
Appeal Decision

Site visit made on 17 January 2017

by Roy Merrett BSc(Hons) DipTP MRTPI

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

Decision date: 16 February 2017

Appeal Ref: APP/E2001/W/16/3160871

Land on the west side of Calais Croft, Joby Lane, Bishop Burton, East Yorkshire HU17 8QL

- 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 Trevor Walkington against the decision of East Riding of Yorkshire Council.
 - The application Ref DC/16/00205/PLF/EASTSE, dated 21 January 2016, was refused by notice dated 27 April 2016.
 - The development proposed is amended planning application to build 2 no. new cottages and side parking.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are whether future occupiers would be provided with acceptable living conditions having particular regard to noise and disturbance, outlook and external amenity space and the effect of the development on the character and appearance of the surrounding area including the Bishop Burton Conservation Area.

Reasons

Living conditions

3. The appeal site adjoins Knights Garth Farm immediately to the west. The appellant provided a noise assessment report (NA) which focussed on the potential effect of two specific operations based at the adjacent farm, namely grain drying and metal fabrication, on the living conditions of future occupiers of the dwellings proposed.
4. There is no dispute that grain drying and metal fabrication are inherently noisy processes. The NA confirms that the rating levels at the appeal site were found to be 75dB in the daytime (some 41dB above background sound levels) and 65 dB at night (some 44dB above background sound levels)¹. It then concludes, having regard to the provisions of BS 4142, that the results are an indication of likely significant adverse impact at the proposed dwellings.

¹ The rating levels include a penalty to reflect specific intrusive characteristics of the sounds generated.

5. The NA goes on to suggest various mitigation measures, including the use of reinforced double glazing for some of the rooms, double layers of plasterboard for the ceilings, and 2 metre high acoustic fencing. However, the required internal noise levels would only be achieved with the relevant windows being kept closed and acoustic trickle vents employed. However, with 'purge' or summertime ventilation, with the windows open, the minimum internal noise levels would be exceeded. Moreover, the resulting day time levels within the proposed gardens would be 59dB LAeq which is higher than the World Health Organisation recommended 50-55dB LAeq. All in all, I am of the view that there would be a real risk of significant annoyance being caused to future occupiers of the proposed dwellings resulting from noise disturbance associated with the adjacent farm. I am not persuaded that the resultant noise environment for future occupiers would be acceptable.
6. The appellant states that with acoustic mitigation in place, residents would enjoy better protection from the farm-related noise compared with existing residents elsewhere in Calais Croft. Whilst this may be the case, it would not be a justification for unacceptable living standards at the appeal site.
7. The Council has also raised concerns with regard to the limited depth of gardens that would be available to residents of the dwellings and the consequent poor standard of outlook onto the tall acoustic boundary fence. Whilst the gardens would be relatively confined, it seems to me that they would be of sufficient size to allow for some outdoor activity, relaxation and drying of washing and would be commensurate with the relatively small scale of accommodation proposed.
8. However the proposed acoustic fence and existing adjacent conifer planting (5.5 metres height), when combined with the limited garden depth would result in a significant sense of enclosure along the south-west boundary. Despite relatively spacious vistas from the proposed garden areas to the north and south, the direct outlook from the rear of the dwellings onto such an overbearing boundary line would be somewhat oppressive.
9. I conclude that the level and nature of noise emissions and poor standard of outlook would result in unacceptable living conditions for future residents. This would conflict with the objectives of Policy ENV1 of the East Riding Local Plan Strategy Document 2016 (LP) and the National Planning Policy Framework (the Framework) insofar as they seek a good standard of amenity for future occupants of land and buildings.

