



Appeal Decision

Hearing held on 11 July 2017

Site visit made on 11 July 2017

by Caroline Jones BA (Hons) DipTP MTP MRTPI

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

Decision date: 27 July 2017

Appeal Ref: APP/E2001/W/17/3169697

Heath House Stables, Newbald Road, Bishop Burton HU17 8EF

- 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 Ms Caroline Mackevych against the decision of East Riding of Yorkshire Council.
 - The application Ref DC/16/02820/PLF/EASTSE, dated 19 August 2016, was refused by notice dated 2 November 2016.
 - The development proposed is described on the application form as 'equine use'.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The Council amended the description of development from that above to 'Erection of dwelling and conversion of existing dwelling to form garage and office all in connection with equestrian use (resubmission 16/00849/PLF)'. At the Hearing the appellant confirmed that although this amended description was not agreed during the course of the application, it accurately described the proposal for which they were seeking permission and had no objection to the revision. I share this view and as the application was advertised as such I do not consider any parties interests would be prejudiced by my determining the appeal on this basis.
3. A paddock is shown on plan ref '01 Rev C'. At the Hearing the appellant confirmed that this did not form part of the proposal as they believed it did not require planning permission. The Council agreed that this was the case and confirmed that this was not considered as part of the application. I have not therefore taken the paddock into account in the determination of this appeal.
4. I saw at the site visit that the existing dwelling was under refurbishment. The appellant confirmed that the works included a new roof and new windows and doors but that these works did not relate to the appeal scheme which proposes the conversion of this dwelling to a garage and office. The appellant stated that works were being undertaken as a fallback in the event that the appeal failed.

Main Issues

The main issues are:

- The effect of the proposal on the character and appearance of the area and;
- Whether any harm is justified by an essential need for a new dwelling to accommodate a rural worker.

Reasons

5. The appeal site is a roughly rectangular parcel of land which comprises a three bedroom dwelling and L-shaped range of stables close to its northern boundary and an open paddock to the south. The existing development was granted permission in 1977¹ in connection with the use of the land for the rearing and training of horses. The occupancy of the dwelling was restricted to those employed or working in connection with the horse training establishment or by a person employed or last employed locally in agriculture or forestry or their dependants. That equestrian business has ceased and the appellant now wishes to run a livery business with some agricultural activities at the site. The proposal involves the erection of a new dwelling in connection with the livery business and the conversion of the existing dwelling into a garage and office.

Character and appearance

6. There is no dispute between the parties that the site lies within the open countryside for planning policy purposes. The surrounding area is predominantly agricultural with the eastern boundary of the site adjoining the Westwood, an historic area of common land comprising undulating pasture with mature trees on the western edge of the town of Beverley.
7. Policy ENV1 and ENV2 of the East Riding Local Plan 2012-2029 Strategy Document (2016) (ERLP) seek to ensure, amongst other things, that development contributes to safeguarding and respecting the diverse character and appearance of the area, is sensitively integrated into the existing landscape and protects and enhances the landscape character as described in the East Riding Character Assessment. The appeal site lies within an Important Landscape Area, the Yorkshire Wolds which form an arc of gently rolling ground, the vast majority of which is agricultural with scattered woodland instilling a sense of openness and tranquillity.
8. Locally, the East Riding of Yorkshire Character Assessment: Selected Settlements Update 2013 (CASS) describes the landscape as comprising farmland with large arable fields enclosed by hedgerows, and/or mature trees, interspersed with woodland blocks and that the contrast between the two has resulted in an attractive high quality landscape. In terms of visual sensitivity, the CASS acknowledges that despite the vast size of arable fields the landscape in visual terms is reasonably well enclosed with relatively few properties overlooking it. Whilst only glimpsed views through hedgerows are possible from the A1174 and Newbald Road, views from the B1230 to the south of the site are more open. Travelling along this road towards Beverley offers drivers long distance views across the farmland and the CASS states that it is important that these views are maintained. Overall, this attractive wooded farmland is an

¹ Planning application ref: 312-23 (3474)

