

Appeal Decision

Site visit made on 28 February 2017

by Helen Heward BSc (Hons) MRTPI

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

Decision date: 29th March 2017

Appeal Ref: APP/E2001/W/16/3164200

**Goose Island Farm, Barbriggs Lane, Skipsea Brough, East Yorkshire
YO25 8AJ**

- 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 Richard Benson against the decision of East Riding of Yorkshire Council.
 - The application Ref D16/00588/PLF, Dated 18 February 2017 was refused by notice dated 17 May 2016.
 - The development proposed is described as "Reconstruction rather than conversion as originally approved of a former outbuilding to form a single dwelling".
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Decision

1. The appeal is dismissed.

Preliminary Matters and Important Background Submissions

2. Planning permission 15/01035/PLF (10 June 2015) granted consent for conversion of a traditional brick and pantile outbuilding to a dwelling. A note attached to the permission included advice that should any demolition or rebuilding works be required, other than that approved, the applicant should contact the Council immediately, and that unauthorised demolition or rebuilding could invalidate the permission.
3. A large part of the building has been demolished. The Council estimate that 16% of the building remains whereas the appellant submits that 21% remains.

Main Issues

4. The main issues in this case are (i) whether or not the proposal would result in a new dwelling in the countryside and, if so, (ii) whether or not there are special circumstances to justify a new dwelling in the open countryside.

Reasons

Whether or not the proposal amounts to new dwelling in the countryside

5. The proposed development would require rebuilding of over 75% of the original building. On my visit I observed that of the original building only one gable end and a kennel/stable remain. Beyond this there is very little evidence of the original building. It appeared to me that extensive new block work foundations have been laid for the majority of the area that is intended to form the habitable accommodation of the proposed dwelling. New walls would need to be built above these foundations and new floors and a new roof constructed. I
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am not persuaded that the amount of building works required to form the dwelling would amount to partial construction and conversion. I conclude that the development would amount to the construction of a new dwelling.

6. The site is located in an isolated rural location beyond any settlement development limits and isolated from other farmsteads and rural dwellings. There is only one lane in and out. It is quite some distance from the nearest settlement. I conclude that the proposal amounts to a new dwelling in open countryside.
7. East Riding Local Plan Strategy Document, 2016 (ERLP) Policy S4 limits development in the Countryside to certain specified forms in order to balance development needs with the preservation of the character and appearance of the countryside. New dwellings are not one of the specified forms and the proposal is contrary to ERLP Policy S4.
8. Paragraph 55 of the National Planning Policy Framework (Framework) seeks to promote sustainable development in rural areas and advises that housing should be located where it will enhance or maintain the vitality of rural communities. Local planning authorities should avoid new isolated homes in the countryside unless there are special circumstances. I now turn to consider if there are special circumstances to justify an isolated dwelling in the countryside.

Special circumstances

Medical matters

9. Evidence on behalf of the appellant, including from a GP and specialist nurse explains the medical needs of the appellant. I find no reason to dispute this evidence. Nor do I dispute that the appellant's carer should have separate accommodation close by. However, the Council considers that this could be met by temporary accommodation or by an annex to the existing dwelling-house. Therefore it would appear that there are other strategies that could meet these personal needs without requiring a new dwelling in the countryside and this limits the weight I attach to these circumstances.

Safety of the building

10. Works for the conversion of the existing building started by stripping the roof in early November 2015. Conditions 9 and 10 of 15/01035/PLF relate to endangered species and a bat licence had to be obtained. This necessitated roof tiles to be removed in the presence of a qualified bat specialist. There is scant ecological evidence to explain why it required several days, the substantial removal of the roof, or why it was necessary to leave the building without a roof covering thereafter.
11. The appellant submits that the earlier structural survey confirmed that the building was structurally sound and that it is because the building was without a roof that it became unsafe. There is little evidence to say that making the building wind and watertight would have required works costing approximately £26,000. There is also little evidence to enable me to judge the costs of providing other means of support to the building.
12. During the period from 12 to 29 November 2015 East Yorkshire suffered three severe storms; Abigail, Barney and Clodagh. The appellant submits that the

