



Appeal Decision

Site visit made on 2 May 2023

by F Wilkinson BSc (Hons), MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22nd May 2023

Appeal Ref: APP/G2713/W/22/3313010

Grain store and agricultural building, north of Spring House, Raskelf

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Argrain Ltd against Hambleton District Council.
 - The application Ref 22/02003/FUL, is dated 23 August 2022.
 - The development proposed is demolition of grain store and dutch barn, removal of hardstanding to enable ecological and landscape enhancements and creation of new dwelling.
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Decision

1. The appeal is dismissed and planning permission for the demolition of grain store and dutch barn, removal of hardstanding to enable ecological and landscape enhancements and creation of new dwelling is refused.

Preliminary Matters

2. The appeal is made against the Council's failure to give notice of its decision within the prescribed period. The Council's case and putative reasons for refusal are set out in its appeal statement. I have considered the appeal on this basis.
3. Hambleton District Council has merged with several councils to form North Yorkshire Council. The development plans for the merged local planning authorities will remain in place for the area within the new authority until such time as they are revoked or replaced. I have determined the appeal on this basis.

Main Issues

4. The main issues are:
 - the principle of the proposal with regard to its location, including its effect on the character and appearance of the area;
 - whether the proposal would provide an appropriate housing mix for the area, including affordable housing provision; and
 - whether the proposal would provide acceptable living conditions for future occupiers with regard to noise from the East Coast Main Line.

Reasons

Principle of Development

5. The appeal site is part of a former farmstead and comprises areas of hardstanding and bare ground together with two agricultural buildings which would be removed to enable the development of a dwelling and a meadow grassland.
6. Policy S3 of the 2022 adopted Hambleton Local Plan (the LP) sets out the settlement hierarchy. The policy states that those hamlets and other groups of buildings that are not identified within the settlement hierarchy will be treated as part of the countryside. Subject to certain criteria being met, Policy HG5 of the LP allows for housing development on a site adjacent to the built form of a defined village in the settlement hierarchy set out in Policy S3. The supporting text clarifies that for a proposal to be supported, it is required to be located immediately adjacent to the main built form of a village. Policy S5 of the LP defines the built form as the closely grouped and visually well related buildings of the main part of the settlement and land closely associated with them but excludes any individual building or group of dispersed buildings or ribbon developments which are clearly detached from the main part of the settlement.
7. The site is not within any of the settlements identified in Policy S3. Although the site is located near to agricultural buildings that are undergoing conversion to residential use, these are separate from any defined village, and would represent a group of dispersed buildings clearly detached from the main part of a settlement. Accordingly, having regard to the definitions in Policies S3, S5 and HG5 of the LP, the proposal would represent development in the countryside. Policy S5 only supports development in the countryside where it is in accordance with national planning policy or other policies of the development plan and would not harm the character, appearance and environmental qualities of the area in which it is located.
8. The LP development strategy seeks to focus new development in accessible locations with good access to services, facilities and public transport in accordance with the settlement hierarchy defined in Policy S3. In addition, Policy S1 of the LP sets out a number of sustainable development principles. These include meeting development needs through sustainable development that supports existing communities, minimising the need to travel, ensuring that development seeks the reuse of previously developed land and supporting development that minimises greenhouse gas emissions. The National Planning Policy Framework (the Framework) seeks to achieve sustainable development, with paragraph 8 setting out that the planning system has three overarching economic, social and environmental objectives to achieve this.
9. The proposal would have economic and social benefits. It would contribute to the supply of housing, with associated benefits such as employment during construction and additional residents that would support local shops, businesses and community facilities. However, the benefits stemming from one dwelling would be limited.
10. Paragraph 180 d) of the Framework provides support for development whose primary objective is to conserve or enhance biodiversity. However, in my judgement the primary purpose of the development is a new dwelling rather than biodiversity conservation or enhancement, which could be delivered

independently. Nevertheless, the proposal would include a large biodiversity net gain, and this weighs positively in its favour.