- important buffer between the Westwood, which has very high landscape sensitivity, and the A1079, a busy main road. It is therefore sensitive to new development and the overall landscape sensitivity is assessed as high.
9. The appeal site occupies an isolated location and, with the exception of the existing buildings on the site, the surrounding area is open and relatively free of development. The existing buildings are grouped together and concentrated along the northern boundary, occupying an inconspicuous location to the rear of the roadside hedge and trees on Newbald Road. The proposed dwelling would be located on a slightly elevated and more open and verdant part of the site, detached from the existing buildings. As a result the dwelling would appear isolated and incongruous in its location which reads as an integral part of the surrounding attractive countryside.
10. I acknowledge that the contemporary dwelling has been designed to reflect its agricultural surroundings and would be built to a high standard. I also note that the footprint would not be dissimilar to the existing dwelling. At the Hearing the Council acknowledged that it had no objection to the design of the proposed dwelling per se and I have no reason to conclude otherwise. Nonetheless, the proposal would result in additional built development within the open countryside. Whilst the number of residential units at the site would not increase, the existing dwelling would be retained and to all intents and purposes the site would have the appearance of comprising two dwellings. The additional building, domestic curtilage and ensuing domestic paraphernalia would erode the pleasing, unspoilt open qualities of this part of the site. It would result in an unacceptable incursion of built form into the open countryside detracting from its rural setting which is integral to the character and appearance of the surrounding Important Landscape Area.
11. I accept that mature vegetation on the north, east and southern boundaries provides a degree of screening. However, it appeared that a significant amount of the vegetation was deciduous and in winter months when the trees are without leaf it would open up intermittent views of the proposal from the Westwood and from the south. Furthermore, the proposed development would be visible from neighbouring open land to the west. Whilst additional landscaping could provide some mitigation, it would not screen the two storey house in its entirety. For the aforementioned reasons, I therefore conclude that the proposal would have a materially harmful impact on the character and appearance of the area and thereby find conflict with Policies ENV1 and ENV2 of the ERLP in this regard and the National Planning Policy Framework (the Framework) which states, amongst other things, that planning should recognise the intrinsic character and beauty of the countryside.

Essential Need

12. The appellant's intention is to develop a professional, top of the range livery business that provides a level of service that isn't offered elsewhere in the locality. At the Hearing, the appellant said that behavioural and dressage training are also likely to be offered as part of the enterprise. The appellant and her partner are clearly determined business people who are passionate about and committed to their business venture. The livery business has not yet been established, although the appellant is hopeful that it will be up and running by October 2017.

13. Policy S4 of the ERLP sets out the forms of development that will be supported in the open countryside where proposals respect the intrinsic character of their surroundings. These include replacement dwellings (Policy S4 C.2) and agricultural, forestry or other rural-based occupational dwellings subject to demonstrating an essential need (Policy S4 C.5). At the Hearing the appellant agreed that the proposal needed to satisfy both S4 C.2 and S4 C.5 given that that they were seeking a new dwelling on the site.
14. There is no dispute between the parties that the proposal constitutes a replacement dwelling. I have my doubts on whether the proposal can truly be considered a replacement given the existing dwelling is to be retained and the new dwelling is in a different location. That aside, both parties agree that it is necessary to take need into account. In light of my findings above in relation to the character and appearance of the area, I share this view. In this regard, the supporting text to Policy S4 states that in order to demonstrate essential need there needs to be a clear functional need for the dwelling relating to a full time worker, the existing rural activity has been established for at least three years, has been profitable for at least one and is currently financially sound and that the need for the dwelling cannot be provided by an existing dwelling which is suitable and available for occupation by the worker(s) concerned.
15. Whilst accepting that need should be demonstrated, the appellant is of the opinion that a degree of flexibility should apply in this case given that it is distinguishable from a scheme for a new residential unit in view that an occupancy restricted dwelling already exists at the site. I am inclined to agree. The functional need for a dwelling for a full time worker has already been established, albeit for a horse rearing and training business. Given that the proposed business is also an equine use, I am not persuaded that it would be materially different. Furthermore, the Council indicated at the Hearing that they would be agreeable to a widening of the restrictive condition to include 'equestrian use'. For these reasons I do not consider that it would be necessary for the appellant to justify the functional need for a full time worker to live on the site.
16. That said, and irrespective of the merits of the business, there is an existing dwelling on the site that is capable of occupation and I must consider whether this could fulfil the functional needs of the business. The house has recently undergone refurbishment and I do not agree that it is in a state of disrepair or that it could be considered sub-standard. Whilst the house is off grid, so too would the new dwelling. In this regard there is little evidence that the dwelling would not be available for occupation by the workers concerned.
17. In support of the new dwelling, the appellant confirmed that there would be a need for 24 hour supervision of the site both for insurance purposes and because customers would be insistent on this. It would also be necessary to ensure someone was at hand during times of foaling or illness. It was put to me that the new house would have the 'wow factor' and convey the right impression to customers of the top of the range livery business they hope to run. An office to run the new enterprise was also needed.
18. Whilst accepting the appellant's aspirations for her business and personal preference for an 'inspirational' dwelling, I do not consider that this amounts to an essential need for which a new dwelling in this location would be justified. There is no compelling evidence that the existing dwelling could not fulfil the

requirements of the business in terms of supervision or customer confidence. Nor is there any persuasive evidence that the use of the existing dwelling would impede the business in any way. Whilst I do not dispute that an office would be necessary for the running of the business, there is nothing before me to suggest that this could not be accommodated within the existing house or that other temporary options had been explored. In light of the above, I consider that the existing dwelling would be suitable to fulfil the functional need of the enterprise and there is insufficient evidence before me to justify the erection of the new dwelling in the open countryside.

