



Appeal Decisions

Hearing held on 18 April 2023

Site visit made on 18 April 2023

by J A Murray LLB(Hons) Dip.Plan.Env DMS Solicitor

an Inspector appointed by the Secretary of State

Decision date: 15 May 2023

Appeal A Ref: APP/E2001/C/22/3291873

Land at Roe Hill Farm, Sproatley Road, Thirtleby, East Riding of Yorkshire, HU11 4FD

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended. The appeal is made by Mr Rhun Jones against an enforcement notice issued by East Riding of Yorkshire Council.
 - The notice was issued on 12 January 2022.
 - The breach of planning control as alleged in the notice is without planning permission the unauthorised erection of a dwelling house.
 - The requirements of the notice are to:
 - (a) Demolish the dwelling house;
 - (b) Remove all demolition waste from the land;
 - (c) Remove all hardcore and hardstanding from the land; and
 - (d) Restore the land to its former condition by reseeding with grass.
 - The period for compliance with the requirements is 6 months.
 - The appeal is proceeding on the grounds set out in section 174(2)(b), (c), (e), (f) and (g) of the Town and Country Planning Act 1990 as amended.
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Appeal B Ref: APP/E2001/C/22/3291874

Land at Roe Hill Farm, Sproatley Road, Thirtleby, East Riding of Yorkshire, HU11 4FD

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended. The appeal is made by Mrs Lucy Jones against the same enforcement notice referred to in appeal A above
 - The appeal is proceeding on the grounds set out in section 174(2)(a), (b), (c), (e), (f) and (g) 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.
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Decision

1. Appeal A is dismissed, but appeal B is allowed, the enforcement notice is quashed 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 development already carried out, namely the erection of a dwelling house, on Land at Roe Hill Farm, Sproatley Road, Thirtleby, East Riding of Yorkshire, HU11 4FD identified on the plan attached to the notice and subject to the conditions set out in the schedule to this decision.

Ground (e)

2. This ground is that copies of the notice were not served in accordance with s172 of the 1990 Act. However, the appellants accepted during the hearing that they were served in accordance with that section. Ground (e) was used as

the vehicle for the appellants' contention that the notice did not specify the precise boundaries of the land to which it relates. They argued it should have been consistent with the location plan approved under planning permission Ref 20/01219/PLF (the second permission). This was for "change of use of land for the siting of a temporary dwelling in connection with an existing and financially viable agricultural business, in place of the temporary dwelling approved by planning permission granted pursuant to 19/03875/PLF" (the first permission).

3. This contention concerns the validity of the notice. However, the notice alleges the unauthorised erection of a dwellinghouse and there is no dispute that this lies within the land edged red on the notice plan. In my pre-hearing note of 31 March 2023, I indicated my preliminary view that this was sufficient for the purposes of validity. The appellants did not pursue the point during the hearing.
4. Ground (e) therefore fails, and I am satisfied that any concerns about the plan do not affect the validity of the notice.

Grounds (b) and (c)

5. Ground (b) is that the matter alleged has not occurred and ground (c) is that, if it has, it does not constitute a breach of planning control. On both grounds, the burden lies with the appellants to prove their case on the balance of probability. I deal with these grounds together, because the appellants' case is that they have not erected an unauthorised dwelling, as it was authorised by the second permission and, for the same reason, its erection does not constitute a breach of planning control.
6. The operative part of the second permission indicates that it was for the change of use of land. The approval is said to be "in accordance with the terms and details as submitted," and condition 2 says details "of the timber cabin to be sited on the land hereby permitted shall be as indicated within the approved plans and Design and Access Statement... development shall thereafter be undertaken in accordance with the approved details." Whilst condition 4 refers to the "temporary dwelling" hereby permitted and conditions 8 and 10 refer to a "dwelling", condition 3 also refers to the "timber cabin" and requires removal of that cabin within three years of the permission.
7. The planning application, Design and Access Statement (DAS), and plans are incorporated into the planning permission. The application described the proposal as the "change of use of land for the siting of a temporary dwelling in connection with an existing and financially viable agricultural business." It went on to specify the proposed materials as "timber" for the walls and doors, "felt or similar" for the roof and "uPVC double glazed" for the windows. It also indicated there would be two bedrooms.
8. The DAS explains application Ref 20/01219/PLF (the second application) was to relocate the dwelling approved under the first 2020 permission, as reflected in the terms of the second permission. That relocation was necessary as an agricultural shed was now proposed for the original location. The first permission was for the "change of use of land for the siting of a sectional timber cabin..." The expression "relocate" might suggest the temporary dwelling had already been sited on the land, but it had not; the application was for an alternative location.

