



Appeal Decision

Site visit made on 8 September 2021

by C Coyne BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 December 2021

Appeal Ref: APP/E2001/W/21/3275091

Land off Killingwoldgraves Lane, Beverley HU17 8QX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant consent, agreement, or approval to details required by a condition of a planning permission.
 - The appeal is made by Lovel Capital Projects Ltd against the decision of East Riding of Yorkshire Council.
 - The application Ref 20/03917/REM, dated 23 November 2020, sought approval of details pursuant to conditions Nos 1 and 2 of a planning permission Ref 20/00541/OUT granted on 6 July 2020.
 - The application was refused by notice dated 13 April 2021.
 - The development proposed is described on the application form as 'Mixed-use development comprising employment units (B1c and / or B8) and petrol filling station with electric vehicle charging and ancillary shop, with associated infrastructure'.
 - The details for which approval is sought are: Appearance, Landscaping, Layout and Scale.
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Decision

1. The appeal is allowed and the reserved matters are approved, namely appearance, landscaping, layout and scale details submitted in pursuance of conditions Nos 1 and 2 attached to planning permission Ref 20/00541/OUT dated 6 July 2020, subject to the conditions set out in the attached schedule.

Application for costs

2. An application for costs was made by Lovel Capital Projects Ltd against East Riding of Yorkshire Council. This application is the subject of a separate Decision.

Procedural Matters

3. On 20 July 2021 a revised version of the National Planning Policy Framework (the Framework) was published. However, as the main parties have had an opportunity to comment on this matter and I am satisfied that neither party has been prejudiced in this regard.
4. In accordance with the statutory duty set out in Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, I have given special regard to the desirability of preserving Killingwoldgraves House or its setting or any features of special architectural or historic interest which it possesses.
5. The Council have described the development as 'Erection of a petrol filling station and ancillary shop, electric vehicle charging and associated parking areas and landscaping following outline planning permission 20/00541/OUT

(Appearance, Landscaping, Layout and Scale to be considered)'. I note that the appellant has also utilised this description on their appeal form. I consider that this revision provides a succinct and accurate description of the proposal and I have therefore determined the appeal on this basis.

Main Issue

6. The main issue is the effect of the proposed development on the character and appearance of the area and its landscape.

Reasons

7. The appeal site is a piece of previously developed land that includes a detached dwelling and an area of overgrown vacant land that was formerly in industrial use. The site is bounded on one side by Killingwoldgraves Farm and a dwelling there which is Grade II listed. On the other side of the site there are several large agricultural buildings which are visible when viewed from certain directions on Killingwoldgraves Lane (the lane).
8. The site also fronts onto the lane and is close to a large roundabout serving several A-roads meaning that it is in a relatively prominent visual location. On the opposite side of the lane to the appeal site is a large area of open agricultural land which has a row of trees on part of its boundary facing the lane. There is also appears to be a large area of more open agricultural land to the rear of the appeal site.
9. The Council have raised a concern that the proposed petrol filling station/shop building is in a more visually conspicuous position than that indicated in the approved outline application and that its size is also larger than that indicated at the outline application stage.
10. On my site visit I observed that most of the boundary of the appeal site facing the lane was well screened by the trees and planting currently in situ. I also observed that there were some trees on the rear boundary of the site. As a result, I consider the site to be relatively self-contained and not particularly open or clearly visually linked to the more open land beyond it.
11. Consequently, while many of the trees on the boundary of the site which currently faces the lane would be removed, the hedgerows on this boundary would be retained in addition to a proposed new hedgerow and other new shrubbery being planted on this boundary which would mitigate the proposal's visual impact when viewed from the lane or the footpaths which run along it. In addition, this additional planting, and the retention of the hedgerows on this part of the site boundary facing the lane is more than what was proposed at outline application stage.
12. Further, given that the height of the proposed petrol canopy is similar to that of the proposed filling station/shop building, I fail to see how this would be less visually conspicuous than the proposal if it were located as indicated on the outline application plans.
13. Furthermore, no substantive evidence such as a Landscape and Visual Impact Assessment (LVIA) has been submitted by the Council to show how the proposal would have an unacceptable visual impact on the surrounding landscape, particularly when considered within the context of the approved outline application.

14. Moreover, while I acknowledge that Council members originally refused planning permission for a petrol filling station nearby that was subsequently approved (Ref 19/01217/PLF), from the evidence before me, this development scheme is in a far more visually prominent location with a clear visual link to the more open landscape around it than the appeal scheme before me which is part of a wider area of previously developed land on this side of the lane.
15. As a result, and in the context of the above, I find that the proposal would not have an unacceptable adverse visual impact.
16. I therefore conclude that the proposed development would not materially harm the character and the appearance of the area and its landscape. Accordingly, it would not conflict with the design and landscape character requirements of policies ENV1 and ENV2 of the adopted East Riding Local Plan Strategy Document. It would also not conflict with paragraph 130 of the Framework.

