
Appeal Decision

Site visit made on 14 April 2016

by M Seaton BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 27 October 2016

Appeal Ref: APP/E2001/W/16/3143198

Riding Stables, 24 Main Street, Skidby, East Riding of Yorkshire, HU16 5TG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr J Needham against the decision of East Riding of Yorkshire Council.
 - The application Ref 15/02880/PLF, dated 11 September 2015, was refused by notice dated 17 November 2015.
 - The development proposed is the change of use of an existing barn/hay store to (Class B2) car repair and servicing depot, including off road parking for customers, and the retention of an existing tool shed.
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Procedural Matter

1. Since the submission of this appeal, the Development Plan has been updated by the adoption and publication of the East Riding Local Plan Strategy Document 2016 (the Strategy Document). As a result, saved Policy In6 of the Beverley Borough Local Plan, which was cited in the Council's reason for refusal, has been superseded and no longer applies. In their original submissions for this appeal, the Council referred to emerging Policies S4 and EC1 of the submission version of the Strategy Document. Subsequent to the adoption of the Strategy Document, the Council has confirmed that Policy ENV1 would also be relevant in this instance. I have therefore assessed the appeal on the basis of the up-to-date development plan, which is formed of the policies of the Strategy Document.

Decision

2. The appeal is allowed and planning permission is granted for the change of use of an existing barn/hay store to (Class B2) car repair and servicing depot, including off road parking for customers, and the retention of an existing tool shed at Riding Stables, 24 Main Street, Skidby, East Riding of Yorkshire, HU16 5TG, in accordance with the terms of the application Ref 15/02880/PLF, dated 11 September 2015, subject to the conditions set out in the Annex.

Background and Main Issue

3. In determining the planning application, the Council has recognised that paragraph 17 of the National Planning Policy Framework (the Framework) seeks to support economic development. I have also had regard to paragraph 28 of the Framework which promotes support for economic growth in rural areas in order to create jobs and prosperity by taking a positive approach to sustainable new development, and I am mindful that the re-use of rural
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buildings for employment purposes is also supported in the Framework. Policies S4 and EC1 of the Strategy Document also reflect this approach.

4. In assessing the proposed development, the Council has concluded that the proposal would have a significant detrimental effect on the amenities of adjacent properties, which is as reflected in Policy ENV1 of the Strategy Document. The need to seek a good standard of amenity for all existing occupants of land and buildings is embedded as a core planning principle within paragraph 17 of the Framework.
5. As a consequence, and having regard to the reason for refusal, the main issue is therefore whether the proposed development and its associated operation and activities would safeguard the living conditions of neighbouring occupiers, having regard to noise, fumes, and light.

Reasons

6. The appeal site is set to the north of Main Street, which runs through the centre of Skidby, and is beyond the extent of the rear curtilage of the existing residential property at No. 18 Main Street. The site comprises an existing building of relatively modern construction, which has previously been used for equestrian purposes in connection with the nearby land.
7. The building is accessed from Main Street by a private drive running between Nos. 18 & 24 Main Street, which leads to a concrete hardstanding located in front of the building, and from which access is also gained to the adjacent stable block and ménage. Beyond the appeal site to the north and east is open land occupied in connection with equestrian uses and agriculture respectively. At the time of my site visit, the building was in use as storage for a mixture of agricultural and equestrian equipment, including a horsebox, albeit that there other unrelated paraphernalia also appeared to be present on the site.
8. The principal sources of concern regarding the proposed use have been expressed by the Council as relating to both the movement of vehicles to and from the appeal site along the private drive, as well as from the operation of the garage itself. In this respect, I have had regard to the appellant's submissions on noise and disturbance and the potential for fumes and light to cause a nuisance, which include a Noise Impact Assessment.
9. In considering the potential impact of noise and disturbance, I have been mindful of paragraph 123 of the Framework. This requires planning decisions to *avoid noise from giving rise to significant adverse impacts on health and quality of life as a result of new development*, and to seek to *mitigate and reduce to a minimum other adverse impacts on health and quality of life arising from noise from new development, including through the use of conditions*.
10. The submitted Noise Impact Assessment accepts that the proposed development would result in some additional noise and disturbance, but that it would be at a generally low-level and would not require any mitigation. However, the appellant has accepted the imposition of appropriate conditions as a means of providing an additional level of mitigation of the impacts of the proposed use. Furthermore, the relatively low numbers of predicted vehicular movements associated with the use are concluded as not resulting in the need for any objective noise assessment, which given the potential for the current unrestricted use of the appeal site, is a conclusion with which I would agree.