9. The DAS for the second application said the relevant information provided by the Applicant in respect of the first application formed part of the second. Condition 2 of the first permission also referred to "the timber cabin to be sited on the land hereby permitted" and incorporated the DAS for that first application. Conditions 3, 4, 5 and 9 of the first permission referred to "the timber cabin" and there were no conflicting references.
10. In terms of plans, the first permission only required the development to be carried out in accordance with a location plan and site plan, and the related DAS said the proposed dwelling would be a "sectional log cabin" with external measurements of 11.9m by 5.95m "excluding detachable canopy." That DAS included a photograph of such a log cabin, with an open timber canopy. The plans approved in the second permission include 1:100 scale ground and first floor plans and elevations, and an artist's impression. Those plans are not annotated with details of materials but appear consistent with a timber structure.
11. Both the first and second permissions were expressly for "the change of use" of the land. What has been erected is a brick and tile dwelling. Whilst the appellants say it is a timber framed structure with a brick skin, it was clearly built on site. Reference was made during the hearing to *Skerritts of Nottingham Ltd v SSETR (No. 2)* [2002] EWCA Civ 5569 and *Barvis v SSE* (1971) 22 P&CR 710. As a matter of fact and degree, having regard to the structure's size, permanence, and degree of attachment, it is clearly a building. That building would not be authorised by a planning permission for material change of use alone.
12. Whilst the approved plans appear consistent with a timber structure, even a timber structure of that size and nature could constitute a building. If so, there is a serious conflict within the second permission, and this could render it unsafe. That would be a matter for the High Court, rather than me but, if the permission were invalid, grounds (b) and (c) would be bound to fail.
13. Assuming the second permission is valid, the next question is whether what the appellants have built is authorised by it. The comparison plans provided by both the Council and appellant are similar, save that the Council's plans are annotated with dimensions. In any event, the main body of the dwelling, which has been built on much the same footprint as that approved, is only a little larger, in terms of its length, width and height than the permitted structure. The porch is significantly bigger than that approved, and, rather than being open, its sides are fully enclosed with brick, timber, glazing and a door. It nevertheless remains a relatively minor feature.
14. However, in addition to the arguably marginal increase in size, the brick and tile construction of the dwelling contrasts markedly with the approved timber and felt (or similar) construction. Furthermore, the windows differ in terms of their number, size, and positioning. In addition, as built plans, submitted with a recent undetermined application ref 22/00172/PLF indicate that the internal floor layout differs from the that shown on the approved plans, including three bedrooms on the first floor, rather than two as approved.
15. Taking all the discrepancies in the round, what has been built is significantly different from what was approved and it is certainly not a "timber cabin," let alone a "sectional timber cabin." As a matter of fact and degree, I find that, even if the

second permission authorised the construction of a building, what has been built is substantially different from that approved.

16. Accordingly, whether or not the second permission is valid, the appellants have failed to prove on the balance of probability that the matter alleged in the notice has not occurred, or that it does not constitute a breach of planning control. Grounds (b) and (c) therefore fail.

