



Appeal Decision

Site visit made on 20 December 2019 and 3 January 2020

by T A Wheeler BSc (Hons) T&RP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 January 2020

Appeal Ref: APP/E2001/W/19/3238272

Grange Farm, Drain Lane, Holme upon Spalding Moor YO43 4DG

- 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 Tom Cone against the decision of East Riding of Yorkshire Council.
 - The application Ref 19/01157/PLF, dated 3 April 2019, was refused by notice dated 4 July 2019.
 - The development proposed is Conversion of existing barn into a dwelling with associated access following removal of the adjacent Dutch Barn.
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Decision

1. The appeal is allowed and planning permission is granted for the conversion of existing barn into a dwelling with associated access following removal of the adjacent Dutch Barn at Grange Farm, Drain Lane, Holme upon Spalding Moor YO43 4DG in accordance with the terms of the application, Ref 19/01157/PLF dated 3 April 2019, subject to the conditions in the attached schedule.

Main Issue

2. Although the appeal property (the property) is located outside of an identified settlement, and therefore in countryside, there is no disagreement that the proposed conversion of the barn to dwelling would comply with Policy S4 of the East Riding Local Plan Strategy Document which is supportive of such proposals.
3. In this context, the main issue is whether the living conditions of the occupiers of the proposed dwelling would be acceptable; and the possibility of complaints being raised in relation to the operation of the farm close to the property and any effects that might have on agricultural activity and viability of the farm business.

Procedural Matter

4. I visited the appeal site on 20 December 2019 when I was able to see inside the building which it is proposed to convert to a dwelling. I visited the site again on 3 January 2020 to look at Throlam Farm.

Reasons

5. The property faces towards Drain Lane, a single track road. To the rear of the property is Grange Farm, a modern bungalow. There is an existing hedgerow along the boundary of the site with the lane, some of which has been removed

- where a new access is proposed. There is a recently built training centre for land based activities a short distance away from the property.
6. On the opposite side of the lane is Throlam Farm, a farming business which includes the keeping of weaner pigs. An area for loading pigs onto lorries is located around 170m from the property, and an area for the setting down of arable produce is located closer to the lane and the property. The access to the farm is located opposite the access to Grange Farm. Delivery waggons travelling along the lane to and from the farm pass close to the appeal site. Planning permission exists for the erection of a further 750 pig weaner unit, located to the rear of the existing farm buildings, therefore the number of vehicles coming and going from the farm may increase.
 7. The farm owner is concerned that the addition of a further residential property in proximity to the farm may lead to complaints to the Council over issues such as noise, smells and flies resulting from the operation of the farm. He feels this could restrict future plans to develop the farm business and threaten its continued viability. The Council shares his view and considers there to be a risk of statutory nuisance complaints should the proposal proceed.
 8. Information has been provided on the number of deliveries of pigs and feed, some of which are very early in the morning and late at night. Although there is some disagreement over how many deliveries are undertaken given the turnover of pigs, I have no doubt that the actual number will be significant in terms of the potential for noise and disturbance for future occupiers of the property. Some movements are of agricultural machinery rather than waggons, and I saw both at the time of my visits and have also examined the photographs submitted by the farm owner.
 9. The proposed dwelling would have several window openings in the elevation that faces the lane, and there would be full height bi-folding doors in the end elevation, serving the living area and master bedroom. The appellant has no objection to a condition which would require that noise mitigation measures are put in place to ensure that the property achieves the recommended internal noise limits in BS8223:2014, in accordance with the advice of the Council's Public Protection team. The Planning Practice Guidance (PPG) advises that for noise sensitive developments, mitigation measures can include optimising the sound insulation provided by the building envelope. It would be for the appellant to agree a scheme to satisfy the Council that effective mitigation can be provided, however this would be likely to include the type of windows used. It could also include some additional landscaping to reinforce the hedging along the lane, if needed.
 10. A noise impact assessment has been supplied by the appellant¹ which related to a separate application for the land based training centre. The noise monitoring was undertaken close to the property. This assessment is of limited benefit in terms of considering the impact of the farm operations on the proposal, although it provides information on the background noise levels in the area.
 11. The farm owner has other concerns in addition to noise disturbance from deliveries and the operation of agricultural machinery, including odour and flies, and I note the location of the deadstock store close to the entrance to the

¹ Noise Impact Assessment, Peak Acoustics – Morton Training, Land Southeast of Grange Farm – 15.02.2018

farm which can give rise to odours. A 400m restriction contained in a former Humberside County Intensive Livestock Local Plan has been referred although I have not been provided with a copy. I am not aware that the current development plan precludes new residential units within a set distance an existing farm with livestock and the proposal should be considered on its particular circumstances.

