



Appeal Decision

Site visit made on 18 May 2021

by Elizabeth Pleasant BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 June 2021

Appeal Ref: APP/E2001/C/21/3268305

Land at the former Travellers Rest Main Street, Long Riston, East Riding of Yorkshire HU11 5JF

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Eco Custom Homes against an enforcement notice issued by East Riding of Yorkshire Council.
 - The enforcement notice was issued on 11 December 2020.
 - The breach of planning control as alleged in the notice is: Without planning permission, demolition of an unlisted building known formerly as The Travellers Rest in the Long Riston conservation area.
 - The requirements of the notice are to rebuild the public house so as to recreate it as similar as possible to the demolished building prior to its demolition. For the avoidance of doubt such restoration shall include, but not be limited to steps (a) to (c) set out in the enforcement notice and depicted in the photographs, the location plan and floor plan 2507C and signage plan 39376 attached to the notice.
 - The period for compliance with the requirements is 15 months.
 - The appeal is proceeding on the grounds set out in section 174(2) (a) (e) and (f) of the Town and Country Planning Act 1990 as amended. Since an appeal has been brought on ground (a) an application for planning permission is deemed to have been made under section 177(5) of the Act as amended.
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Decision

1. It is directed that:

- The enforcement notice be corrected by deleting the letter "(c)" and substituting it with "(b)" in paragraph 5 of the notice.
- The enforcement notice be corrected by deleting the word "Let" and substituting it with "Left" in the last line on page 5 of the notice.
- The enforcement notice be corrected by deleting all the wording in paragraph 5. 3).
- The enforcement notice be varied by deleting all the wording in paragraph 5. a) and substituting it with:

"Implement construction works as are required in order to reinstate the building to its former dimensions and style as a public house including the provision of customer toilets within the building and all necessary services and utilities.

For the avoidance of doubt the dimensions and style are depicted on the photographs annexed to the enforcement notice and the Location plan and floor plan 2507C.”

- The enforcement notice be varied by deleting all the wording in paragraph 5. 4).
- 2. Subject to the corrections and variations above, the appeal is allowed insofar as it relates to the Land at the former Travellers Rest outlined in red on the plan and planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act as amended, for the demolition of the left single storey extension to the former Travellers Rest.
- 3. The appeal is dismissed and the enforcement notice is upheld as corrected and varied insofar as it relates to Land at the Former Travellers Rest outlined in red on the plan, and planning permission is refused in respect of the total demolition of the former Travellers Rest, on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Enforcement Notice

- 4. There are a number of typographic errors in the enforcement notice and some of the requirements have been repeated. Reference is made in paragraph 5 to steps (a) to (c). However, there is not a step (c) in the notice. The notice also sets out steps 3) and 4), but step 3) is a reiteration of the detailed requirements set out in steps a) and b) and is not therefore necessary, and I shall delete it. In addition, the last line of page 5 of the notice should say “Left Single Storey Extension” and not “Let Single Storey Extension” and I shall correct it. I am satisfied that these corrections will not cause any injustice to either of the main parties as they are made for clarity, do not alter the purpose of the notice, and relate solely to typographical errors.

Appeal on ground (e)

- 5. The main issue concerns whether copies of the enforcement notice were served as required by section 172 of the Town and Country Planning Act, 1990 (the Act); and if not, whether the appellant, or the person who was not served as required, have been substantially prejudiced by the failure to do so.
- 6. The appellant submits that the notice was not served on the owners of the Micro Pig Bar which occupies part of the appeal site. This section of the former public house has not been demolished and is no longer in the ownership of the appellant.
- 7. The Council advise that following consideration of Land Registry documentation before issuing the notice, they are satisfied that the notice had been served correctly. Although they were aware that there was evidence of priority searches in that documentation, there was no evidence on the Land Registry documentation of any transfer of ownership. The Council subsequently made an entry in the land charges register and enforcement register once the notice was issued as required. A change in ownership after that date would therefore have been dealt with by the owner in the property transaction.
- 8. The appellant does not refute the Council’s response and no substantive evidence has been provided to demonstrate to me that the transfer of ownership took place prior to the Council issuing the notice.

9. From the evidence before me I am satisfied that the notice was correctly served and as required by s172 of the Act. The appeal on ground (e) fails.