Ground (a)/the deemed application for planning permission (appeal B only)

Main Issues

17. The main issues are:

- Whether, having regard to national and local planning policy that seeks to avoid isolated new homes in the countryside, there is an essential need for a rural worker to live permanently at or near their place of work;
- The effect of the development on the character and appearance of the countryside, having regard to the size of the garden; and
- Whether the development constitutes intentional unauthorised development and, if so, the weight to be attached to that.

Reasons

Essential need for a rural worker

18. The National Planning Policy Framework (the Framework) seeks to avoid the development of isolated homes in the countryside, save in specified circumstances. These include where there is an essential need for a rural worker to live at or near their place of work. Policy S4 of the East Riding Local Plan 2012 – 2029 (LP), adopted April 2016, is consistent with that.
19. Although not strictly part of the policy, the supporting text indicates how it should be interpreted and implemented. It says the dwelling should be commensurate with the size of the holding, and there is no dispute that this one is, but also that for there to be an essential need, an applicant should demonstrate¹:
- A clear functional need for the dwelling, relating to a full-time worker(s) employed on the unit;
 - The existing rural activity has been established for at least three years, has been profitable for at least one and is currently financially sound; and
 - That the need for the dwelling cannot be provided by an existing dwelling which is suitable and available for occupation by the worker(s) concerned.
20. The East Riding Local Plan Update was submitted to the Secretary of State on 31 March 2023, and an examination will take place in due course. However, no changes are proposed to the current LP's relevant policy and supporting text.

¹ Paragraph 4.43 of the supporting text.

21. The Council accepts there is a functional need for a full-time worker for the appellant's² pig finishing business, which cannot be met by an existing dwelling. Some local residents have sought to cast doubt on this, including suggesting that the pigs are not looked after by the appellant, but by someone employed by her father.
22. The Council's favourable conclusion in relation to functional need is clearly justified by the detailed written assessment provided by its Estates and Valuation Department for the first application. This was endorsed in connection with the second application³. It was also reinforced by the agricultural appraisal⁴ submitted in support of the appeal. This was completed by the appellant's agent, Mr Butler, who is a chartered surveyor.
23. The holding accommodates some 2000 pigs, and most of the routine daily labour is provided by Mrs Jones, who took majority control of the business in 2019, though her father is a partner. The appellant's husband helps with out of hours tasks and weekend work. Mrs Jones' oral evidence at the hearing further reinforced the case on functional need, as she described in detail her daily tasks. These include the necessity to closely monitor the feeders and water supply, separate out the gilts when they come on heat, and address bullying and fighting, often leading to 'tail biting,' to safeguard the welfare of the animals. The appellant's business is 'RSPCA Assured' and a letter from the RSPCA⁵ highlighted the welfare benefits of having a worker resident on site, especially to address the tail biting issue.
24. The importance of being within sight, smell, and especially sound of the pigs, was stressed. Mrs Jones explained how noises made by the pigs alert her to problems with blocked feeders, water supply malfunctions, tail biting or other stresses. I accept the need for a worker to be available at most times of the day and night. Whilst there was some limited evidence of other available accommodation in the locality, including two houses for rent in Sproatley, there was no evidence of available properties within sight, sound and smell of the unit. I am satisfied there are no suitable dwellings available for occupation by a worker.
25. Mrs Jones acknowledged that she has needed help over the last few years, having had three children during that period. Nevertheless, the authority and obvious passion with which she spoke, and the way she attended to the pigs during my site inspection, firmly dispelled any doubt that it is she who primarily takes care of the pigs. Mrs Jones is clearly very committed and able.
26. Turning to financial matters, the pig finishing business has now been established for over 3 years. The principal dispute between the parties under Policy S4 and its supporting text concerns whether the enterprise has been profitable for at least one year and is currently financially sound. Having regard to that and the Planning Practice Guidance, I cannot be satisfied there is an essential need unless I am sufficiently confident that the enterprise will remain viable for the foreseeable future.

² I refer to the appellant singular, as ground (a) is cited only by Mrs Jones.

