planning permission which allowed the retention on a permanent basis of a log cabin within Wentworth Grange Farm. This followed a 3 year period of occupation of the log cabin as the dwelling for the business to firmly establish. The permission was granted specifically to Mr & Mrs Saynor, the occupants. Unusually, the permission was not attached to the land as is "normal" in such cases but was granted on a personal basis due to the acknowledged specific requirements of the occupants. Mrs Saynor is an internationally acknowledged dressage and horse trainer whose specialism is the breeding and training of top-class dressage horses. For this reason, living on the holding on a full-time basis was accepted as special circumstances for a permanent dwelling.

2 PLANNING HISTORY

The holding is located within the Barnsley Metropolitan Borough Council which has dealt with the following planning applications since Mr & Mrs Saynor acquired the farm.

2.1 2016/0321

Full application for proposed agricultural building to house livestock and to store fodder and implements.

Approved

2.2 2020/0380

Full application for change of use from agriculture to “mixed agriculture and equestrian” use including:

outdoor riding surface

mobile turnout pen

siting a temporary rural enterprise dwelling (in the form of a log cabin)

Approved with Conditions

2.3 2023/0684

Application for variation of conditions including removal of Condition 3 of permission 2020/0380 to allow retention of log cabin on a permanent basis and change of use from agricultural to “mixed agricultural and equestrian”
Approved with Conditions

3 APPLICATION UNDER SECTION 73 OF THE TOWN AND COUNTRY PLANNING 1990 TO VARY PLANNING CONDITION NUMBER 3 AND REMOVE PLANNING CONDITION NUMBERS 4 AND 5.

The general rule under S75 of the Town and Country Planning Act 1990 is that planning permission runs with the land. However, this can be expressly excluded to create a ‘personal permission’ in exceptional circumstances. This is because TCPA 1990 S75(1) provides that any grant of planning permission to develop land shall, except insofar as the permission provided, ensure for the benefit of the land and of all persons for the time being interested in it.

This is the present case in which Mrs Saynor was granted such a permission under 2023/0684.

The application for the 2023 consent was prepared by a specialist in equestrian

matters, in particular the care and welfare of breeding mares and their foals.

The application concentrated on matters regarding the rural business and Mrs Saynor's own specialism in breeding dressage horses with lesser regard to issues regarding new dwellings in the green belt.

The 2023 application therefore concentrated on the successful running of diverse rural businesses which attracts sympathetic responses from local planning authorities, in order to reduce the effects of diminishing agricultural returns, in keeping sheep and cattle whether for milk or meat, which places pressure on enterprises in the countryside. The livery yard and breeding of dressage horses for owners all over the world has meant that the business has diversified but still has an agricultural part of the business keeping rare breeds of livestock.

The success of Mrs Saynor's enterprise over the 3 years from the 2020 permission supported the need for a permanent dwelling on the site (the financial and functional tests) so enabling the planning permission to retain the log cabin to be granted on a permanent as long as Mrs Saynor and her husband were at the property.

This persuaded the planning officer to give weight to the need for close supervision of the animals on the site with particular emphasis on the health and welfare of breeding mares and foals.

However, although the application relied on issues relating to development in the countryside, these are not overriding concerns for green belt dwellings, which often are only allowed with an "agricultural tie".

New dwellings are usually only permitted within the green belt specifically for agriculture or forestry. Therefore, this current application asks for further regard to be given for the continuing agricultural use of the holding. Although Mrs Saynor's specific business activities are critical to the financial success of the enterprise (hence the "equestrian" aspect on the farm, Mr Saynor's full-time presence in their enterprise (the "agricultural" aspect) is integral and essential to the daily activities on the farm.

4 CASE OFFICER'S REPORT 2023/0684

The previous case officer observed that "The site comprises several fields of pasture used for horses livery and stud." The farm was categorised to be 50/50 between agriculture and equestrian use. However, the applicant regards this as

an over-simplification of the actual activities and circumstances. The horses graze the land followed by sheep, both of which activities are "agricultural", thus:

"AGRICULTURE"

The use of land for grazing riding horses is a use for agriculture and is also a use for "trade or business" within s1 (2) of the Agricultural Holdings Act 1973: *Rutherford v Maurer (1962) 1 Q.B. 16*.