- building suffered serious structural damage during the storms and that the supporting walls became dangerous and had to be taken down for Health and Safety reasons.
13. The Council's evidence includes a note of a visit on 11 November 2015 when the Building Inspector recorded that he "*met builder, building in very poor condition and there are a lot of areas that need taking down and re-building, more than what structural report suggests; advised builder to speak to architect and engineer and planning as may be better to take down all affected areas and put new strip foundation in for these*".
 14. Upon a further visit to the site on 26 November 2015 the Building Control Officer noted "*two of walls to barn now taken down and excavating for new foundation some of ground quite sandy so builder widened founds to 1200mm and will put a layer of mesh in also. Builder advised me he had spoken to agent and owner and agreed to take walls down for safety and rebuild*".
 15. These records indicate that the builder was contemplating substantial demolition and rebuild prior to the storms, and that the builder was aware that works he had in mind would go beyond what was identified in the structural appraisal. They also indicate that the builder had been advised to contact the Council's planning department and that by the 26 November he had demolished two walls and started laying new foundations before Storm Clodagh on 29 November 2015.
 16. The appellant submits that the Council's Building Control Officers issued a severe weather warning and attended the site on 14, 26 and 27 November 2015 but there is nothing to say that the appellant or his builder attempted to contact the Building Inspectors to alert them to the building having become dangerous during or after storms Abigail and Barney and before the walls were demolished. Nor does there appear to be evidence to say that either the builder or appellant contacted the Council's planning department at the time of the identified risks or prior to demolition. I am not persuaded that there is evidence that the Building Inspector confirmed the walls were dangerous following the storms or that the Building Inspector, advised that the walls should come down as a matter of Health & Safety.
 17. The appellant's evidence informs me that Photo 1 indicates the exposed building during the storms. This shows the south elevation of the building. The appellant's structural appraisal in 2015 identified a crack 15mm wide at eaves level on the southern elevation, near the western gable and tapering to zero at ground floor level. The cracking on the south elevation was assessed as Category 3¹ or moderate. It advises that moderate cracks would require some opening up, patching and repointing, and possibly a small amount of brickwork to be replaced. I am not persuaded that Photo 1 demonstrates that cracking to brickwork which was initially deemed capable of being repaired had been made worse during the storms to such an extent that the building was no longer structurally capable of conversion.
 18. Photo 3 does show a situation after the walls had been removed, but there is nothing to say that it shows the extent of the remains of the building after walls were removed due to Health & Safety issues. I am told that the walls were constructed with lime mortar joints. The structural engineer who

¹Using Building Research Establishment Digest no. 251 Assessment of damage to low rise buildings

undertook the original survey refers to three storms but states only that these exceptional winds caused minor damage to many structures across the region. There is nothing to say that they caused the building to fail in this case. A tree indicated in Photo 2 has been damaged but I find little other evidence of storm damage to trees or buildings.

19. Overall I am not persuaded that there is sufficient evidence to say that actions required to fulfil legal responsibilities and comply with planning conditions in respect of ecological considerations were responsible for the building being left in an exposed condition and increasing its vulnerability, or that the removal of the walls was an inevitable consequence of these requirements. Nor am I persuaded that the evidence demonstrates that the building became unsafe during the storms of November 2015 or that it was necessary to undertake substantial demolition of the building for Health and Safety reasons.

Other Matters

20. There are several letters of support for the appellant, his carer and the proposal. However I must determine the proposal on its planning merits.
21. The Council's Nature Conservation officer assessed that the proposals would lead to a biodiversity enhancement on the site including planting trees, future bird and bat boxes, owl boxes and bird of prey platforms. I attach a limited amount of weight to these environmental gains.
22. The new dwelling would be on the same footprint as the previous building. The design would be very similar to that for the conversion, with feature arched headers. Original materials would be reused. The visual effect of the proposed development would be very similar to the visual effect had planning permission 15/01035/PLF been implemented. It would be seen as part of an existing group of smallholding buildings in the landscape. The dwelling would have separate access and adequate amenity space. Drainage could be provided. The Council raises no objections in these regards. I find these matters to be neutral in effect, neither weighing in favour nor against the proposed scheme.
23. The appellant submits that there are other outbuildings capable of conversion on the farm but that the appellant deems this was the most appropriate given the traditional style and character. They also submit that the proposal would represent an enhancement as the former building was in a poor state of repair and was deteriorating. However, as the previous building has now largely been removed and there is little to say what could or would happen with the other buildings I attach very little weight to these arguments.
24. The site is not previously developed land as defined in the Glossary to the Framework. There is no fall-back position as the building can no longer be converted.
25. Advice in the Framework seeks to significantly increase the supply of housing and the proposal would create one additional dwelling in this rural area, but it would not be in a sustainable location. The weight I attach in favor of this very minor social gain is limited.

Conclusions

26. The proposal amounts to the construction of a new dwelling in the open countryside and in an isolated location, contrary to ERLP Policy S4. I attach significant weight to the harm this would cause.
27. Paragraph 55 of the Framework advises that local planning authorities should avoid new isolated homes in the countryside unless there are special circumstances.
28. It is accepted that the appellant has medical and personal needs and requires a carer and that the carer requires separate accommodation. However there is little to say that these needs cannot be met without requiring construction of a new dwelling.
29. I am not persuaded by an argument that the large scale demolition of the previous building can be attributed to fulfilling legal responsibilities and complying with planning conditions in respect of ecological considerations and the effects of the storms of November 2015.
30. There would be minor economic and social gains created doing the construction phrase and by the contribution of the future occupiers to the wider rural area, and a minor gain to biodiversity.
31. Therefore, I conclude that special circumstances do not exist and the factors in favour of the proposal do not outweigh the substantial harm that would be caused by the creation of a new isolated dwelling in the countryside. The proposal does not amount to sustainable development. Accordingly, and having taken all other factors into consideration, I conclude that the appeal should be dismissed.

Helen Heward

PLANNING INSPECTOR