Character and Appearance

10. The site lies immediately to the south of the village settlement boundary and in the context of the LP, is regarded as being within the countryside for the purposes of planning policy. It is within the Bishop Burton Conservation Area (CA) characterised by traditional cottages and buildings fronting narrow and verdant lanes with more sporadic buildings in open surroundings to the south. It is also undisputed that the site falls within The Yorkshire Wolds Important Landscape Area (YWILA).
11. The site would be screened and separated from the more open agricultural landscape further to the south by regimented lines of very tall conifers. Given the context of large agricultural buildings associated with the adjacent farm and the lines of tall conifer trees, awareness of the more open countryside

- beyond tends to arrive having passed along Mill Lane to the south of these features. Taking this into account and from my visit, whilst the development would be outside the settlement boundary line, it would not result in the appearance of encroachment into open countryside and there would be no material harm to the characteristic open undulating farmland of the YWILA.
12. The proposed cottages would be modest in scale; set back from the main road known as Mill Lane and situated immediately adjacent to the existing group of residential buildings associated with Calais Croft. They would incorporate peaked dormer roofs above upper floor windows, short chimneys and would not in themselves appear incongruous with the adjacent residential development.
 13. However, the proposed acoustic fence which would be continued along the side boundary line of the site, projecting forward of the front elevation of the dwellings, would present a prominent, hard and definitive edge to the development. This would appear urban in character and at odds with the softer curves of brick walls delineating the existing development boundary along with the green spaces which contribute to the informal rural setting of the village.
 14. Notwithstanding the lack of intervisibility between the appeal site and more open countryside and its proximity to existing dwellings, the strongly engineered side boundary line of the appeal site would be incongruous with the rural setting of the village and would result in harm to the character and appearance of the surrounding area including the CA.
 15. Policy S4 of the LP is concerned with ensuring that development in the countryside respects the intrinsic character of its surroundings. It sets out a range of provisions with which development in the countryside should accord. These criteria for new residential development essentially reflect the special circumstances set out in paragraph 55 of the Framework to justify the erection of an isolated dwelling in the countryside, namely that it would be essential for a rural worker; would secure the future of a heritage asset; would re-use a redundant or disused building or would be of exceptional quality or design.
 16. The appellant does not seek to argue that the proposal would meet any of the aforementioned criteria and I have no reason to take a contrary view. For the above reasons, whilst the development would not appear isolated, I conclude that it would result in harm to the character and appearance of the surrounding area. It would therefore be in conflict with Policies S4, ENV1 and ENV2 of the LP and with the Framework insofar as they seek to promote good design and ensure that development is sensitively integrated into its surroundings.
 17. In accordance with the Planning (Listed Buildings and Conservation Areas) Act 1990 I have a statutory duty under section 72(1) to pay special attention to the desirability of preserving or enhancing the character or appearance of the CA. For the reasons set out above, the development would result in less than substantial harm to the character and appearance of the CA.
 18. I have a further duty under Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to consider the effect of the proposal on the setting of Callais Farmhouse which is a Grade II listed building. It seems to me that the special interest of this building derives from its age, form and appearance. The elements of setting that contribute to its significance include its relationship with the street. The appeal site is substantially separated from this property due to intervening buildings and there is little inter-visibility

between the two sites. In that context, I consider that the appeal site contributes little, if anything, to the significance of the building or its setting and there would be no harm in this regard.

Conclusion

19. I have found that there would be harm to the character and appearance of the area generally. There would also be harm to the heritage significance of the CA. Whilst that harm would be less than substantial in terms of the guidance in the Framework, there would still be real and serious harm which is a consideration of significant weight. In such circumstances, the Framework requires that such harm is weighed against the public benefits of the proposal.
20. The development would result in some job related benefits and support to businesses associated with the construction of the dwellings. Furthermore, future occupiers of the houses would, in all likelihood, give rise to additional expenditure in the local economy. That said, such benefits would be limited due to the small scale of development involved.
21. The development would contribute two units to the supply of housing which I have no reason to doubt would be high quality accommodation. Whilst this may help to support local services, such benefits would be extremely limited given the small number of units involved. I am not persuaded on the evidence before me that the site would meet the definition of previously used land as set out in the Framework, the re-use of which is encouraged in certain circumstances.
22. Drawing all these findings together, even were the Council unable to demonstrate a five year housing land supply (the position of the appellant) I am firmly of the view that providing additional housing in a time of need, together with the other public benefits set out above and even if the site were regarded as previously used, would not outweigh the harm to the heritage significance of the CA. In the overall planning balance, the adverse impacts I have identified significantly and demonstrably outweigh the benefits when assessed against the policies of the development plan and the Framework. Accordingly, the proposal in this case does not amount to sustainable development and the presumption in favour of such, as set out in the Framework, does not apply.
23. Therefore, for the above reasons, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

Roy Merrett

INSPECTOR