



Appeal Decisions

Site visit made on 2 October 2023

by B S Rogers BA(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 October 2023

Appeal A Ref: APP/Y2003/C/22/3308945

Land to the rear of 105 Westgate Road, Belton, DN9 1PY

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended. The appeal is made by Mr Paul Couch against an enforcement notice issued by North Lincolnshire Council.
- The notice, numbered ENF216, was issued on 28 September 2022.
- The breach of planning control as alleged in the notice is without planning permission the erection of a stable block and change of use of land for the keeping of horses.
- The requirements of the notice are: (i) remove from the site the stable block in its entirety and (ii) cease the use of the land for the keeping or (*sic*) horses.
- The period for compliance with the requirements is two months.
- The appeal is proceeding on the grounds set out in section 174(2)(a), (c) & (g) of the Town and Country Planning Act 1990 as amended.

Summary of Decision: No further action is taken.

Appeal B Ref: APP/Y2003/W/22/3308365

Land R/O, 105 Westgate Road, Belton, Doncaster, DN9 1PY

- 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 Paul Couch against the decision of North Lincolnshire Council.
- The application Ref: PA/2022/707, dated 11 April 2022, was refused by notice dated 8 July 2022.
- The development proposed is to retain a stable block and change of use of land for the keeping of horses.

Summary of Decision: the appeal is allowed and planning permission granted subject to conditions.

Decisions

Appeal A

1. In the light of the grant of planning permission in respect of Appeal B, no further action is taken on Appeal A.

Appeal B

2. The appeal is allowed and planning permission is granted for the erection of a stable block and the change of use of the land for the keeping of horses on land r/o 105 Westgate Road, Belton, Doncaster, DN9 1PY in accordance with the terms of the application ref: PA/2022/707, dated 11 April 2022 and the plans submitted with it, subject to the conditions set out in the schedule at the end of this letter.

Appeal A ground (c)

3. It is not in dispute that the erection of the stable block comprises development which requires planning permission. The appellant's case on ground (c) relates solely to the material change of use of the land for the keeping of horses. It

appears that the land was formerly in agricultural use as a market garden. The definition of agriculture in s.336 of the Act includes the breeding and keeping of livestock and the use of land as grazing land. However, the courts¹ have indicated that "livestock" does not extend to the breeding and keeping of horses unless it is for the purpose of their use in the farming of the land. Here, the use is understood to be for personal recreational purposes, which is materially different. The appeal on ground (c) fails.

Appeal A Ground (a) and Appeal B

4. The appeal site is a grass paddock to the south of 99-105 Westgate Road, part of a row of properties extending westward from the village centre of Belton. Access is gained via Mann Lane which runs to the west of the site, along which are a small number of dwellings.
5. The main issues are the impact of the development on the character and appearance of the historic landscape and on the living conditions of neighbouring residents.

The historic landscape

6. The site is within the Area of Special Historic Landscape Interest (ASHLI) of the Isle of Axholme, an area designated for its unique historic landscape. In the context of the National Planning Policy Framework, this should be regarded as a non-designated heritage asset. Policy LC14 of the North Lincolnshire Local Plan 2003 (NLLP) and Policy CS6 of the Core Strategy seek to prevent development that would adversely affect the character, appearance and setting of the historic landscape.
7. The appellant has submitted a Heritage Statement, acknowledging that the appeal site is within the ASHLI but pointing to the site's being within the zone classified as Early Enclosed Land (EEL). This was enclosed in a piecemeal fashion for the purpose of paddocks, stock-keeping and mixed farming. Immediately to the south of the appeal site boundary is the nationally important area classified as Ancient Open Strip Fields (AOSF), a very rare landscape scale survival of a mediaeval open field. This area contains many public rights of way, including a footpath running along the southern boundary of the appeal site, from which clear views of the site are obtained.
8. Turning first to the use of the land, the EEL was historically used for stock keeping which, for hundreds of years, included horses. Horses grazing on this paddock would not in my view appear out of character with the EEL designation. Indeed, Policy LC14 would permit small scale recreational development provided such development is related to the historic landscape and its features.
9. The Council has taken exception to the timber post and rail fencing which has been erected on the site, yet the enforcement notice does not require its removal. It is therefore likely to remain even if the enforcement notice is upheld. It is a traditional agricultural type of fencing and I saw that there are other examples of similar fences in the locality. Such features appear to reflect the distinction between the EEL, where the presence of boundaries is a defining feature, and the AOSF, which generally lacks boundaries, other than round its perimeter.

¹ Belmont Farm v MHLG [1962] 13 P&CR 417

10. The stable block is sited in the NW corner of the site, on which I understand to be on the footprint of an earlier building. It abuts a large outbuilding in the rear garden of no.105 Westgate Road and is adjacent to the very substantial hedgerow which runs alongside Mann Lane. In this location, I found it to be inconspicuous when viewed from the AOSF. Its simple design and timber construction appear suitable for this rural location.
11. The Council has rightly pointed to the potential harmful impact on the character and appearance of the area should the site be used for commercial livery or horse riding purposes, with the visual intrusion of jumps and other structures, and of external lighting. However, these could be adequately controlled by way of planning conditions.
12. In conclusion on the first main issue, I consider the development to be consistent with the character and appearance of this non-designated heritage asset and with the aims of the development plan.

Residential amenity

13. Both policies RD2 and DS1 of the NLLP require new development not to have a detrimental impact on the amenity of neighbouring land uses. The stable block abuts the rear boundary of no 105 Westgate Road, albeit that the rear garden is large and there is a substantial, intervening outbuilding. There is a further dwelling on the west side of Mann Lane, from which the blank, rear elevation of the stable block is barely visible beyond the boundary vegetation.
14. The Council is concerned about the possibility of odour and the noise of horses kicking the stables during night time hours. I have not been made aware of any complaints in relation to this site and consider the likelihood of noise disturbance to neighbouring residents to be low, given the separation distances. This is a semi-rural location where livestock might be expected to be kept, with some attendant odours. In this case, the odours would be more focused around the stable block but the appellant has agreed to the Council's draft condition setting out a management scheme for the collection, storage and disposal of manure.
15. On the second main issue, I conclude that the development would not unduly harm the living conditions of neighbouring residents, contrary to the aims of the development plan.

Conditions

16. The Council has submitted a list of conditions in the event that I allow the appeal. The first two conditions are not required as the development has already taken place. I have dealt with the other draft conditions above.

Conclusion

17. Subject to the conditions to which I have referred above, I conclude that the development does not harm either the character or appearance of the historic landscape or the living conditions of neighbouring residents. As such, there is no undue conflict with the development plan or with national policy.
18. In the light of my decision to allow Appeal B, there is no need for me to take any further action in relation to Appeal A. Under S.180 of the Act, as

amended, the enforcement notice shall cease to have effect on the grant of planning permission for the development which is the subject of the notice.

B S Rogers

INSPECTOR

Schedule of Conditions: Appeal B

1. Within one month of the date of this permission, a written scheme for the collection, storage and disposal of manure shall be submitted for the written approval of the local planning authority. Once approved, the scheme shall be implemented and maintained for the lifetime of the development.
2. At no time shall the stables be used for commercial livery or horse-riding purposes.
3. No additional buildings, structures, caravans, jumps, fencing or other associated paraphernalia shall be installed/sited on the site at any time.
4. At no time shall external lighting be installed at the site.