³ The appellants' appendices LVJ2 and LVJ4, respectively.

⁴ The appellants' appendix LVJ19.

⁵ Hearing Document (HD) 7.

27. Accounts for the year ending 31 October 2021 and comparison figures for the previous year show operating profits for both years. The accounts for the period ending 31 October 2022 again show an operating profit similar to that for the previous 2 years, despite an almost sixfold increase in the cost of light and heat. On the face of things, the requirement in the supporting text for the business to have been profitable in at least one of the three years of operation is more than met.
28. The Council nevertheless contends that, for a permanent dwelling to be justified a return on the 'three factors of production', namely land, labour, and capital, needs to be demonstrated and the business should be able to sustain the cost of building the dwelling. It says, "the financial test needs to prove conclusively that any business is capable of meeting all of its financial obligations, not just under the operation of the applicant... but under the operation of a hypothetical third party without access to other sources of income. Without this test being satisfied, the standard occupancy condition is unlikely to be sustainable in the event that the business changes hands."
29. Use of the word "conclusively"⁶ is inappropriate, in that it suggests a standard of proof higher than the balance of probability. Nevertheless, I must consider whether the business is more likely than not to be sustainable.
30. The Council is concerned that the accounts do not provide a breakdown of fixed and variable costs and it is not clear that the business meets all its own costs. This includes that where resources are shared between this and the larger farming business of the minority partner (Mrs Jones' father), an appropriate allowance is made for the use of those resources. The Council is also concerned that most of the holding is owned by the minority partner, who could decide to put his assets to another use, leaving the party with majority control of the business in occupation of a dwelling they have no means of supporting. However, the Council accepts this may be unlikely.
31. These matters were considered in detail at the hearing, and I note that neighbours also cast doubt on viability. In short, the Council's chartered surveyor suggested that, having regard to the '3 factors of production' the business needs to generate a profit of some £48,000 p.a. to be truly profitable. He also pointed out that, the first permission was granted on the basis of a projected margin per 12 months for return on capital and labour of £51,480.⁷ I note that in the officers' report in connection with the first permission, the Valuation and Estates Management department's comments included, "Should an application for a permanent dwelling follow in due course, then the annual accounts will be expected to confirm that the unit has operated at least in line with the projections."
32. The profits disclosed in the last 3 years' accounts range from just over £33,000 to just over £35,000. However, the 'hypothetical budget'⁸ for a standard 'bed & breakfast' operation, assuming occupation by a third party, shows a "margin for risk and return" of £45,370. The appellant operates a variant on that bed and breakfast model, and this begged the question why, given the larger profit indicated by the hypothetical budget?

⁶ The Council's Final Comments, paragraph 1.13.

⁷ The appellants' Statement of Case, appendix LVJ21.

⁸ HD7.

