



# Appeal Decision

Site visit made on 25 July 2023

**by Chris Baxter BA (Hons) DipTP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 15 September 2023**

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**Appeal Ref: APP/E2001/C/22/3305264**

**The land at White Gap Road, Little Weighton, East Riding Of Yorkshire  
HU20 3XF**

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 (the Act).
  - The appeal is made by Mr Brendan Downes against an enforcement notice issued by East Riding of Yorkshire Council.
  - The notice was issued on 29 June 2022.
  - The breach of planning control as alleged in the notice is:  
*Without planning permission, the material change of use of agricultural land to residential including the conversion of a stable block to residential dwelling and the erection of a garage/workshop, installation of a septic tank and the creation of hardstanding.*
  - The requirements of the notice are to:
    1. Cease the use of the Land for residential use.
    2. Either remove the former stable from the Land or remove the kitchen, lounge, bathroom, living room, bedroom and other domestic items and facilities from the Land, returning the former stable to its condition as a stable prior to the unauthorised development commencing.
    3. Remove the garage/workshop from the Land.
    4. Remove all domestic goods, items and paraphernalia including tables, gas bottles, and post from the Land.
    5. Remove the hardstanding laid within the area edged in green on the plan to ~~improve the access from White Gap Road.~~
    6. Remove the septic tank from the Land.
  - The period for compliance with the requirements is six months.
  - The appeal is proceeding on the grounds set out in section 174(2)(a) and (g) of the Act. 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. It is directed that the enforcement notice is corrected and varied by:
  - In section 5 the deletion of "~~to improve the access from White Gap Road~~"
  - In section 6 the deletion of "six" and substitute with "nine".
2. Subject to the corrections and variations the appeal is dismissed, the enforcement notice is upheld and planning permission is refused on the application deemed to have been made under section 177(5) of the Act.

## The Enforcement Notice

3. In accordance with my powers under section 176(1) of the Act I have corrected the notice to remove the end of the sentence in section 5, sub-paragraph 5. This part of the sentence had a line through the text and related to improving the access. The improvement of the access goes beyond what is required under

section 173(4) of the Act. I am satisfied that the correction will not cause injustice to the appellant or the Council.

### **Appeal on ground (a)**

4. The ground of appeal is that planning permission should be granted for the change of use of agricultural land to residential including the conversion of a stable block to residential dwelling and the erection of a garage/workshop, installation of a septic tank and the creation of hardstanding.

### Main issues

5. The main issues are the effect of the development on the character and appearance of the surrounding area and whether the residential development is suitably located.

### Reasons

#### *Character and appearance*

6. The area surrounding the appeal site is characterised predominantly by rural countryside of open fields. There are a number of buildings scattered along the south side of White Gap Road with non-residential buildings located immediately adjacent to the appeal site.
7. No extensions have been made to the stable building however, physical alterations have been made including the provision of a flue and placement of gas bottles which detracts from the original agricultural character of the building. Domestic paraphernalia such as garden furniture, washing line etc, even at a relatively small scale for a one bedroom residential unit, would be visibly noticeable and fundamentally alters the character as well as the appearance of the site.
8. There are no public rights of way close by and the hedgerow along the north of the site with White Gap Road is mature and high. Nevertheless, the buildings are visible through the access and also from neighbouring sites. Given the alterations to the buildings, the use of the site as residential and the additions within the site, the appeal site is unacceptably domesticated and does not respect the intrinsic character of the rural surroundings.
9. The scale, form, materials and design of the stable building and the garage/workshop buildings may be reflective of rural style buildings. Nevertheless, the residential use of the site including the matters described above means the site has a residential character that detracts from the surrounding countryside location.
10. The development has a harmful effect on the character and appearance of the surrounding area. It conflicts with Policies S4, ENV1 and ENV2 of the East Riding Local Plan 2016 (ERLP) which seeks development to respect the diverse character and appearance of the area, promote high quality landscape and respect the intrinsic character of its surroundings.

#### *Location*

11. Policy S4C1. of the ERLP states that the conversions for new housing will be supported where the preservation of the building would enhance the immediate setting and where it:

- i. would represent the optimal viable use of a heritage asset or would be appropriate enabling development to secure the future of a heritage asset; or
  - ii. would re-use a redundant or disused building without significant alteration or significant extension.
- 12. There is no evidence before me to suggest that the building is a heritage asset and therefore there would be little merit in securing the buildings future use and maintenance. The appellant claims that the building was disused and that the building was suitable for conversion in line with criteria in paragraph 4.40 of the ERLP. As can be seen from my comments above on character and appearance, the buildings do not enhance the immediate setting and therefore the development fails the first part of Policy S4C1.
- 13. The nearest village is well served by public transport and has various services including a post office, convenience store, village hall, playing field, primary school and a public house. This village is a substantial distance from the site and there are no footpaths or street lighting along White Gap Road from the site to the village. The road is narrow and is not a desirable route for pedestrians to walk along. It is therefore likely that the use of private motor vehicle would be the most common form of transport to and from the site.
- 14. There is a scattering of residential properties along White Gap Road, none of which appear to be recent additions and would themselves not encourage sustainable modes of travel.
- 15. Accordingly, the development is not suitably located with regards to public services and facilities, and the conversion of this building in a countryside location is not supported. The development is contrary to Policies S1 and S4 of the ERLP which seeks to secure development that improves the economic, social and environmental conditions of the area and supports development that helps to maintain the vibrancy of villages and the countryside.

#### *Other matters*

- 16. The development meets the current needs of the occupant and there is adequate parking with no adverse effects in terms of traffic, noise and disturbance. The development is not contrary to Policy EC4C of the ERLP which relates to parking numbers, however, this matter does not alter my findings above and that the development is contrary to Policies S1, S4, ENV1 and ENV2 of the ERLP.

#### Conclusion on ground (a)

- 17. I recognise that the failure of this appeal would affect living arrangements for the appellant. Having regard to the circumstances drawn to my attention, this would represent an interference with their rights under Article 8 of the European Convention on Human Rights, as incorporated by the Human Rights Act 1998. However, having regard to the legitimate and well-established development plan policies which aim to suitably locate residential accommodation and protect the character and appearance of an area, in this case I consider that greater weight is attached to these. Dismissal of the appeal is therefore necessary and proportionate, and it would not result in a violation of the human rights of the appellant.

18. For all the above reasons, I conclude that the development does result in harm to the character and appearance of the area and the residential accommodation being unsuitably located. The harm this causes does outweigh the other matters described above. As such, it conflicts with the development plan as a whole and there are no other considerations, including the provisions of the National Planning Policy Framework, which outweighs this finding.
19. The appeal fails on ground (a) and the appeal should be dismissed.

**Appeal on ground (g)**

20. Ground (g) is that the period for compliance with the notice falls short of what is reasonable. The appellant seeks 12 months rather than 6 months to comply with the requirements of the notice.
21. It is described that the appellant would be homeless should this appeal not succeed and I have addressed any subsequent affects to human rights under ground (a) above. The appellant is on the Council house waiting list but is not a priority and therefore additional time would be required to raise necessary funds to purchase a property.
22. In light of these circumstances, I consider 6 months is not a reasonable time for compliance. However, there is a lack of compelling evidence, particularly with regards to the appellants financial position and the availability of properties in the area including the rental market. A period of 12 months would be excessive and therefore on balance, I consider a period of 9 months would be more reasonable.
23. The appeal on ground (g) therefore succeeds to this limited extent and I have varied the notice accordingly.

*Chris Baxter*

INSPECTOR