11. I find it unlikely that future occupants would walk to either of the nearest settlements given the distances involved or the unlit nature of the routes. I have not been made aware of the availability of public transport to these settlements. Future occupiers would therefore be reliant on a private motor vehicle to access day to day services. While recognising that opportunities for sustainable transport solutions varies between rural and urban areas, the proposal would not support the locational aims of the LP or the Framework to avoid unsustainable patterns of development.
12. The area in the vicinity of the site consists of a relatively flat agricultural landscape of fields and vegetation, with occasional isolated farmsteads and residential properties. The area has a distinctly open and rural character. I acknowledge that the conversion of the adjacent agricultural buildings will result in nine residential units close to the site. However, from the submitted evidence and what I saw on my site visit, the buildings being converted are a modest size and will retain an intrinsically agricultural character. As such, they sit relatively comfortably within the surrounding rural/agricultural landscape.
13. The development of the appeal site would result in a further incremental growth to the area through the introduction of a substantial dwelling that would be considerably larger in scale and mass than the dwellings created through the conversion schemes. Furthermore, the associated residential garden and domestic paraphernalia would further highlight its discordant appearance. Consequently, while noting that the materials would match the adjacent buildings, the rural characteristics of the countryside would nevertheless be detrimentally eroded by incongruous encroachment.
14. I appreciate that the proposed dwelling would have a smaller footprint than the two agricultural buildings on the site. However, these are not a discordant form of development in this rural landscape.
15. The appellant refers to the fallback position of the retention of the two buildings on the site. However, the effect of these on the outlook for future occupiers of the dwellings being created through the conversion of the adjacent buildings would have been addressed in the assessment of those proposals.
16. From the evidence before me, there appears to have been acceptance that the agricultural use of the buildings on the appeal site would cease to secure permission for the conversion of the adjacent buildings to residential use. This is secured by way of a condition on the prior approval and planning permission granted for the conversions¹. There would have been scope to apply to vary the condition if it was considered unnecessary or unreasonable to include commercial operations. I give only limited weight to the argument that the proposal would address potential blighted land and buildings.
17. My attention has been drawn to a number of other LP policies and Framework paragraphs relating to matters including heritage assets, landscape designations, flood risk, contamination and land stability, highways and living conditions that it is contended the proposal would accord with. While this may be the case, it would not overcome the harm identified above.

¹ Application references 20/02790/MBN and 21/01894/FUL

18. The Framework advises that local planning authorities may take decisions that depart from an up-to-date development plan, but only if material considerations in a particular case indicate that the plan should not be followed. I have had due regard to the other considerations identified by the appellant. However, inherent in my reasoning above, these would not be sufficient to outweigh the conflict with the development plan in this instance.
19. I therefore conclude that the principle of the proposal with regard to its location, including its effect on the character and appearance of the area, would not be acceptable as, without sufficiently compelling reason to depart therefrom, it would undermine the Council's development strategy. As such, it would conflict with the requirements of Policies S1, S3, S5 and HG5 of the LP and the objectives of the Framework, the most relevant of which have been summarised above. There would also be conflict with the requirements of Policy E1 of the LP, which requires development to respond positively to context and respect and contribute positively to local character, identity and distinctiveness.

Housing Mix

20. Policy HG2 of the LP seeks to ensure the provision of an appropriate mix of dwellings in terms of size, type and tenure. It is supportive of proposals where a range of house types and sizes is provided that reflects and responds to the existing and future needs of the district's households as identified in the Strategic Housing Market Assessment (SHMA), which identifies an urgent need for smaller and more affordable dwellings.
21. The Council considers the proposed dwelling to be excessively large. It would greatly exceed the Nationally Described Space Standards² (NDSS) for a two storey five-bedroom dwelling. Nevertheless, the standards in the NDSS are not maximum figures. Moreover, Policy HG2 only quantifies the size of dwellings by bedroom size. There is no requirement for floor areas of dwellings to be restricted other than by meeting the minimum requirements of the NDSS. Furthermore, while there is a stated need for smaller dwellings, this does not preclude the provision of larger ones.
22. As a single dwelling is proposed, a mix by virtue of size, tenure and type cannot be demonstrated. However, as highlighted by the appellant, the adjacent conversion schemes comprise a mix of units including five two- and three-bedroom properties, which the supporting text to Policy HG2 states are the mix of homes that the Council will predominantly seek to achieve.
23. The two main parties disagree on whether it is appropriate to take account of the adjacent development for the conversion of agricultural buildings to four dwellings approved in January 2022 (reference 21/01894/FUL) when considering an affordable housing contribution.
24. The Council's 2022 Housing Supplementary Planning Document (the SPD) advises that the Council will give careful consideration to proposals where land adjacent to the site has potential for housing development. Where such sites form part of a wider allocation or a larger area within the control of the developer, this will be taken into account in order to avoid piecemeal development that does not make appropriate provision of affordable housing.

