



Appeal Decision

Site visit made on 7 February 2023

by M Clowes BA (Hons) MCD PG CERT (Arch Con) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 February 2023

Appeal Ref: APP/E2001/W/22/3307630

Barr House, York Road, Shiptonthorpe, East Riding of Yorkshire YO43 3PH

- 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 Mr Higgins against the decision of East Riding of Yorkshire Council.
 - The application Ref 22/01393/PLF, dated 22 April 2022, was refused by notice dated 7 September 2022.
 - The development proposed is demolition of existing buildings, change of use of land and buildings from signage business (Use Class E) to self-storage business (Use Class B8) including the siting of 17 storage containers.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. At the time of my visit, a number of storage containers were located within the appeal site. Their planning status is unknown and their positions do not accord with those shown on the proposed plans. In addition, I note that the description of development above taken from the planning application form indicates the proposed siting of 17 storage containers. The Council in their decision notice have described the development as the siting of 16 storage containers with the further relocation of an existing container. However, the proposed site layout plan shows the siting of 20 storage containers in total. For clarity, I have assessed the development as shown on the submitted plans.

Main Issues

3. The main issues are i) whether the appeal site would represent a suitable location for the proposed development having regard to the development plan policies and ii) the effect of the proposed development on the character and appearance of the area.

Reasons

Suitable Location

4. The appeal site lies outside of the development limits for Shiptonthorpe and is therefore regarded as being within the countryside for the purposes of Policy S4 of the East Riding Local Plan Strategy Document 2016 (ERLPSD). Policy S4 is supportive of development in the countryside for a number of specific purposes, where it is an appropriate scale to its location, and respects the character of the surrounding landscape. These include development for employment purposes where it further complies with 1 of 4 criteria set out

under Policy EC1 part D of the ERLPSD. The criteria include that the site should be within or adjacent to an existing industrial estate or business park; involve the expansion of an existing business; involve the conversion of an existing building; or have a functional need to be in the particular location which cannot be met on either a nearby allocation, or on a site which satisfies the above criteria.

5. The appellant suggests that the appeal site is located near to a large car dealership which the Council advises is outside of the development limits of Shiptonthorpe. The dealership is located adjacent to existing built development and within the 30mph limits of York Road, that I note is further identified by the presence of the Shiptonthorpe village name sign. Although the dealership is visible from the appeal site, a large agricultural field separates the two. The circumstances of how the dealership came into being and what planning policies were applicable at the time are unknown. Even if the dealership could be considered to be an industrial estate or business park, the appeal site is not within or adjacent to it.
6. The appellant's evidence simultaneously refers to the proposal resulting in the creation of an entirely new storage business and involving the expansion of an existing business. The description of development used in the banner heading above is taken from the planning application form submitted by the appellant. It clearly references a change of use from a signage business (use class E¹) to a storage and distribution business (B8 use class). There is no evidence that the existing class E business use would continue on the appeal site. In fact, the description of development points to the contrary.
7. Whilst a small number of storage containers were located on the appeal site, there is no evidence before me that they are rented to third parties for storage purposes. The proposal would therefore appear to lead to the creation of a new business, that also falls within a different use class.
8. The acceptance of the existing appeal site as being within use class E, does not confer that the proposed change of use to B8 is an acceptable form of development. This amounts to a material change of use requiring planning permission, which is considered against the development plan and any material considerations.
9. The majority of the existing outbuildings would be demolished to make way for the proposed storage containers. Only the existing brick building to the front of the appeal site would remain, which the appellant suggests would be used as an office/reception. This appears to contradict the submitted plans which indicate the building is to be retained for storage purposes. Even if the retained building was to be used as an office and reception this would be ancillary to the main B8 storage use of the appeal site which would be mainly accommodated in external storage containers, rather than within an existing building. The proposal does not therefore solely relate to the conversion of an existing building to an alternative use.
10. Reference is made to the proposal meeting an identified need for local storage accommodation. However, no evidence has been presented to support this assertion. Moreover, it has not been demonstrated that there are no alternative

¹ Town and Country Planning (Use Classes) Order 1987 (as amended).

sites available within the development limits of Shiptonthorpe or on any nearby allocated sites. The storage of goods does not appear to require a rural location and no evidence has been put to me to demonstrate that a storage business has a functional need to be located at this particular site. It is acknowledged that the appellant owns and has paid council tax and business rates for the appeal site. However, the supporting text to Policy EC1 specifically paragraph 7.13, is clear that the lack of alternative sites in the appellant's ownership is insufficient in isolation to demonstrate a functional requirement for a particular proposal to take place on the appeal site.

11. The appeal site is physically divorced from the built form of Shiptonthorpe and located adjacent to York Road (A1079) a well-trafficked thoroughfare between Market Weighton and York. There were no apparent bus stops within the vicinity of the appeal site and there is nothing in the evidence to suggest that it would be accessible by public transport. Whilst there is a footpath leading from the appeal site to the village of Shiptonthorpe, the surfaced extent is extremely narrow, and it is unlit for a good proportion of the route. Given the volume of traffic that utilises York Road and that vehicle speeds outside the appeal site are 50mph, the noise, speed of traffic and narrowness of the pavement are such that walking to and from the appeal site from the village would not be a particularly pleasant experience.
12. In any case, by the nature of the proposed use, future customers are likely to want to deposit or remove items from storage. Thus, given the location of the appeal site within the countryside, customers would be heavily reliant on travelling by private vehicle. There is no compelling evidence before me that the business would be used by local people, and I further note the relatively small size of Shiptonthorpe Village which is unlikely to generate a significant demand for storage facilities. Notwithstanding that the proposal amounts to the re-use of previously developed land, I find that the proposed storage use would not be sited in an accessible location.
13. For the reasons given above, the proposal would not comply with any of the 4 criteria of Policy EC1 part D. Nor would it be sited in an accessible location. I therefore conclude that the appeal site would not represent a suitable location for the proposed development. It would conflict with Policies S4 and EC1 of the ERLPSD as described above.