19. Therefore, whether or not the business is viable or financially sound, the functional needs of the business could be provided by an existing dwelling that is both available and suitable for the workers concerned without resulting in undue harm to the character and appearance of the area. An essential need for the new dwelling has not therefore been demonstrated.
20. In terms of scale, the proposed dwelling would not be dissimilar in footprint to the existing and I am not convinced that the proposed 3 bedroom dwelling would be unusually large for a rural worker and their family. Nevertheless, this would not overcome my findings above.
21. I therefore find that an essential need for a new dwelling in this location has not been demonstrated. Accordingly, the proposal would be contrary to Policy S4 of the ERLP and paragraph 55 of the Framework which states that isolated new homes in the countryside should be avoided unless there are special circumstances.

Other Matters

22. The appeal site lies approximately 150m to the north-west of the nationally important Scheduled Ancient Monument (SAM) 'Romano- British enclosure and two adjoining fields on Westwood common, 510m south-west of Blackmill'. The SAM consists of the buried and earthwork remains of a roughly oval shaped Romano-British defended enclosure, its heritage significance deriving primarily from its archaeological and historic interest relating to the period of its occupation and the survival of the two fields offering a more complete picture of the subsistence economy of native rural communities during the Romano-British period in this area.
23. The site has additional value because it is part of a complex of British-Romano sites across the Beverley Westwood. However, there is no suggestion from any party, including Historic England who were consulted on the proposal at appeal stage that, as part of its wider setting, the SAM derives any heritage significance from the appeal site. Having regard to the low height of the earthwork remains, the intervening distance and mature vegetation which reduces intervisibility with the appeal site, I have no reason to take a different view and am satisfied that there would be no harm to the setting or heritage significance of the SAM as a consequence of the development proposed.
24. That said, whilst there is no suggestion that any archaeological remains on the appeal site might prejudice implementation of the development proposed, I agree that, were the appeal to succeed, a condition to secure a programme of archaeological work (in line with that recommended by the Humber Sites and Monument Record) would be necessary given the potential for archaeological remains on the site.

25. At the Hearing the appellant drew my attention to Policies C1 and C3 of the ERLP which they considered were supportive of the appeal scheme. The Council disputed that these policies were relevant as they were concerned with infrastructure provision for major developments and public open space for leisure and recreation. Having regard to the policies and their supporting text, which were provided to me at the Hearing, I share the Council's view and have not considered the appeal against them. Nevertheless, I accept that the new enterprise would bring benefits to the rural economy in terms of employment and the provision of recreational facilities and would revive what has been a vacant site. However, there is nothing before me to suggest that these benefits rely on the erection of a new dwelling and therefore these matters do not outweigh the harm that I have identified above.
26. The Design and Access Statement also referred to a number of other policies. However I have not been provided with copies of the policies and they were not drawn upon at the Hearing. I have not therefore considered the proposal against them.

Conclusion

27. For the reasons given above and taking into account all other matter raised, I conclude that the appeal should be dismissed.

Caroline Jones

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

David Hickling BSc DipTP MRTPI	Hickling-Gray Associates
Jonathan Smith BA (HONS) BARCH RIBA	Architect
Caroline Mackevych	Appellant
David James Holtby	Appellant's partner

FOR THE LOCAL PLANNING AUTHORITY:

Karen Abba	Planning Officer
Neil Archbutt MRICS	Principal Valuation and Disposal Surveyor

DOCUMENTS SUBMITTED AT THE HEARING

1. Consultation response from Historic England
2. East Riding of Yorkshire Landscape Character Assessment: Selected Settlements Update 2013: Beverley
3. Copy of pre-application response dated 3 November 2015
4. Policy C1 of the East Riding Local Plan Strategy Document (2016)
5. Policy C3 of the East Riding Local Plan Strategy Document (2016)
6. List entry summary for Romano-British enclosure and two adjoining fields on Westwood Common, 510m south west of Blackmill