The land in that case satisfied the definition of land used for "agriculture" since it was used as "as grazing land" although not used solely by farm animals.

Case Officer's Conclusions

The case officer commented that "The proposal is in accordance with green belt policy and its development is unlikely to be detrimental to surrounding residents by way of its location, scale or character.

Furthermore, the change of use of the land is likely to improve the appearance of the site and retain the openness of the green belt."

The case officer accepted the justification in 2023/0684 but without consulting the applicants, imposed the 3 restrictive Planning Conditions replicated below which are the subject of this current application:

Condition 3 The occupation of the dwelling hereby permitted shall be limited to Mrs Caroline Saynor and husband.

Reason: Owing to the special circumstances of the applicant in accordance with Local Plan Policy GB1 Protection of Green Belt

Condition 4 The outbuilding and paved patio to the rear of the log cabin shall be removed within 6 months of the granting of this permission with written confirmation to be sent to the Local Planning Authority once removal is complete.

Reason: To ensure inappropriate development in the Green Belt is removed to protect the openness of the Green Belt

Condition 5 If the current equine use and business ceases to operate at this location or the log cabin becomes unoccupied for a period of 6 months, it shall be removed from site and the site shall then be reinstated within a further 3 months.

Reason: To safeguard the openness and visual amenities of the Green Belt in accordance with Local Plan Policy GB1 Protection of Green Belt.

5 REMOVING OR AMENDING PLANNING CONDITIONS

5.1 Paragraph 56 of the National Planning Policy Framework (NPPF) December 2023, makes it clear that planning conditions should be kept to a minimum and only be used when they satisfy the following tests:

- 1 necessary
- 2 relevant to planning
- 3 relevant to the development to be permitted
- 4 enforceable
- 5 precise, and
- 6 reasonable in all other respects

These are referred to as the 6 tests contained in Circular 11/95

5.2 Power to vary or remove the effect of conditions,

Section 73 of the Town and Country Planning Act 1990 (TCPA) provides for planning permission to develop land without complying with conditions previously imposed on a planning permission. The Local Planning Authority can grant such a condition.

5.3 Conditions limiting the benefits of planning permission to a person or group of persons.

Planning permission usually runs with the land and it is rarely appropriate to provide otherwise. There may be exceptional occasions where development would not normally be permitted but may be justified on planning grounds because of who would benefit from the permission. For example, conditions limiting benefits to a particular class of people, such as new residential accommodation in the countryside for agricultural or forestry workers, may be justified on the grounds that the applicant had successfully demonstrated an exceptional need.

Clear and precise reasons must be given by the local planning authority for the imposition of every condition.

5.4 The Applicant's Concerns

Mrs Saynor is concerned that, despite the permission purported to be permanent, Conditions 3 & 5 render the dwelling unable to remain *in situ* when she is no longer in occupation through retirement, incapacity or death.

Conditions 3 & 5 are therefore considered to be unreasonable.

Options available to an applicant who does not wish to comply with conditions.

Following the decision of the Local Planning Authority to grant planning permission subject to conditions, an applicant may consider taking the following action if they do not wish to be subject to a condition.

Option 1-

- Some or all of the conditions could be removed or changed by making an application under Section 73 of the Town and Country Planning Act 1990. In deciding an application under Section 73 the LPA must only consider the disputed condition that is the subject of the application – it is not a complete re-consideration of the application. A LPA decision to refuse an application under Section 73 can be appealed to the Secretary of State, who will also only consider the condition in question.

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Option 2-

- Appeal to the Secretary of State against the LPA to grant permission subject to conditions imposed.

An appeal must be made within 12 weeks for householder applications and 6 months for others. Mrs Saynor has six months to appeal the planning conditions 3, 4 and 5.

Interested parties may submit comments for or against the application or the appeal as discussed in the NPPF published on the 27 March 2012 as updated in the latest framework issued on the 20th December 2023.

In the application statement prepared by Equine Commercial Legal, that accompanied the application for the retention of the dwelling, there was little emphasis on the agricultural use of the holding which the previous application for the equestrian use described as a 50/50 split between equestrian and agricultural use.