33. The precise details of the appellant's contract with Cranswick plc are commercially sensitive and confidential. However, the appellant explained that the contract enables her to benefit from fluctuations in feed prices; these cannot get higher for the appellant than they are now, and the business is still profitable despite high feed prices at present. That said, the appellant would have the option of switching to a standard bed & breakfast model (after any 12-week cycle), but it was said that Mrs Jones, the daughter of a pig farmer, is "in it for the long term", and she is confident the existing terms will prove beneficial.
34. The Council noted that the appellant had not disclosed the build costs for the dwelling and suggested at the hearing that these could be about £259,000 to £303,000 using RICS guidance. Though this struck me as high, I am not qualified to judge that. No alternative evidence was provided by the appellant, but I was told that the cost of the dwelling was financed through the sale of another, along with an inheritance.
35. Nevertheless, I accept the appellant's surveyor's evidence that, when considering the position of a hypothetical third party, the build costs are of little relevance. What matters is the value of the property, adjacent to a pig unit, subject to an agricultural occupancy condition, and having regard to the income likely to be produced by the unit. I had no evidence of that valuation either. However, the Council accepts that the size of the dwelling is commensurate with the size of the holding, which is what the supporting text of Policy S4 requires. I saw for myself that it is a modest 3-bedroom dwelling.
36. I do not criticise the Council for adopting a rigorous approach to the assessment of financial viability. It is naturally alive to the risk that the enterprise might cease in the near future, leaving behind a new dwelling that would not otherwise have been approved. It is also apparent that there is a degree of subsidy from the appellant's father's farming business, particularly in relation to machinery costs.
37. However, I note the evidence from the appellant's chartered surveyor, who is an experienced farmer himself, that farming businesses often use assets, including land and buildings, owned by the individual partners, such that they are not partnership property. The Council does not dispute that the accounts have been produced in a format common among farming business, and the evidence is that they have been prepared by a 'Top 40' firm of accountants.
38. The accounts show a profit in each of the last 3 years, whereas the supporting text to Policy S4 only requires a profit in at least one of those years. The profits have been lower than those projected before the first permission, but no minimum level is required by the policy, or supporting text. The fall-back position of a standard bed & breakfast arrangement suggests a potential profit closer to that originally projected, but the appellant appears to have planned carefully and is taking a long-term view. Partners' drawings have been quite low, but the Council also acknowledged that farming is a lifestyle, and I note that cash at the bank is increasing.
39. Taking all the evidence in the round, including the appellant's obvious passion, commitment, and competence, I do not believe there is a significant risk that the enterprise will cease to exist in the near future. Instead, I conclude it is

financially sound and more likely than not to remain viable for the foreseeable future.

40. For all the reasons given, I conclude on the first main issue that, having regard to national and local planning policy that seeks to avoid isolated new homes in the countryside, there is an essential need for a rural worker to live permanently at or near their place of work. The supporting text to Policy S4 indicates that the requirement for a dwelling to support a newly established enterprise should normally be met by a temporary structure. That will be relevant to my consideration of the last main issue, but it does not alter my assessment of the first, in relation to a permanent dwelling.

Character and appearance

41. The Council has no objections in terms of design, scale, materials, or impact on the countryside, save in relation to external lighting and the amount of land laid out as garden. I will return to that point. Two neighbouring residents do object to the impact of the dwelling on the character and appearance of the area, including because of external lighting, but lighting can be controlled by condition.
42. The appeal site lies in an agricultural, open countryside setting. The dwelling, a bungalow with rooms in the roof, is on a slight rise, and its southern roof slope, including 3 rooflights, can be seen from the site entrance on Sproatley Road. From further north on Sproatley Road, to the east of the site, there are views of the roof and part of the southern and eastern elevations including windows in the roof slope and eastern gable. There will be views from private land but none of the views is close. Furthermore, the dwelling is seen in the context of, and sometimes against the backdrop of large agricultural buildings on the holding and on other land, so as not to appear unduly obtrusive.
43. The Council's concern is that the amount of land apparently laid out as garden results in an unreasonably large residential encroachment into undeveloped countryside. I agree, but a condition requiring the submission, approval and implementation of a plan defining the residential curtilage, with appropriate boundary treatment, can address that concern.
44. For these reasons, subject to conditions, the development does not cause unacceptable harm to the character and appearance of the countryside, or conflict with Policy S4.

Intentional unauthorised development

45. The Ministerial Statement on Green Belt Protection and Intentional Unauthorised Development dated 31 August 2015 provides that intentional unauthorised development is a material consideration to be weighed in the determination of planning applications and appeals.
46. The appellant accepts the dwelling which has been constructed differs from what was approved, in terms of the brick skin and fenestration, and I have found the overall discrepancies to be substantial. The appellant nevertheless contends there was never any intention to commit a breach of planning control and she was transparent, as her agent contacted the Council by email to enquire about the possibility of adding outer brick walls. That transparency does not assist the appellant because, although her agent held a different view, she was advised by the Council that this would require a further planning

permission. It cannot be said that proceeding against the Council's advice was unintentional.

