
Appeal Decision

Site visit made on 9 June 2020

by Patrick Hanna MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30th June 2020

Appeal Ref: APP/E2001/W/20/3244294

Land east of Dead Lane, Harlthorpe, Bubwith YO8 6DW

- 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 Miss Emily Clarke against the decision of East Riding of Yorkshire Council.
 - The application Ref 19/02308/PLF, dated 1 July 2019, was refused by notice dated 29 October 2019.
 - The development proposed is continued use of land in connection with the grazing and keeping of horses, continued use of land for the siting of two portable containers used for the secure storage of equine equipment and as a welfare facility and retention of an existing field shelter/store (re-submission of previously approved application reference 18/02141/PLF).
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Decision

1. The appeal is allowed and planning permission is granted for continued use of land in connection with the grazing and keeping of horses, continued use of land for the siting of two portable containers used for the secure storage of equine equipment and as a welfare facility and retention of an existing field shelter/store at land east of Dead Lane, Harlthorpe, Bubwith YO8 6DW in accordance with the terms of the application, Ref 19/02308/PLF, dated 1 July 2019, and the submitted plans titled Location Plan, Site Plan (1:500), and Elevations and Plans, subject to the conditions in the attached schedule.

Procedural Matters

2. An application for costs was made by the appellant against East Riding of Yorkshire Council. This application is the subject of a separate Decision.
3. The description of the development permitted has been amended to remove superfluous wording relating to a previous application.

Background and Main Issue

4. The development subject to this appeal was implemented several years ago and planning permission was subsequently granted subject to a condition requiring removal of the two containers within 6 months. An application for the same development, of the above description, was then resubmitted, which the Council refused, resulting in this appeal.
5. Therefore, the main issue is the effect of the proposed containers on the character and appearance of the surrounding area, with particular regard to appearance, siting and scale.

Reasons

6. The appeal site consists of a field used for the grazing and keeping of horses and contains a field-shelter of self-build appearance, built in timber and steel box profile cladding, which provides the site's equestrian characteristic as part of the wider rural landscape and open countryside. The effect of the proposal would be to permanently site two containers, which at the time of my site visit were fully clad with timber cladding and shutters, adjacent to the field-shelter.
7. The appearance of the containers has been changed, in entirety, from when planning permission was refused. Whilst containers would normally be seen, in visual terms, as temporary industrial structures unsuitable for permanent siting in a rural location, in this case the containers themselves can no longer be seen. The cladding has been installed over the full extent and height of the containers, including the doors, and with shutters to cover the existing UPVC window. The board-and-batten style of cladding presents a simple and rustic appearance, such that, overall, the proposed containers, as clad, would be sympathetic with the self-build appearance of the approved field shelter, as well as with the rural character of the site and the surrounding area. Even were the doors and window shutters to be left open, this would typically be for limited duration, such that the appearance would remain of a rural structure associated with equine use, rather than habitable accommodation.
8. The siting of the proposed containers would be immediately adjacent to the existing approved field shelter, at its furthest point from the public road. Although the containers, as clad, would be glimpsed from the public road through gaps in the existing hedgerow, they would read as being an integral part of the range of structures associated with the field shelter, and against the backcloth of mature landscaping. In terms of scale, the proposed containers, as clad, are of no greater height than the approved field shelter; of similar depth; and of lesser length and footprint. Furthermore, the cladding of the containers in visually recessive materials has, to my mind, lessened the perception of scale from what would have otherwise been the case with glossy painted metal.
9. Overall, I find that the proposed mitigation of timber cladding would be sufficient to overcome the harm that would otherwise be caused by the containers. I therefore conclude that the proposed containers would not have a significant adverse effect on the character and appearance of the surrounding area. The proposal would comply with policies S4(C), ENV1 (B.1, 3 and 8) and ENV2(A) of the East Riding Local Plan (2016). Together, these policies support development where it achieves high quality design that contributes to a sense of place, and sensitively integrates into the existing landscape.

Other matters

10. Given my above findings on the main issue, and the retrospective nature of the proposal, it is not necessary as part of this s78 appeal to conclude whether or not the containers comprise operational development or are incidental to the existing use. The proposal does not include any element of residential use and, were it to be used as such, as suspected by third parties, the Council have powers to enforce. Further concerns about the untidy appearance of the site were not evident at my site visit and, in any case, this is a matter outside my jurisdiction in determining this appeal. That horses are kept elsewhere without the need for containers is not raised as a matter of dispute by the Council, and I see no evidence that would persuade me to disagree with it on this matter.

Conditions and Conclusion

11. The retention of the installed timber cladding and shutters is necessary to protect the character and appearance of the area, as are conditions in respect of use, landscaping and lighting. In order that surface water discharge from the site and the buildings can be effectively managed, full details of the surface water management are required. There is a strict timetable for compliance with this condition because permission is being granted retrospectively, and it is not possible to use a negatively worded condition to secure the approval and implementation of the outstanding matter before the development takes place. The condition will ensure that the development can be enforced against if the requirements are not met. Minor amendments have also been made to the suggested wording of some conditions, for clarity and to ensure accordance with the tests set out in paragraph 55 of the Framework.
12. For the reasons given above, and having had regard to all other matters raised, I conclude that the appeal should be allowed.

Patrick Hanna

INSPECTOR

Schedule of conditions

- 1) The development hereby permitted shall be for private equestrian use only and shall at no time be used for any commercial purpose whatsoever, including for livery, or in connection with equestrian tuition, leisure rides or for the holding of any organised equestrian events.
- 2) The timber cladding and shutters installed on the containers hereby permitted shall be maintained, or replaced in accordance with such details as may be agreed in advance and in writing by the local planning authority, for the lifetime of the development.
- 3) The existing boundary hedge along the southern boundary of the site shall be maintained at a height of no less than 3 metres from ground level. Any trees or plants which within a period of 5 years from the date of this permission die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
- 4) No external lighting shall be installed on site unless details of any such lighting shall have been submitted to and approved in advance and in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 5) Unless within 6 months of the date of this decision a scheme for the discharge of surface water from the site, incorporating a sustainable drainage system and associated management and maintenance plan for the lifetime of the development, is submitted in writing to the local planning authority for approval, and unless the approved scheme is implemented within 3 months of the local planning authority's approval, the use of the

site shall cease and all equipment and materials brought onto the land for the purposes of such use shall be removed until such time as a scheme is approved and implemented.

If no scheme in accordance with this condition is approved within 7 months of the date of this decision, the use of the site shall cease and all equipment and materials brought onto the land for the purposes of such use shall be removed until such time as a scheme approved by the local planning authority is implemented.

Upon implementation of the approved scheme specified in this condition, that scheme shall thereafter be maintained.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

End of Schedule