



Appeal Decision

Site visit made on 22 February 2022

by J Symmons BSc (Hons) CEng MICE

an Inspector appointed by the Secretary of State

Decision date: 26th May 2022

Appeal Ref: APP/E2734/W/21/3288982

Agri Motors, Kirkby Moor Road, Kirby Malzeard, Ripon, North Yorkshire HG4 3QR

- 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 Ms Yvonne Blakeley against the decision of Harrogate Borough Council.
 - The application Ref 21/03185/FUL, dated 16 July 2021, was refused by notice dated 5 November 2021.
 - The development proposed is described on the application form as 'demolish existing workshop and replace with a single storey 2 bedroomed holiday cottage'.
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Decision

1. The appeal is allowed and planning permission is granted to demolish the existing workshop and replace with a single storey 2 bedroomed holiday cottage at Agri Motors, Kirkby Moor Road, Kirby Malzeard, Ripon, North Yorkshire HG4 3QR in accordance with the terms of the application, Ref 21/03185/FUL, dated 16 July 2021, subject to the conditions set out in the attached schedule.

Preliminary Matters

2. The address on the application form and plans refers to the site as being at Dallow Gill, while the Council and interested parties refer to Kirkby Moor Road, Kirby Malzeard, Ripon. I consider this latter address to be more accurate and have used this in the heading above.
3. In its decision notice, the Council considered the proposal would be a new dwelling and as this would be outside of a settlement development limit and a five-year supply of housing land could be demonstrated then the proposal would conflict with Policies GS2 and GS3 of the Harrogate District Local Plan 2020 (Local Plan). In their appeal statement, the appellant drew my attention to the fact that the proposal would be used as a holiday let and would be for rural tourism. The Council was consulted and acknowledged that the proposal would be for rural tourism and provided the relevant policies and the Nidderdale Area of Outstanding Natural Beauty Management Plan 2019-2024 (Nidderdale AONB Management plan). The Council advised that the proposal would be contrary to Local Plan Policy GS6, criteria A and B, relating to development within the Nidderdale Area of Outstanding Natural Beauty (Nidderdale AONB) and Policy EC7, criteria B and D relating to sustainable rural tourism development. The appellant has commented on these points, and I have considered this appeal on the basis of these identified policies and comments provided.

4. The parties do not dispute that the proposal would be outside of any development limit of a settlement and would be classed as being in the countryside. Nor is it disputed that the site is within the Nidderdale AONB.

Main Issues

5. The main issues are whether the proposal would:
 - affect the character and appearance of the Nidderdale Area of Outstanding Natural Beauty (AONB); and
 - constitute an acceptable form of development outside the development limit of any settlement.

Reasons

Character and appearance of the AONB

6. Kirkby Moor Road is a minor road which provides access to the appeal site and surrounding area. The area is rural with a landscape of open agricultural fields, woodland and moorland intermingled with small groups of farmsteads, housing, and some commercial buildings. The buildings are typically built of local gritstone with stone slate and blue slate roofs.
7. The appeal site sits just off Kirkby Moor Road and consists of a modest sized plot with a detached vehicle workshop and front granular hardstanding. The building sits lower than the road and is basic in form, being rectangular and timber clad with a metal corrugated pitched roof. There are a quite a number of vehicles, in varying condition, stored externally around the building as well as a variety of equipment and tanks. The site has direct access onto Kirkby Moor Road and other than some nearby properties to the west it is surrounded by agricultural fields. There is a stone wall and a line of trees to the boundary with the Kirkby Moor Road and an open timber fence to the fields.
8. The proposal would demolish the existing workshop and replace it with a single storey two bedroomed holiday cottage. A bin and recycling store would be located at the access point with the road and to the rear of the property there would be a fuel store. Although it would be located on the footprint of the existing building, it would be 30% smaller in floor area and would be stone clad and have a blue slate roof.
9. Policy GS6 of the Local Plan sets out the criteria against which enhancing and conserving of the Nidderdale AONB from new development is assessed. The Council identified the proposal would conflict with this policy's criteria A and B. These criteria require new development to not detract from the natural beauty and special qualities of the Nidderdale AONB and its setting and contribute to the delivery of the Nidderdale AONB Management Plan objectives.
10. In terms of the Policy GS6(A), the existing building with externally stored vehicles and other items is very visible from the road and the surrounding area to the south. The building is not identified as having any distinctive architectural or historical value. Internally and externally the property is in poor condition and with the externally stored items and vehicles, the site looks cluttered and run-down. This results in the site being visually intrusive to the detriment of the landscape and the Nidderdale AONB.