47. The original stated reason for wishing to add a brick skin was that the manufacturer had advised this to achieve appropriate energy efficiency. At the hearing, Mr and Mrs Jones explained that this became more important because they had three young children. Moreover, partly because of the impact of Covid 19 and the availability of materials, it transpired that a brick skin would be cheaper than timber cladding.
48. The supporting text to Policy S4 states that, if a new dwelling is required to support a rural activity, whether on an existing unit or a newly established one, it should normally, for the first three years be provided by a temporary structure that can easily be dismantled. Notwithstanding difficulties concerning the interpretation of the second permission, which I discussed under grounds (b) and (c), it is tolerably clear that the Council's intention was to permit a structure which could easily be dismantled. No one should feel encouraged to disregard that normal approach, and they will be taking a serious risk if they do. I attach weight to fact that this was intentional unauthorised development but, in all the circumstances, including the reasons for the decision to go ahead, that weight is limited in this particular case.

Other Matters

49. A neighbour questioned whether the dwelling, as constructed, complied with rules such as those relating to the "nitrate vulnerable zone," though this forms no part of the Council's objections. The officers' report, on which the second permission was based, indicated there were no objections in relation to land drainage; or from Natural England; or the Council's Nature Conservation Officer. It identified no likely significant damaging impact, but the second permission was subject to a condition requiring implementation of the approved foul and surface water drainage details. Both parties agree a condition requiring retention of those details is necessary.
50. The second permission was subject to a condition requiring a programme of archaeological work. The existing dwelling was constructed without that work being undertaken. Any damage cannot be undone, but a condition suggested by the Council would nevertheless require the submission of a scheme of archaeological investigation and that the approved scheme should be implemented. This was discussed, along with other conditions during the hearing.
51. The appellant's agent said he received advice from a private firm of archaeologists that digging within the site would be a pointless exercise and may needlessly disturb remains. Despite a suggestion that there had been post development discussions with the Council's archaeologist, its planning officers have heard no more from their archaeologist and the advice received is simply that this is an area of archaeological interest.
52. The failure to carry out an archaeological investigation is contrary LP Policy ENV3. However, given that the development has already been carried out, if I were to impose a condition now, I could not devise an appropriate and proportionate sanction if a scheme was not submitted, or not approved. A condition would not therefore be enforceable and should not be imposed.

53. This development therefore gives rise to unavoidable and regrettable conflict with Policy ENV3. However, beyond a general statement that this is an area of archaeological interest, there is no evidence before me of the likelihood that this development disturbed any archaeological remains. I therefore attach only limited weight to this factor in this case.

Planning balance

54. I have found that the dwelling is justified by an essential need for a rural worker to live permanently at or near their place of work and that, subject to conditions, the development does not cause unacceptable harm to the character or the appearance of the countryside. The development therefore complies with LP Policy S4.
55. Whilst there is some conflict with Policy ENV3, because of the possibility that archaeological remains were disturbed I have attached limited weight to that, and Policy S4 is clearly the most important policy for the determination of this appeal. I therefore find that the development accords with the development plan as a whole and with national policy. The limited weight I attach to the fact of intentional unauthorised development weighs against the appeal on ground (a) but is insufficient in this case to indicate that planning permission should not be granted, despite conformity with the development plan.