Grazing cattle and sheep and horses is agricultural use which was underplayed in the 2023 application. Considerable expense was incurred in 2016 for a substantial farm building presently accommodating valuable breeding mares and rare breed ewes with lambs but is capable of housing a larger number of sheep and/or cattle. The functional need for the dwelling has previously been demonstrated whereby Mr Saynor is engaged in agriculture in carrying out property maintenance and land management, including grass care and mowing for fodder on the holding and over at the land they own at Highwood Farm in Wakefield. Additional help is provided on an *ad hoc* basis by relatives and casual visitors to the farm.

Photographs of the activity on site and aerial photographs are included in appendix 2. It is understood at the time of the application for the dwelling an officer attended site from Barnsley Planning Department whilst farm machinery was in the yard and fields making hay that was being stored in the building in August 2023.

5.5 Preferred Solutions

In summary therefore, the removal of conditions 3, 4 & 5 is sought in order to secure the future of the agricultural holding and stud for Mr & Mrs Saynor in the longer term. An alternative solution would be to amend Condition 3 to become attached to the business rather than to the persons.

In this way, should Mr & Mrs Saynor retire or want to dispose of the farm they would be able to pass on the farm as an integral unit to a third party willing and able to carry on with the business.

Condition 4

Mrs Saynor has also been instructed to:

- 1 remove a wooden structure on the farm which is used as a tack room and office, and to
- 2 remove a "flagged patio area", both of which have been constructed and

have been noted as unauthorised development in the planning officer's report.

These two issues are considered to be *de minimis*. Their size and location are both inconspicuous, being at a considerably lower level than and well hidden from the surrounding land, and the access road and public bridleway more than 100 metres to the east.

The wooden structure has a use as an office and tack room, and for occasional shelter for helpers or visitors to the farm who have horses stabled.

The patio area is the result of excavating the ground forming the base of the log cabin to be set in the hill and the construction of a gabion wall essential for stabilisation and retention of the land immediately to the west and north of the site. The height of the wall is 2 metres above the flagged area and the flags are laid on a flat area 1 metre higher than the concrete slab that the house sits on. The flagstones assist in stabilising the base of the gabions by helping to counteract any likely lateral movement acting upon the angle of repose at the base of the gabions.

An engineer has looked at the gabion walls that retain the land to the rear of the accommodation that has planning permission. The gabion baskets filled with dry sandstone walling allow drainage of the land and the stratum that is being supported in the excavation area for the accommodation. The gabion baskets are laid on a concrete footing and this is restrained by a second gabion basket that has been placed at the rear of the house on a concrete slab that is part of the slab formed for the house to sit upon. The gabion wall, concrete slab for the house and the paved area provided a counteracting lateral support to the forces on the gabion wall retaining the mudstone in the hill side.

The area is paved with sandstone flags which are pointed with cement that prevent the ingress of water into the stratum beneath the flagged area and drain to the concrete slab. If the area had not been flagged then water would seep off the higher ground to the west, immediately behind the accommodation into the coal measures mudstone and this clay would become soft and plastic thereby deteriorating so that there is a risk of the weight of the higher gabion wall becoming unstable on plastic clay. The dwarf gabion wall at the rear of the

property allows drainage off the flags but the stratum will remain dry. The gabions also provide a stepped profile at the back of the house that does not require special structural construction.

The agent is willing to provide details of the geotechnical engineering regarding this structure if required.

Once again, this area is well hidden from view, as shown in the photograph numbers 7 and 8 in appendix 2 and is not considered to affect the openness of the green belt, therefore, it is requested to have Condition 4 removed.

Condition 3 can be reworded to;

The occupation of the dwelling hereby permitted shall be limited to the owners or their tenants managing the livery, stud and agricultural use.

Reason: Owing to the special circumstances of the applicant in accordance with Local Plan Policy GB1 Protection of Green Belt.

In conclusion the residential dwelling and small tack room can be controlled in planning terms if attached the land use for which it is granted and required, namely the looking after of livestock and tending the fields within the agricultural holding to obtain hay and store straw, graze horses and sheep and maintain the biodiversity of the hedges and field enclosures.

Prepared by

Fennell Green & Bates
Chartered Surveyors

29 February 2023

Enclosures;

Appendix 1

Location Plan
Block Plan
Agricultural Holding Field Plan

Appendix 2

Photographs of the Property.

APPENDIX 1 - PLANS

APPENDIX 2 – PHOTOGRAPHS