11. The proposal would replace the existing layout with a smaller and more sympathetic development in terms of scale, height, and appearance. With its single storey height, similar footprint to the workshop and lower level to the road, it would not be visually intrusive and significantly less imposing than the existing building. Many of the accompanying domestic paraphernalia, such as parking and bike and bin storage, would be discreetly located in the layout. This includes boundary screening of the bin storage and merging of the parking and bike storage into the property's design. The design would reflect the traditional character of buildings in the area and be in keeping with the nearby residential properties. Overall, the proposal would not harm the landscape, wildlife or cultural heritage of the Nidderdale AONB and would enhance the existing setting.
12. With respect to Policy GS6(B), the Council consider that the proposal would conflict with the Nidderdale AONB Management Plan's aim LW2, objective 3. These seek to ensure economic and social needs of the Nidderdale AONB's rural communities are met, tourism businesses are founded on sustainable principles and the natural beauty and landscape are not harmed. The proposal would support the Nidderdale AONB's rural community by contributing economically and socially by allowing business diversification and encouraging tourism to the area. It would also be based on sustainable principles, such as re-use of brownfield land and achieving a near zero carbon footprint. As detailed above the proposal would not harm the natural beauty or landscape. The proposal therefore would meet the Nidderdale AONB Management Plan's aim LW2, objective 3.
13. In considering the proposal, I have had regard to Chapter 15 of the National Planning Policy Framework (the Framework) which requires that great weight should be given to conserving and enhancing the landscape and scenic beauty, and that the AONB has the highest status of protection in relation to these issues. I consider, due to its small size, scale, and positive effect on the existing setting, that the proposal would be minor development and would be sensitively located and designed to avoid adverse impacts on the designated area.
14. In conclusion, the proposal would positively enhance the character and appearance of the Nidderdale AONB. The proposal would comply with Policy GS6, criteria A and B, of the Local Plan, the Nidderdale AONB Management Plan's LW2, objective 3, and the Framework. These policies and guidance aim, amongst other matters, to ensure development would not detract from the natural beauty and special qualities of the Nidderdale AONB and contribute to the delivery of the Nidderdale AONB Management Plan objectives.

Acceptable form of development outside the development limit

15. Settlement growth strategy and development limits are set out in Policies GS2 and GS3 of the Local Plan. Policy GS3 permits new development outside of the defined development limits where it is expressly permitted by other policies of the plan. Policy EC7 of the Local Plan sets out the criteria for rural tourism proposals in the countryside. The Council consider the proposal is contrary to Policy EC7, criteria B and D, which requires the proposal's scale, layout and design to be appropriate to its location, to not adversely impact on the district's built, natural or historic environment and reuse existing buildings where possible.

16. As outlined above, the proposal's design would be appropriate for its location and it would respect and be sympathetic to the surrounding built, natural and historic environment. Reuse of the building would not be feasible due to its poor condition, unsuitable form and the design objectives of reducing the new building's scale and using traditional materials. The proposal would therefore meet Policy EC7, criteria B and there are appropriate reasons why the re-use of the existing building is not possible. It would also accord to paragraph 84 and 85 of the Framework which seek to support a prosperous rural economy.
17. In conclusion, the proposal would constitute an acceptable form of development outside the development limit of the settlement and would comply with Policy GS3 and EC7 of the Local Plan and the Framework. These policies seek to support sustainable rural tourism that benefits businesses in rural areas, communities and visitors, and which respects the character of the countryside.