Character and Appearance

14. The appeal site relates to one of a pair of semi-detached 2-storey dwellings, enveloped by agricultural land that forms an attractive, undeveloped and verdant backdrop. Though in commercial use, the existing outbuildings within the appeal site read as subordinate structures of a form and materials that are appropriate to development within the curtilage of a dwellinghouse, and respect the rural context of the appeal site.
15. Storage containers by their form and materiality have a utilitarian appearance typical of that found within industrial areas. Removal of the existing buildings and the siting of 20 containers along with the erection of a 'v mesh' fence due to their scale, form and materials would amount to more intensive development than is currently the case. Whether or not the proposed storage containers would have a high standard of amenity for future users, due to their siting, amount and form they would nonetheless have a significant urbanising effect, introducing an industrial appearance to the appeal site. Conspicuous in

- public views particularly when travelling in a north-westerly direction along York Road, views of the appeal site are obtained across open agricultural land.
16. There is nothing sufficiently compelling before me that demonstrates the proposed development would be visually attractive, or that the siting and use of containers for storage is particularly innovative. Given the visibility of the appeal site and the form of the proposed development, the proposal would detract from, instead of adding to the quality of the area as described above.
 17. Rather than screening the proposed development, the proposed fence would draw attention to and emphasise the industrial character of the proposed development. Whilst the fence would be supplemented by a proposed native hedgerow, this would take a considerable time to establish to a sufficient height and thickness to offer any meaningful screening or filtering of views. At 2.6m in height, the proposed storage containers would be visible over the top of the 2m fence regardless.
 18. Painting the storage containers green would not render them visually attractive or mitigate their form to a significant degree. Likewise, the retention of the existing outbuilding to the front would not screen the development in views from the south-east due to the depth the appeal site extends back from York Road. Development of an industrial character would therefore be in stark contrast to the sweeping green fields and rural context in which the appeal site is situated. Significant visual harm to the rural character and appearance of the area would therefore occur.
 19. The appellant suggests that they could erect a means of enclosure up to 2m in height without planning permission under Schedule 2, Part 2, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). Be that as it may, it appears that the fence is only required in connection with the location of storage containers for security purposes. There is no evidence before me to suggest that there is a reasonable likelihood that the appellant would implement these permitted development rights without the siting of the storage containers. If they were implemented, they would relate only to the erection of the fence and not to the siting of storage containers. Consequently, the fallback position would be considerably different and the degree of harm less than the proposal before me.
 20. For the above reasons, the proposed development would cause harm to the character and appearance of the area. It would therefore conflict with Policies S4, A6, ENV1 and ENV2 of the ERLPSD which seek amongst other things, to ensure development respects the intrinsic character of its surroundings and sensitively integrates into the existing landscape. It would also conflict with paragraph 130 of the National Planning Policy Framework (the Framework) and sections C1 and I1 of the National Design Guide, which seek to ensure that development responds to and is sympathetic to local character.

Other Matters

21. The appellant contends that the Council does not have an up-to-date development plan because the ERLPSD does not contain a specific policy relating to the proposed change of use to a B8 storage and distribution use, taking into account the unique circumstances of the appeal site. Local planning policies set the framework for guiding the types, amount and location of development within a given area. They do not attempt to provide policies for

every possible circumstance or type of development that may come forward. Nevertheless, the ERLPSD contains Policies S4 and EC1 which seek to manage employment development within a 'B' use class within the countryside. Whether or not the Council or Government have produced design codes in relation to the siting of storage containers, it is apparent that Policy ENV1 of the ERLPSD sets out sufficiently detailed criteria to ensure that new development is of a high quality design, that is appropriate to its location.

22. Section 38(6) of the Planning and Compulsory Purchase Act 2004 indicates that if regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts, the determination must be in accordance with the plan unless material considerations indicate otherwise. It is clear that there are planning policies within the ERLPSD that are applicable to the proposal before me, and with which I have found harm for the reasons given above.
23. Paragraph 12 of the Framework is clear that development that conflicts with an adopted development plan should usually be refused. Moreover, the Framework shares similar aims to the development plan in terms of protecting an area's character and appearance and locating development in accessible locations. Accordingly, I find the policies of the Framework, taken as a whole, not to weigh in favour of allowing the appeal.
24. Reference is made to the proposal supporting a prosperous economy. There is no substantive evidence before me that there is a demand or particular need for storage facilities in this locality. The application form indicates that the proposal would result in the creation of one full-time equivalent job. Whilst any employment creation is worthwhile, the benefits of one job opportunity would make a very limited contribution to the local economy.
25. It is contended that the proposal would not harm the living conditions of the neighbouring occupiers at Violet Cottage. Absence of harm in this respect is to be expected of all new development and therefore, it is neutral in the planning balance weighing neither for, nor against allowing the appeal. Concerns over how the Council dealt with and determined the planning application are a matter for the main parties.
26. Given my findings in respect of the location of the development and the impact on the character and appearance of the area, there are no conditions that could be applied to mitigate the harm identified.

Planning Balance and Conclusion

27. The proposed development would not be sited in a suitable location having regard to the development plan policies and would exert significant harm on the character and appearance of the area. Only limited weight is attributed to the creation of one employment opportunity, and no other material considerations have been advanced to weigh against the development plan. For the reasons given above, having considered the development plan as a whole, the approach in the Framework and all other matters raised, the appeal is dismissed.

M Clowes

INSPECTOR