11. I note that the conclusions of the Noise Impact Assessment are supported by the Council's Environmental Control Team, who has expressed the view that the methodology and assessment criteria used are robust. In this respect, on the basis of my observations of the appeal site and building and the relationship with nearby properties, I am satisfied that the restriction of opening hours and introduction of a requirement for the doors to be closed whilst repair works are undertaken, represents a reasonable and proportionate means of mitigating any impact, in accordance with paragraph 123 of the Framework. In the absence of any contrary technical evidence, I see no reason to disagree with the conclusions of the Noise Impact Assessment and the Council's own Environmental Control Team, in assessing the impact of noise in the context of the living conditions of neighbouring occupiers, which I accept to be at a low level.
12. Turning to the matter of emissions and fumes from the operation of the proposed use, I find that given the scale of the proposed garage, the level of movement of vehicles to and from the site along the access would not be likely to result in the production of a significant amount of emissions. I have also noted that the effect of a restriction preventing the opening of the doors to the unit whilst work is being undertaken would, in addition to providing noise mitigation, inhibit the escape of fumes from the building itself. In this respect I accept the appellant's point that for the safety of operatives alone, the fumes generated within the building would need to be dealt with by a filtered fume box, which would avoid the creation of a public health issue through escape into the atmosphere.
13. In respect of the potential for light pollution, I accept the appellant's point to be reasonable that the effect of the conditions restricting both operation and deliveries to the site to between 8.00am and 4.00pm as the earliest and latest start and finish times, would mean that any lights associated either with the building itself or the movement of vehicles to and from the building, would be limited outside of daylight hours. However, I note that this would not preclude the movement or effect of vehicles related to the equestrian use on the site.
14. I have had regard to the concerns of interested parties related to the practicality of the imposition of conditions to control the operation. However, I am satisfied that the conditions as proposed would be enforceable and would allow the Council to exercise reasonable control in the interests of the living conditions of neighbouring occupiers.
15. I note that both the Council and interested parties have made reference to an earlier appeal decision for the use of the site for a commercial equestrian use, and the Inspector's conclusion that such a use could result in disturbance and light spillage to neighbouring properties. However, whilst I have noted the parallels which have been drawn with the current proposals, I consider the nature of the two uses to be materially different. This would manifest itself in respect of the differences in working practices and hours of use, which with a commercial equestrian use would be likely to result in external noise and disturbance at irregular times of the day beyond the core working hours indicated by the proposed garage use. I do not therefore consider that the earlier appeal decision sets a precedent for decision-making in this instance.
16. I have carefully considered the submissions of all parties, but on the basis of these submissions and my own observations of the appeal site, I am satisfied

that the proposed development would safeguard an acceptable level of living conditions for neighbouring occupiers, having regard to noise and disturbance, fumes, and light emissions. As a consequence, I do not find there to be conflict with Policy ENV1 of the Strategy Document, which at part B4 seeks to ensure that development has regard to the amenity of existing properties. There would also be accordance with paragraph 17 of the Framework which seeks to ensure a good standard of amenity for all existing occupants of land and buildings.

Other Matters

17. I have had regard to various other issues which have been raised by the interested parties in connection with the proposed use, including matters of highway safety, visual impact of the development, and the appropriateness of such a use within a rural village.
18. In respect of highway safety, I am satisfied that sufficient parking would be provided on the appeal site, and that subject to the removal of existing static caravans from the site, adequate turning space would also be provided. I would also agree with the conclusions of the Council's Highway Control Team that the visibility splay available at the access on to Main Street is acceptable for the proposed use, particularly in light of the nature of existing vehicles using the access. Furthermore, despite the proximity of the existing bus stop and the junction with Mill Rise, there is no evidence that the existing use of the access has resulted in conflict or an adverse impact on highway safety, and I am satisfied that the level of traffic generated by the proposed use would lead to a consequential adverse impact.
19. I note that it is not disputed that the existing building and concrete apron are located beyond the village boundary, and within an Area of High Landscape Value (AHLV). Whilst this may be the case, both the apron and building would appear to possess the required planning approvals, and the proposed development does not result in any material changes to either element. Even allowing for the parking of vehicles on the site, which I note could also have occurred under the current lawful use, I do not consider that the appeal proposal would result in any significant visual impact beyond that which has already been approved.
20. I have noted the submissions in respect of the appropriateness of the proposed use being located within a rural village. However, I have already addressed the support in principle for economic growth in rural areas provided for by paragraph 28 of the Framework, as well as the Strategy Document. In this respect, I do not consider the introduction of a commercial use within a rural village to be inappropriate.
21. In addition to the above, I have noted the reference which has been made to past and ongoing enforcement investigations which have been undertaken on the site, as well as works having been previously undertaken without the benefit of planning approval. However, I do not consider these to be matters which are of any particular relevance to the decision-making in respect of this appeal.