12. The property is located close to Grange Farm and it is suggested that the occupiers of that property have not previously complained in relation to such matters. Grange Farm is to a large extent screened from Throlam Farm by the property, therefore the propensity for occupiers of the proposal to be affected by activities is to some extent greater. However, whilst I understand the concerns of the owner of Throlam Farm, I have no firm evidence before me to support a conclusion that with appropriate mitigation measures in place, including noise attenuation, the residential use of the property would be likely to result in future occupiers complaining to the Council over the farm activities.
13. I therefore conclude that the proposal would not result in unsatisfactory living conditions for the occupiers of the proposed dwelling, and as a consequence should not lead to complaints being raised in relation to the operation of Throlam farm that would result in restrictions on agricultural activity and impacts on the viability of the business. It would therefore conform with Policy ENV1 of the East Riding Local Plan Strategy Document², and Paragraph 127 of the National Planning Policy Framework which require that new development provides a high standard of amenity for future occupiers, and Paragraph 182 of the Framework which requires that existing businesses should not have unreasonable restrictions placed on them as a result of new development.

Other Matters

14. The property is accessed via Drain Lane, which for much of its length is effectively single track. It has been suggested that if the appeal is allowed this should be conditional on the provision of a passing place. However, the point is not supported by the Highways Development Manager who considers that the lane is lightly trafficked and given its flat and straight nature, departing vehicles would have the opportunity to give way for approaching vehicles before pulling out of the access. Based on my observations, I agree with that approach.

Conditions

15. The conditions suggested by the Council are reasonable and necessary in the circumstances of this case. Some have been edited for consistency and clarity.
16. For certainty I attach the standard planning condition limiting the period of the consent to 3 years. In order to prevent any doubt over what is approved I attach a condition requiring the development to be carried out in accordance with the approved plans.
17. In the interest of achieving a visually attractive development, I attach a condition requiring details of external materials to be approved. For the same reason I attach conditions requiring the windows in the north east and south west elevations to be of timber; guttering to be fixed to the building with

² Adopted April 2016

- spikes; and the hedge to the front of the site to be retained at a height not less than 2m.
18. Permission is granted on the basis that the proposal is the conversion of an existing building without the need for substantial areas of demolition or rebuilding. To ensure this, a condition is attached requiring the works to be carried out in accordance with the structural survey submitted with the application. A further condition is attached requiring the redundant parts of the buildings on the site to be removed, in the interests of the appearance of the area.
 19. In order to protect the living conditions of the future occupiers of the development a condition is attached requiring the development to be carried out in accordance with noise mitigation measures to be agreed with the Local Planning Authority.
 20. In the interests of highway safety, a condition is attached requiring the proposed access, parking and turning areas to be provided before the dwelling is occupied.
 21. In order to ensure that risks to future users from land contamination, and other risks such as water pollution, are avoided a condition is attached requiring a risk assessment to be undertaken, any necessary remediation works to be carried out prior to occupation, and a verification report submitted to the Local Planning Authority.
 22. In the interests of protecting biodiversity I attach a condition requiring a construction environmental management plan (CEMP: Biodiversity) prepared by a suitably qualified ecologist to be submitted to and approved and the measures identified to be implemented. This is a pre-commencement condition. The appellant confirms in his Final Comments that he accepts the conditions suggested by the Council in their entirety therefore there is no need to seek his agreement to the condition³. A separate condition, also in the interest of biodiversity, requires a bird nesting box to be installed,
 23. To ensure that the development is provided with a satisfactory means of drainage, and to minimise the risk of pollution, a condition is attached requiring approved details of the arrangements for drainage to be implemented. A separate condition requires the development to be carried out in accordance with the flood risk assessment submitted with the application in order to reduce the risk of flooding to the proposed development and future occupiers.
 24. A condition is suggested removing the permitted development rights to carry out minor domestic works such as extensions, the erection of sheds, garages or other outbuildings and boundary walls, without further consent. The appellant does not disagree the condition. The Framework is clear that planning conditions removing permitted development rights require clear justification and must be explicit about what is being controlled. I am satisfied that the visual appearance of the development could be significantly harmed if future changes are not carried out sympathetically. Therefore, on balance I attach a condition removing these permitted development rights.

