



Appeal Decision

Site visit made on 3 August 2020

by C Coyne BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25th August 2020

Appeal Ref: APP/E2001/W/20/3250412

Station Farm, Main Street, Arram HU17 7NR

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a grant of planning permission subject to conditions.
 - The appeal is made by Mr & Mrs N Ellis against the decision of East Riding of Yorkshire Council.
 - The application Ref 19/02695/PLF, dated 30 July 2019, was approved on 13 March 2020 and planning permission was granted subject to conditions.
 - The development permitted is erection of a detached dwelling to replace existing caravan.
 - The condition in dispute is No 2 which states that: The occupation of the dwelling hereby permitted shall be limited to a person or persons occupied, employed, or last employed in the business or operations occupying the site edged blue on the attached plan, or a widow or widower of such a person, or any resident dependants.
 - The reason given for the condition is: This condition is imposed in accordance with policy ENV1 of the East Riding Local Plan because the occupation of the dwelling by a person not associated with the business would not provide for an acceptable standard of residential amenity.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The appeal seeks the removal of the business/agricultural operations occupancy condition.
3. The appellants have raised concerns regarding the Council's handling of the case, and in particular with regard to perceived inconsistencies in the advice they received from Council Officers. However, this is a matter that would need to be taken up with the Council in the first instance and in determining the appeal I have only had regard to the planning merits of the case.

Main Issue

4. The main issue is whether the condition is reasonable and necessary in the interests of the living conditions of the future occupiers of the replacement dwelling, having particular regard to matters of outlook and noise.

Reasons

5. The approved replacement dwelling, which is currently under construction, is situated within a small agricultural holding located close to Arram train station. To the north of this partially constructed dwelling lies the existing caravan

residential accommodation which it will replace, and a large agricultural shed which appears to be used for the storage of bales of hay and farm machinery including several tractors and what appears to be a hay-baling machine. Bales of hay which are wrapped in plastic are also stored to the rear of this large shed with additional bales of hay being stored to the south of the partially constructed dwelling.

6. Condition no. 2 restricts the occupancy of the approved replacement dwelling to a person or persons that are occupied, employed or have last been employed by the agricultural business currently operating on the land surrounding it. The reason for this is that these operations would likely harm the living conditions of its future occupiers by causing noise and disturbance and that the existing large shed would also likely harm their living conditions as its proximity would be overbearing.
7. At the time of my visit, there were no activities or agricultural operations taking place. The level of traffic on Chapel Garth during this snap shot in time was not significant and only one train passed by on the nearby railway line. Consequently, and given the fact that the area is predominately rural, I consider the area to be relatively quiet when no agricultural operations are being undertaken on the land surrounding the appeal property, and when very few trains are passing by.
8. Whilst I acknowledge the appellants' point that the agricultural operations on the land surrounding the replacement dwelling are currently relatively small-scale, from what I observed on my site visit such as the presence of three tractors and one hay-baling machine, as well as several cows in the adjacent field, I consider it likely that these operations would cause some harm to the current occupiers of the caravan/mobile home in respect of noise and disturbance. This is something which person(s) engaged in these operations would a) be more comfortable with, and b) be more able to directly control.
9. For similar reasons, I also consider that these operations would cause some harm to the future occupiers of the replacement dwelling. Furthermore, these agricultural operations could at some point in the future be intensified, should the landowner decide to do so. As a result, there is potential for further harm to the living conditions of the future occupiers with regard to noise and disturbance.
10. With regard to outlook, I consider that due to its location and size in relation to the existing caravan/mobile home that harm is caused to the living conditions of its current occupiers relating to a lack of outlook resulting from the proximity of the shed and the overbearing sense of enclosure that its comparatively large scale and massing causes. For comparable reasons, I also consider that the shed would also likely cause similar harm to the living conditions of the future occupiers of the replacement dwelling.
11. Whilst I also acknowledge that this potential harm to their living conditions would occur regardless of the level of agricultural activity/operations underway on the rest of the land holding, as set out above if future occupiers were engaged or previously engaged in the business/agricultural activities, it would also be reasonable to conclude that they would be more willing to put up with this potential harm than someone who had no connection to the activities taking place, including the use of the shed, on the land surrounding their home. Moreover, it would also be highly likely that any future occupier not

currently or recently actively engaged or connected with these agricultural activities/operations, or without a current or recent stake in the business would complain to the local authority about the levels of noise and/or the lack of outlook.

12. I acknowledge that the mobile home/caravan to be replaced by the permitted dwelling was granted a certificate for lawful development in 2017 (Ref DC/17/01052) and that this development does not include an occupancy condition. However, I am also aware that the caravan was originally granted temporary planning permission (Ref 307-115A) which was subject to a similar occupancy condition to the one disputed as part of this appeal due to its countryside location and the nature of the agricultural use on the site. Consequently, the principle of using such an occupancy condition has been previously established on this site. Whilst the mobile home/caravan may not be restricted in terms of occupancy, this in itself does not justify allowing a different form of development without the said occupancy condition given the clear harm that have I identified.
13. I therefore conclude that the imposition of condition no. 2 is both reasonable and necessary in order to suitably safeguard the living conditions of the future occupiers of the dwelling in respect of outlook and noise. The removal of the condition would conflict with Policy ENV1 of the adopted East Riding Local Plan (April 2016) which supports development that has regard to the amenity of residential occupiers, amongst other considerations.

Conclusion

14. I conclude that the appeal should be dismissed.

C Coyne

INSPECTOR