Conditions

56. It is the essential need for a rural worker to live at or near the site which justifies the dwelling and LP Policy S4 indicates such dwellings will be subject to an agricultural occupancy condition. The Council's suggested condition differs slightly from that commonly imposed, in that it requires first occupation to be limited to persons solely or last employed specifically at Roe Hill Farm, together with dependants, rather than just those locally employed in agriculture. Given that it is the enterprise at Roe Hill Farm which gives rise to the need, there is some logic to this on the surface, and the appellant's initial objection was withdrawn at the hearing. However, first occupation will be by persons employed specifically at Roe Hill Farm. The Council's wording makes no practical difference, and I will therefore adopt the usual formula.
57. The submission, approval, and implementation of a scheme to define the residential curtilage and secure appropriate planting on the boundaries is necessary to safeguard the character and appearance of the countryside. For the same reason, it is necessary to require approval of external lighting. I note neighbours' objections to existing lighting and the fact that the Council said it did not have sufficient information regarding it.
58. There must be a strict timetable for compliance in relation to these schemes for landscaping and external lighting because permission is being granted retrospectively. It is not therefore possible to use a negatively worded condition to secure approval and implementation before the development takes place. The condition will ensure that the development can be enforced against if: the required details are not submitted for approval within the period given by the condition; if the details are not approved by the local planning authority or the Secretary of State on appeal; or if the details are approved but not implemented in accordance with an approved timetable. The time limits for the

condition were discussed at the hearing, allowing for submission of schemes, consideration by the Council and submission of appeals.

59. Whilst the requirements concerning curtilage definition and landscaping justify the ultimate sanction of demolition of the dwelling, this would be disproportionate in relation to external lighting. I can simply require removal of existing unacceptable lighting and prevent the installation of any unapproved lighting.
60. I have already explained why I will not impose a suggested condition concerning archaeological investigation.
61. A condition requiring the retention of the means of access, parking and manoeuvring space in accordance with the site plan RHF4 submitted with the appeal is reasonable and necessary. This is to ensure satisfactory access, reasonable and adequate space to meet normal parking demands and to ensure permeability, so as not to increase the risk of flooding in the area, all in accordance with LP Policies ENV1, EC4 and ENV6.
62. Similarly, the foul and surface water drainage details permitted under the second permission need to be retained and maintained for the lifetime of the development to ensure satisfactory drainage in accordance with LP Policy ENV6.
63. To secure biodiversity enhancements in accordance with LP Policies ENV1 and 4, a condition on the second permission required the provision of one artificial nest for small birds. I saw that this had been provided on site, but it is reasonable and necessary to require its retention.
64. Given the need to protect the character and appearance of the countryside and to ensure that the dwelling remains commensurate with the size of the agricultural holding, it is necessary to exclude permitted development rights. The relevant rights are those concerning enlargements to the dwelling and the provision of incidental buildings within its curtilage. The Council could then consider individual proposals.
65. The appellant did not object to the Council's proposed condition saying, "The development is hereby permitted in accordance with the following approved plans: RHF11 (2477/P1 – P6) As built Floor Plans, Elevations and Sections." However, the deemed application for planning permission relates to what was alleged and built. There is no suggestion that the referenced plans do not reflect that, but there is no need to impose a condition.

Conclusion

66. For the reasons given above, I conclude that Appeals A and B fail on grounds (b), (c) and (e), but Appeal B succeeds on ground (a). I shall grant planning permission for the development as described in the notice, subject to conditions.
67. The appeals on grounds (f) and (g) do not therefore fall to be considered.