Other Matters

17. I note that a dwelling at nearby Killingwoldgraves Farm is a Grade II listed building. However, given the scale and height of the proposed development, its distance from the boundary with the farm, the presence of existing mature planting on the farm side of the boundary and the number and nature of proposed trees to be planted on the appeal site side of this boundary, I am satisfied that the proposal would not have a harmful visual impact on the setting of the designated heritage asset.
18. I also note that Bishop Burton Parish Council have raised concerns in relation to the size of the proposed petrol station/shop building in that it is larger than that indicated and approved at the outline application stage and that as a result it would adversely affect the viability of small shops located in the nearby villages of Bishop Burton, Walkington and Cherry Burton.
19. However, the principle of a shop on the appeal site has been established by the granting of outline planning permission and the Council's officer report highlights that it is likely that the proposed shop would be aimed at serving passing motorists or those already travelling that stop there as part of a longer journey. It also highlights that even though it would be larger than what was initially indicated at outline application stage that it would still be not be large enough to undermine the vitality and viability of these local village shops. In addition, the Council's reason for refusal and appeal statement do not include or raise a concern in relation to this matter and from the evidence before me I see no reason to disagree. Consequently, this matter is not of sufficient weight to outweigh my conclusion on the main issue above.

Conditions

20. I have imposed conditions as set out in the attached schedule in light of the use of planning conditions set out in the Framework and Planning Practice Guidance. Consequently, in the interests of precision and clarity I have undertaken some minor editing and rationalisation of the conditions as suggested by the Council. I have imposed a necessary condition to define the plans with which the scheme should accord in the interest of precision.
21. In the interest of the character and appearance of the area I have imposed a condition requiring the provision, retention, and maintenance of soft landscaping, a condition to ensure that the floor levels of the permitted

buildings shall be constructed as indicated in the approved plans, and a condition requiring the submission and approval of details of external materials to be used.

22. In the interest of highway safety, I have imposed a necessary condition requiring the submission and approval of details for vehicular and pedestrian access and that vehicle access parking, loading, offloading, and manoeuvring facilities be constructed in accordance with the submitted and approved details and thereafter retained. In addition, in the interests of the environment and air quality I have imposed a necessary condition requiring the provision of two electric vehicle charging stations.
23. I have also imposed a necessary condition to ensure that internal and externally mounted plant and equipment shall not cause noise disturbance in the interest of the amenity of neighbouring properties.

Conclusion

24. For the reasons set out above I conclude that the appeal should be allowed.

C Coyne

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall be carried out in accordance with the following approved plans: Phase 1 Location Plan drawing no. 1781 1b (Rev B); Proposed Phase 1 Site Plan drawing no. 1781 5f (Rev F); PFS Plans and Elevations Plan drawing no. 1781 6a (Rev A); Petrol Canopy Plan and Elevations drawing no. 1781 7b (Rev B); Electric Meter Kiosk ET14 Type Plan drawing no. 1781 8; Proposed Site Elevations Plan drawing no. 1781 9b (Rev B); Proposed Phase 1 Site Plan in Context drawing no. 1781 10a (Rev A); Detailed Landscape Proposals Plan drawing no. 3697/1 Rev D; Bin Store Detail plan drawing no. 1781 11a (Rev A); Tanker Vehicle Swept Path Analysis drawing no. LTP/4030/T2/01.01 Rev A; Articulated Vehicle Swept Path Analysis drawing no. LTP/4030/T2/01.02 Rev A; Topographical Survey drawing no. 3202-1 Rev B.
- 2) All planting, seeding, turfing or soft landscaping comprised in the approved plans shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development whichever is the sooner; and thereafter retained for the lifetime of the development. All shrubs, trees and hedge planting shall be maintained free from weeds and shall be protected from damage by vermin and stock. Any trees or plants which die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless otherwise agreed in writing by the local planning authority. All hard landscaping shall also be carried out in accordance with the approved details prior to the occupation of any part of the development or in accordance with a programme to be agreed in writing with the local planning authority.
- 3) The building(s) hereby permitted shall be constructed with the finished floor level of 42.5m AOD as indicated on the approved plan PFS Plans and Elevations Plan drawing no. 1781 6a (Rev A).
- 4) Notwithstanding the details shown on the submitted plans, no development shall take place above damp proof course until further details of the materials to be used in the construction of the external surfaces of the development hereby permitted have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.
- 5) No part of the development hereby permitted shall be brought into use until the vehicular and pedestrian access to it from the junction with the public highway and the vehicle parking, loading, off-loading and manoeuvring facilities serving it have all been constructed in accordance with the submitted details, and the vehicle access parking, loading, offloading and manoeuvring facilities shall thereafter be so retained.
- 6) Prior to the petrol filling station being first brought into use, the two electric vehicle charging stations shown on approved plan Proposed Phase 1 Site Plan drawing no. 1781 5f (Rev F) shall have been installed and be operational. The charging station(s) shall be capable of charging an electric vehicle at a minimum rate of 50kW DC.
- 7) The rating level of noise (dB LAeq) from the installation of all internal (with external vents), externally mounted plant and equipment including but not exclusively air conditioning systems/extraction systems/refrigeration plant associated with the site shall not cumulatively exceed the background (dB

LA90) noise level by more than 5 dB(A) at any time at any boundary of the site. Measurements and assessment shall be made according to BS 4142:2014 (as amended) and include all penalties appropriate as detailed in BS4142:2014 (as amended).

End of Schedule