Conditions

18. The Council has requested conditions to be applied, which I have assessed with regard to the tests set out in the Planning Practice Guidance (PPG). The conditions that are included are broadly reflective of those suggested by the parties although I have amended some of the wording in the interests of precision and clarity.
19. Planning permission is granted subject to the standard three-year time limit. It is necessary that the development be carried out in accordance with the approved plans for the avoidance of doubt and in the interests of certainty. Conditions are necessary requiring the submission of details of the materials to be used in the construction of the development and that fenestration is conducted in timber to ensure the development respects the character of the countryside. A condition for agreeing the access and junction details is required to ensure appropriate highway design and safety is achieved. A condition on assessing contamination risk and undertaking remediation if required is included in the interest of the public health of the future occupiers. A condition requiring the development is used as holiday accommodation only is necessary given the location of the property and to ensure compliance with Policy EC7. However, the reference to selling or disposing of the property is deleted as it is not relevant to planning. The scope of Permitted Development Rights could enable domestic alterations which would lead to significant harm to the character and appearance of the AONB, and therefore exceptional circumstances exist to remove them in this case.

Conclusion

20. For the reasons given above, and considering all other matters, I conclude that the appeal should be allowed.

J Symmons

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be in accordance with the following approved plans:
 - Drawing Ref 214.02 - 'Proposed Elevations and Roof Plan';
 - Drawing Ref 214.03 - 'Proposed Layout'; and
 - Drawing Ref 214.05 - 'Proposed Site Layout'.
- 3) No development shall commence until an assessment of the risks posed by any contamination, carried out in accordance with British Standard BS 10175: Investigation of potentially contaminated sites - Code of Practice and the Environment Agency, Model Procedures for the Management of Land Contamination (CLR 11) (or equivalent British Standard and Model Procedures if replaced), shall have been submitted to and approved in writing by the local planning authority. If any contamination is found, a report specifying the measures to be taken, including the timescale to remediate the site to render it suitable for the approved development shall be submitted to and approved in writing by the local planning authority. The site shall be remediated in accordance with the approved measures and timescale and a verification report shall be submitted to and approved in writing by the local planning authority. If, during the course of development, any contamination is found which has not been previously identified, work shall be suspended and additional measures for its remediation shall be submitted to and approved in writing by the local planning authority. The remediation of the site shall incorporate the approved additional measures and a verification report for all the remediation works shall be submitted to the local planning authority within 2 days of the report being completed and approved in writing by the local planning authority.
- 4) No walls or roofs of the development hereby permitted shall be constructed until a sample panel of the materials to be used in the construction of the external surfaces shall have been prepared on site for inspection and approved in writing by the local planning authority. The sample panels shall be at least 1 metre x 1 metre and show the proposed material, bond, pointing technique and palette of materials to be used in the development. The development shall be constructed in accordance with the approved sample, which shall not be removed from the site until completion of the development.
- 5) The fenestration in the development hereby permitted shall be constructed of timber and shall be maintained and retained thereafter.
- 6) The development hereby permitted shall not be occupied until details of the access and junction to the highway shall have been submitted to and approved in writing by the local planning authority; and the access and junction have been constructed in accordance with the approved details. The access and junction shall thereafter be retained.
- 7) The development hereby permitted shall be used as holiday accommodation only, it shall not be occupied as a person's sole, main place of residence or as a second home. The owner/operator shall maintain an up-to-date register of the names of all owners/occupiers of the accommodation and of their permanent

home address and shall make this information available at all reasonable times to the local planning authority.

- 8) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no extensions, porches, roof or dormer windows other than any expressly authorised by this permission shall be erected.