Conditions

22. I am satisfied that conditions relating to timeliness and the identification of plans are necessary in the interest of proper planning and to provide certainty

in respect of the development. Conditions related to the development being undertaken in accordance with the submitted Noise Impact Assessment, the restriction of working to within the building, and the imposition of controls over the hours of operation and customer access, would all be reasonable and necessary in the interests of safeguarding the living conditions of neighbouring residential properties. The removal of permitted development rights allowing the appeal site to be used by any other Class B2 use would also be in the interests of residential amenity, as would be the need for the agreement of any scheme of external lighting, as well as the visual amenity of the area.

23. A condition ensuring the removal of the existing static caravans from the appeal site would be in the interests of providing adequate parking and turning for vehicles. The imposition of conditions in respect of the storage of oils, fuels and chemicals and the agreement of a scheme securing the disposal of surface water, would be necessary in the interests of protecting groundwater from potential pollution.

Conclusion

24. For the reasons given above and subject to the conditions listed, the appeal is allowed.

M Seaton

INSPECTOR

Annex

Conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Drawing Numbers JN/002/02A Proposed Plan and Elevations, and JN/002/03 Location Plan.
- 3) The development hereby approved shall only be carried out in accordance with the submitted Noise Impact Assessment prepared by Environmental Noise Solutions Limited (ref. NIA/6150/15/5979/v1) dated 8th September 2015 and the mitigation measures recommended in this report. The use shall be carried out in accordance with this thereafter and shall not be altered unless otherwise agreed in writing by the Local Planning Authority.
- 4) The repair and servicing of vehicles shall not take place anywhere on the site except within the portal framed building shown on drawing number JN/002/02 Revision A. Unless otherwise agreed in writing by the Local Planning Authority, the doors shall be closed at all times when vehicles are being repaired or serviced.
- 5) The use hereby permitted shall only be carried out within the following times:

8am – 4pm Monday to Friday
9am – 1pm Saturday
And at no times on Sundays or Bank Holidays
- 6) Access to the site for customers shall be restricted to within the following times only:

8am – 4pm Monday to Friday
9am – 1pm Saturday
And at no times on Sundays or Bank Holidays
- 7) The building shall not be used for any purposes other than car repairs and servicing within the use class of B2 (general industry) of the Schedule to the Town and Country Planning (Use Classes) Order 1987, (or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification).
- 8) No external lighting shall be installed unless details have first been submitted to and approved in writing by the Local Planning Authority. Lighting shall then only be installed and operated in accordance with the approved details.
- 9) The use hereby approved shall not commence until the two static caravans currently stored on site have been permanently removed from the site.
- 10) Any facilities for the storage of oils, fuels or chemicals shall be provided with secondary containment that is impermeable to both the oil, fuel or chemical and water, for example a bund, details of which shall be submitted to the local planning authority for approval. The minimum

volume of the secondary containment should be at least the capacity of the tank plus 10%. If there is more than one tank in the secondary containment the capacity of the containment should be at least the capacity of the largest tank plus 10% or 25% of the total tank capacity, whichever is greatest. All fill points, vents, gauges and sight gauge must be located within the secondary containment. The secondary containment shall have no opening used to drain the system. Associated above ground pipework should have no mechanical joints, except at inspection hatches and either leak detection equipment installed or regular leak checks. All fill points and tank vent pipe outlets should be detailed to discharge downwards into the bund.

- 11) The development hereby permitted shall not be commenced until such time as a scheme to dispose of surface water has been submitted to, and approved in writing, by the local planning authority. The scheme shall include measures to mitigate risks to groundwater from surface water drainage. The scheme shall be implemented as approved.