Background and Planning History

10. The appeal site comprises Land previously occupied by the Travellers Rest Public House (PH) along with associated outbuildings and car park. It is situated within the village of Long Riston and within its Conservation Area (CA). During late 2019 and early 2020, most of the PH was demolished, and the site cleared. A small single storey wing of the PH remains in the northern corner of the site and this has recently been refurbished as a small standalone micro pub, known as The Micro Pig.
11. Two applications seeking retrospective consent for the demolition of the PH and redevelopment of the site for housing were refused by the Council in August 2020 and subsequently dismissed on appeal.¹

Appeal on ground (a), deemed planning permission

12. Section 177(5) of the Act states that where an appeal has been brought under section 174(2)(a) the appellant shall be deemed to have made an application for planning permission in respect of the matters stated in the enforcement notice as constituting a breach of planning control. My considerations and the deemed planning permission are therefore confined to the demolition of the building known formerly as The Travellers Rest.
13. Section 177(1)(a) of the Act, allows for a grant of planning permission in respect of the matters stated in the enforcement notice as constituting a breach of planning control, whether in relation to the whole or any part of those matters or in relation to the whole or any part of the land to which the notice relates.
14. Having regard to the planning history of the site and recent appeal decisions, the appellant accepts that it is necessary to reconstruct the two-storey sections of the former PH, and have indeed commenced with those works. However, they seek planning permission to demolish the southern single storey extension (referred to as the "left single storey extension" in the requirements of the notice), such that this element of the former PH does not have to be rebuilt.
15. The left single storey extension was a later addition to the building, constructed in the 1970's and housing the main public toilets for the PH. The Council do not dispute that this part of the building had little architectural merit and its impact on the character and appearance of Long Riston CA was neutral. From the evidence before me, including historic photographs, I see no reason to disagree. However, the Council consider that the extension had an important function to the operation of the PH as it contained the customer toilets. Consequently, it is their view that if the PH were to be rebuilt without this extension and therefore without any customer toilets, there would be concerns regarding the ability of the premises to operate as a viable community asset in the future.

¹ APP/E2001/W/20/3259822 & APP/E2001/W/20/3259827.

Main Issue

16. Having regard to the grounds of appeal and Council's evidence, I consider the main issue is whether the demolition of the left single storey extension would result in the loss of a valued facility and service and reduce the community's ability to meet its day to day needs.

Reasons

17. The general arrangement, layout and elevation details shown on drawing no. 760/2, which was attached to the enforcement notice, indicate that the first floor of the PH was in residential use. The ground floor comprised a main bar area, linked to a smaller bar/sitting area in the northern part of the building. This small bar has been retained and is now in use as part of the Micro Pig. There was also a smoke room, cellar, small scullery, and pantry. The customer toilets were provided in the left single storey extension for which planning permission is now sought for its demolition.
18. Policy C2 of East Riding Local Plan Strategy Document, adopted 2016 (LP) states, amongst other things, that in order to maintain and improve access to a range of services and facilities in the East Riding, which meet the need of residents and in appropriate circumstances visitors, proposals will be supported that: retain or enhance existing services and facilities; and/or provide for new services and facilities, including where appropriate, new mixed use and multi-purpose facilities. In addition, Policy C2 states that the loss of health, education, and other services and facilities will only be permitted if: 1) it is proved the existing use and proposals for alternative uses on the site are not economically viable, and there is insufficient demand to support them; 2) the loss is part of a wider proposal to improve service provision in the locality; or 3) existing facilities can adequately serve identified needs, in an equally accessible manner.
19. The single storey extension provided the customer toilets for the public house which has recently been established at appeal as a valued community asset which should be retained. Whilst there is no doubt that for the premises to operate as a public house it is necessary for it to have customer toilets, I am not convinced that it is essential that they are provided in their previous location. There would be sufficient space within the rebuilt two-storey elements of the building and its northern single storey element to accommodate such facilities, without materially compromising the community facility offered by the PH. Indeed, those facilities previously existed within the building prior to the toilet block extension which was constructed in the 1970's. Furthermore, I have not been provided with any substantive evidence that would suggest to me that toilets could not be provided within the remainder of the building, or that to do so would compromise the ability of the PH to operate or function as such. Moreover, I noted on my site visit that a customer toilet has already been provided within the part of the building currently in use as the Micro Pig.
20. I conclude that the demolition of the single storey southern extension would not result in the loss of a valued facility and service and reduce the community's ability to meet its day to day needs. There would therefore be no conflict with the development plan and in particular with Policy C2 of the LP, the aims of which are set out above.