J A Murray

INSPECTOR

SCHEDULE OF CONDITIONS

1. The occupation of the dwelling hereby permitted shall be limited to a person (or persons) solely or mainly working, or last working, in the locality in agriculture or in forestry, or a widow or widower or surviving civil partner of such a person, and to any resident dependants.
2. The dwelling hereby permitted shall be demolished to ground level and all materials resulting from the demolition shall be removed within 6 months of the date of failure to meet any one of the requirements set out in i) to iv) below:
 - (i) Within 2 months of the date of this decision, a scheme identifying the precise boundaries of the curtilage of the dwelling hereby approved and for planting on and any other treatment of those boundaries, shall have been submitted for the written approval of the local planning authority and the scheme shall include a timetable for its implementation.
 - (ii) If within 10 months of the date of this decision the local planning authority refuse to approve the scheme or fail to give a decision within the prescribed period, a valid appeal shall have been made to the Secretary of State.
 - (iii) If an appeal is made in pursuance of ii) above, that appeal shall have been finally determined and the submitted scheme shall have been approved by the Secretary of State.
 - (iv) The approved scheme shall have been carried out and completed in accordance with the approved timetable.
 - (v) Upon implementation of the approved scheme specified in this condition, the curtilage boundaries shall thereafter be retained.
 - (vi) In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.
3. The planting scheme submitted under condition 2 shall indicate species, plant sizes and proposed numbers/densities. Any trees or plants which within a period of five years from the completion of that scheme die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
4. No external lighting shall be erected on the site unless details have been submitted to and approved in writing by the local planning authority and any existing external lighting shall be removed from the site within 2 months of the date of failure to meet any one of the requirements set out in i) to iv) below:
 - (i) Within 2 months of the date of this decision a scheme detailing any external lighting erected or to be erected on the site shall have been submitted for the written approval of the local planning authority and the scheme shall be designed to be compliant with the 'Institute of Lighting Practitioners Guidance Note for the Reduction of Obtrusive Light' for environmental zone E2, and to not spill light beyond the boundary of the site.
 - (ii) If within 10 months of the date of this decision the local planning authority refuse to approve the scheme or fail to give a decision within the prescribed period, a valid appeal shall have been made to the Secretary of State.
 - (iii) If an appeal is made in pursuance of ii) above, that appeal shall have been finally determined and the submitted scheme shall have been approved by the Secretary of State.

- (iv) Following approval of the scheme, any existing or new lighting shall accord with the approved scheme.
 - (v) In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.
5. The means of access, parking and manoeuvring space shall be retained for the parking and manoeuvring of motorcars in association with the dwelling in accordance with the site plan ref. RHF4 submitted with the appeal and this provision shall not be used for any other purpose.
6. The approved foul and surface water drainage details (package treatment plant and surface water tank respectively) shall be retained in accordance with the agreed details (Topping Engineers Document 21582-C-001 and the 'Supplemental Planning Design and Access Statement' in respect of planning application 22/00172/PLF submitted with the appeal, page 1 - Foul Drainage Detail) and maintained for the lifetime of the development.
7. A Schwegler 1B bird box, Schwegler Bird Home 1MR or Schwegler sparrow terrace (or similar product from an alternative supplier) shall be retained on the site in accordance with the manufacturer's installation recommendations.
8. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking or re-enacting or amending those Orders with or without modification), no development in the form of any enlargement of the dwelling within Part 1, Classes A-D shall take place on any elevation of the dwellinghouse hereby permitted.
9. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking or re-enacting or amending those Orders with or without modification), no development within Part 1, Class E shall take place within the curtilage of the dwellinghouse.

APPEARANCES

FOR THE APPELLANT:

David Myers, Solicitor of Squires Patton Boggs

Paul Butler FRICS FAAV of Ulllyotts

Lucy Jones, appellant

Rhun Jones, appellant

FOR THE LOCAL PLANNING AUTHORITY:

Victoria Taylor MRTPI, Planning Team Leader, East Riding of Yorkshire Council

Adan Milner, MRICS, Principal Surveyor, East Riding of Yorkshire Council

Hazel Walsh, Planning Enforcement Team Leader, East Riding of Yorkshire Council

INTERESTED PARTIES:

Julia Turner, local resident

DOCUMENTS SUBMITTED DURING THE HEARING

1	Planning permission 03857/PLF
2	Design and Access Statement for Planning permission 19/03857/PLF
3	Application site plan RHF3 for application 19/03857/PLF
4	East Riding Local Plan Update – March 2023
5	Unaudited accounts for the period ended 31 October 2022
6	Hypothetical budget for third party operating on a 'bed and breakfast' basis
7	Letter from Caren Derby – Farm Assessor RSPCA Assured – 18 October 2022 re inspection on 10 October 2022
8	Application form for application 19/03857/PLF