³ Under Regulation 2(4) Notice of The Town and Country Planning (Pre-commencement Conditions) Regulations 2018

Conclusion

25. For the reasons given, the appeal is allowed.

Tim Wheeler

INSPECTOR

Schedule of Conditions

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
2. The development hereby permitted shall be carried out in accordance with the following approved plans:
 - 1:2500 Scale Location plan
 - Existing site plan and roof plan -261 04
 - Existing floor plan - 261 01
 - Existing south east and north east elevation plans - 261 02
 - Existing north west and south west elevation plans - 216 03
 - Proposed site plan and roof plan - 261 10
 - Proposed ground floor plan - 261 05
 - Proposed first floor plan - 261 06
 - Proposed south east and north east elevation plans - 261 08
 - Proposed cross section plans – 261 07
 - Proposed north west and south west elevation plans - 261 09
3. The external materials to be used within the development hereby permitted shall match those used in the existing buildings in accordance with the Materials Schedule and plan refs: 261-08 and 261 09.
4. Notwithstanding any details shown on the submitted plans and forms, the windows and external doors to the north eastern and south western elevations shall be of timber construction. The external face of the frame to all new windows and doors shall be set in reveals consistent with the existing openings. The windows and doors shall be painted in a dark coloured finish and thereafter so maintained.
5. The guttering to the development hereby permitted shall be fixed to the external walls by means of gutter spikes and no fascia boarding shall be used.
6. Following the construction of the vehicular access, the existing hedge to the north eastern boundary shall be retained and maintained at its current height but no lower than 2 metres in height.
7. The development shall be undertaken in accordance with the Structural Statement accompanying the application (23 April 2019).
8. Prior to the occupancy of the dwellinghouse, the agricultural buildings identified on existing and proposed site plans (refs: 261-04 and 10), shall be demolished and all resultant material removed from the site.
9. Prior to the occupancy of the dwellinghouse hereby approved, details must be submitted to the council for approval which demonstrate that the property achieves the recommended internal noise limits as laid out in BS8223:2014.

10. The dwelling shall not be occupied until the vehicular access has been provided and space has been laid out for cars to be parked to enable vehicles to turn so that they may enter and leave the site in forward gear in accordance with the details hereby approved. The vehicle parking and turning facilities shall thereafter be retained.
11. If contamination is found at any time when carrying out the approved development, it must be reported immediately to the Local Planning Authority. An appropriate investigation and risk assessment must be undertaken, and where remediation is necessary, a remediation scheme must be prepared by competent persons and submitted to the local planning authority for approval. Following completion of measures identified in the approved remediation scheme, a verification report that demonstrates the effectiveness of the remediation carried out must be submitted to and approved in writing by the local planning authority.
12. No development work shall take place until a construction environmental management plan (CEMP: Biodiversity) has been submitted to and approved in writing by the Local Planning Authority. The CEMP shall be compiled by a suitably qualified ecologist, include a timetable for implementation and a detailed plan. The scheme shall provide full details of all ecological mitigation and management measures along with a programme for implementation. The scheme shall include:
 - a) A risk assessment of potentially damaging construction-type activities.
 - b) Full details of practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction, including action to be taken if any protected species are found during construction works.
 - c) The location and timing of sensitive works to avoid harm to biodiversity features.
 - d) Details of site induction information and tool-box talks for all relevant on site working practices. Protocols to demonstrate that the site work force will be briefed about potential ecological issues on the site prior to commencement of construction shall be provided.
 - e) Details of personnel responsible for over-seeing the implementation of measures detailed in the CEMP.

Upon commencement of development all aspects of the approved construction environmental management plan (CEMP: Biodiversity) shall be implemented in full, unless otherwise agreed in writing by the Local Planning Authority.
13. An artificial nest for small birds shall be erected on site in accordance with the manufacturer's installation recommendations prior to first use of the building hereby permitted and thereafter retained for the lifetime of the development.
14. The development shall not be first occupied until the approved foul and surface water drainage details have been fully implemented in accordance with the approved plans.

15. The development shall be carried out in accordance with the submitted flood risk assessment (published on the planning portal 03 April 2019) and the following mitigation measures it details:
- a) Finished floor levels (FFL) shall be set no lower than 4.3m above Ordnance Datum (AOD) – The FRA states existing site level is 4mAOD and that mitigation is for 300mm above existing ground level.
 - b) Implementation of flood proofing measures listed in the FRA including solid floor construction and electrics wired from first floor loops to sockets no lower than 450mm above FFL in addition to any further measures considered appropriate by the LPA.
 - c) A place of safety is provided within the new dwelling at the first floor.
- These mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the scheme's timing/phasing arrangements. The measures detailed above shall be retained and maintained thereafter throughout the lifetime of the development.
16. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking or re-enacting or amending those Orders with or without modification), no development shall be undertaken within Part 1, Class A, B, C or E including the alteration of the building, the erection of buildings, extensions or structures (other than those expressly authorised by this permission) without the grant of a separate planning permission from the Local Planning Authority.

ENDS