Conclusion

21. The breach of planning control alleged in the notice is the demolition of an unlisted building known as the Travellers Rest in the Long Riston Conservation Area. I have found that the demolition of the left single storey extension to the PH, which is part of the building, would preserve the character and appearance of Long Riston Conservation Area and would not result in the loss of a valued community facility. I shall therefore issue a split decision in relation to this appeal on ground (a) and grant planning permission for the demolition of the left single storey extension to the Travellers Rest PH.
22. Although a split decision will be issued, the notice will not be amended regarding the requirement to rebuild the "Left Single Storey Extension". However, in granting planning permission (split decision) for the left single storey extension, Section 180 (1) of the Act provides that: 'Where, after service of a copy of the enforcement notice, planning permission is granted for any development carried out before the grant of planning permission, the notice shall cease to have effect so far as inconsistent with that permission.'
23. Thus, the notice will cease to have effect with regard to the rebuilding of the "Left Single Storey Extension".

Appeal on ground (f)

24. The issue is whether the requirements are excessive to achieve the purpose(s) of the notice.
25. Section 173 of the Town and Country Planning Act 1990 (as amended) indicates that there are two purposes which the requirements of an enforcement notice can seek to address. The first is to remedy the breach of planning control that has occurred and the second to remedy any injury to amenity which has been caused by the breach.
26. The appellant submits that it is excessive to require the internal layout and signage to be reinstated as any internal alterations to the building and the signage are not development for the purposes of Section 55(2) of the Act. In addition, flexibility should be allowed to create a suitable internal layout that meets the needs of the rebuilt PH.
27. The Council states that the purpose of the notice is to remedy the breach of planning control by restoring the land to its condition before the breach took place (s173 (4) of the Act). They consider that the requirement to construct the building to a previously known layout with all the requisite utilities and services is reasonable and necessary to ensure this valued community asset is retained. In addition, they consider that the signage on the public house was an important feature of its function as a public house, demarcating it as a key community facility and contributing to the traditional character and appearance of the village.
28. Section 173 (6) of the Act states that where an enforcement notice is issued in respect of a breach of planning control consisting of demolition of a building, the notice may require the construction of a building (in this section referred to as a "replacement building") which, subject to subsection (7), is as similar as possible to the demolished building. Section 173 (7) (b) states that a replacement building may differ from the demolished building in any respect

which, if the demolished building had been altered in that respect, would not have constituted a breach of planning control.

29. The building that was demolished was a Public House and a valued community asset. The notice requires the rebuilding of the PH so as to recreate it as similar as possible to the demolished building prior to its demolition. In the interests of clarity, it specifies what that restoration shall entail. Including at paragraph 5 (a) to: *"Implement construction works (including laying of foundations, entraining of pipes and utility conduits) as are required in order to reinstate the building to its former dimensions, style, layout details and embellishments as a public house. For the avoidance of doubt dimensions, style, layout, signage details and embellishments are depicted in the photographs annexed to the enforcement notice and through the following drawings which are annexed to the enforcement notice. Location Plan and floor plan 2570C and signage plan 39376"*
30. To restore the land to its condition before the breach took place requires the building to be reinstated as a PH. To function as a PH customer toilets need to be provided within the replacement building and it needs to be serviced. However, having regard to s173 (7) (b), I agree with the appellant that, as the internal layout could have been altered previously without the need for planning permission, it is not necessary for it to be reinstated to its former arrangement. Flexibility should be allowed to create a suitable internal layout that would meet the needs of the new building and it is excessive to require the internal layout to be reinstated. It is not however excessive to require the replacement building to be serviced and have customer toilets provided within it. Those requirements are the minimal necessary for the building to function as a PH and community facility and would restore the land to its previous condition.
31. I am also mindful that the advertisements that were affixed to the building would not have required planning permission to be removed and their removal could have taken place lawfully prior to the building being demolished. It is therefore excessive to require the advertisements to be reinstated.
32. I shall therefore vary the notice to remove the requirement to reinstate the building to its former layout details and embellishments and delete the requirement to restore the signage as per drawing no 39376 attached. In addition, I shall vary the notice to require customer toilets to be provided within the building. I am satisfied that these variations would not result in any injustice to either of the main parties as the purpose of the notice would not be altered.
33. The appeal on ground (f) succeeds.

Overall Conclusion

34. For the reasons given above I conclude that the appeal should succeed in part only, and I will grant planning permission for the demolition of the left single storey extension to the Travellers Rest Public House. Otherwise I shall uphold the notice with corrections and variations and refuse to grant planning permission for the total demolition of the Travellers Rest Public House. The

requirements of the notice will cease to have effect so far as inconsistent with the planning permission which I will grant by virtue of s180 of the Act.

Elizabeth Pleasant

INSPECTOR