² Technical housing standards – nationally described space standard, 2015

25. The Council submitted information from Companies House relating to the appellant and the applicant for the conversion. The appellant states that although Mr Padgett is a shareholder and director of both Argrain Ltd (the appellant) and Howardian Developments (the applicant for the conversion), he does not have the controlling interest in either business. Nevertheless, the Companies House information identifies Mr Padgett as one of the officers for both companies, with the definition of 'officer' being 'persons with significant control'. The address given for both companies in the Companies House information is Mill House, Raskelf. This is also the address given in the aforementioned applications for the conversion of the buildings as the location where Argrain Ltd would be moving its farming enterprise to in order to enable a cessation of agricultural operations at the site.
26. On the balance of probability, and based on the evidence submitted, I am persuaded that there is a sufficient link between the appeal proposal and the conversion such that both schemes should be considered together when considering affordable housing requirements. The appeal proposal in conjunction with the conversion of the buildings to four dwellings would fall within the requirement for an affordable housing contribution as set out in Policy HG3 given that the site is within a designated rural area. On this basis, the Council identify a requirement for 1.5 affordable dwellings. However, no provision for affordable housing has been made.
27. To conclude on this main issue, the proposal would not provide an unsatisfactory housing mix for the area in terms of the size of the proposed dwelling. However, it has not been satisfactorily demonstrated that the proposal is not required to make an appropriate contribution towards the provision of affordable housing. As such, the proposal would conflict with the requirements of Policies HG2 and HG3 of the LP and the SPD, as summarised above.

East Coast Main Line (ECML)

28. The proposed dwelling would be in proximity to the ECML. This is a busy rail line which carries fast moving passenger services for much of the day and into the evening and night-time periods as well as freight trains. During my site visit I observed several trains. Although the trains passed by in a short period of time, the noise level was substantial.
29. A Noise and Vibration Assessment³ was submitted with the planning application. This does not appear to be specific to the current appeal proposal although the noise contour plots do cover the site.
30. The predicted day-time noise levels at the site would be above accepted standards as set out in BS8233:2014. The Noise and Vibration Assessment identifies mitigation measures in the form of laminated thermal double-glazed units and passive acoustic trickle ventilation. The additional response from the Council's environmental health officer⁴ (EHO) identifies acoustic mitigation measures proposed by the appellant in the form of acoustic glazing to habitable and noise-sensitive rooms, acoustic ventilators in windows to habitable and noise-sensitive rooms, acoustic insulation in ceilings to habitable rooms immediately below roofspaces, and an acoustic fence.

³ Spring House Farm Residential Development Railway Noise and Vibration Assessment, Element, 21 Nov 2019

⁴ Enclosure 4 of the Council's appeal statement

31. The initial consultation response from the Council's EHO, while noting that noise levels at the proposed dwelling would be unacceptable unless significant steps are taken, did recommend a condition to secure a mitigation scheme. I also note the appellant's statement that the principle of housing in this location has been accepted by the Council through the granting of permissions for the conversion of the nearby buildings.
32. Nevertheless, the additional response from the Council's EHO highlights that during periods of prolonged hot weather, unless air conditioning is provided, it would be likely that the windows would have to be opened to prevent overheating. While a planning condition could ensure that a noise mitigation scheme was put in place, it cannot thereafter ensure that it is used or operated as intended. Regardless of the provision of ventilation, future occupiers may wish to open the windows to reduce temperatures or for other reasons, and this would expose occupants to higher ambient noise levels.
33. In these circumstances, regardless of whether enhanced glazing and sound insulation would result in an acceptable internal noise environment, the mitigation proposed is compromised by its reliance on the actions of a third party, namely the future occupiers, which is beyond the control of the appellant and the Council. Consequently, the proposal would not suitably address the effect of noise from the ECML on future occupiers.
34. The Noise and Vibration Assessment does not present specific data on predicted noise levels at the outdoor amenity area for the appeal proposal. However, the noise contour plots identify that it would likely be greater than the 50dBA L_{Aeq} that would normally be expected in rural areas. Reference is made to an acoustic fence, but no detail is provided on what noise reduction may be achieved and therefore what the resulting noise level would be. As I have no substantive evidence to indicate that suitable mitigation could be achieved, it would not be appropriate to leave this matter to a condition.
35. I therefore conclude that it has not been demonstrated that the proposal would provide acceptable living conditions for future occupiers with regard to noise from the ECML, contrary to the amenity requirements of Policy E2 of the LP.

Conclusion

36. While the size of the proposed dwelling would not run counter to the Council's overall housing mix objectives, it has not been demonstrated that there would be no requirement for an affordable housing contribution. Furthermore, the proposal would undermine the Council's development strategy, including through its effect on the character and appearance of the area, and it has not been satisfactorily demonstrated that it would provide acceptable living conditions for future occupiers with regard to noise from the ECML. Accordingly, the proposal would conflict with the development plan as a whole and there are no material considerations which indicate that the decision should be taken otherwise than in accordance with the development plan. I therefore conclude that the appeal should be dismissed.

F Wilkinson

INSPECTOR