



Appeal Decision

Site visit made on 23 May 2023

by John Dowsett MA DipURP DipUD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 October 2023

Appeal Ref: APP/E2734/W/22/3313804

**Allerton Grange Farm, Braimber Lane to Allerton Park Interchange,
Allerton Park, HG5 0SE**

- 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 Simon Armstrong against the decision of Harrogate Borough Council.
 - The application Ref: 22/01257/FUL, dated 24 March 2022, was refused by notice dated 20 September 2022.
 - The development proposed is described as: Change of use of agricultural building to B8 (Storage or distribution) use.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues in this appeal are:
 - Whether the appeal site is a suitable location for the proposed development having regard to the availability of transport choices and the provisions of the development plan; and
 - The effect of the proposed development on the character and appearance of the area, with particular regard to the setting of nearby heritage assets.

Reasons

Whether the appeal site is a suitable location

3. The appeal site comprises a substantial building of approximately 943m² gross internal floorspace located on a long, narrow, parcel of land situated between the A1(M) road and the A168. The building is constructed on a portal frame and finished in green profiled metal cladding above a brick plinth with a grey metal clad roof. Two large roller shutter doors paired with an adjacent personnel door are present on the front elevation. The wider site on which the building is located has areas of hardcore and hardstanding and the evidence indicates that planning permission has been granted for four further similar sized agricultural buildings, each subdivided into two units, to the north of the appeal building.
4. The rationale for the Council's reasons for refusal are set out in the Planning Officer's report. Some of this rationale is predicated on the appeal building having been erected under agricultural permitted development rights, which are subject to a proviso that if the use for agriculture ceases within 10 years of

practical completion the building is required to be removed from the site and the land restored to its former condition. As a consequence, the Planning Officer's report assesses the appeal proposal in some respects as if it was, in effect, for a new commercial building.

5. In its appeal submissions the Council recognises that the premise of the building being erected under permitted development rights is incorrect. The Council does question whether the originally permitted agricultural use of the building was implemented. However, the appellant has submitted two statutory declarations which state that the building was observed being used for agricultural purposes. At the time of my site visit, the building was also being used for the storage of agricultural vehicles, including tractors and a combine harvester, also for the storage of hay bales. Although there is some indication that there may have been a short term unauthorised use of the building, in the absence of any substantive evidence to the contrary, I have no reason to believe that the building has not been used for its originally permitted purpose and, as such, the appeal proposal is for a new use of an existing building.
6. Policy GS2 of the Harrogate District Local Plan 2020 (the Local Plan) sets out a growth strategy for the area covered by the plan which seeks to focus new development within the districts main settlements, settlements on key public transport corridors, and a proposed new settlement within the Green Hammerton/Cattal area. It then sets out a settlement hierarchy and states that places not identified in the settlement hierarchy are considered to be part of the wider countryside where development will only be appropriate if permitted by other policies of the plan, a neighbourhood plan, or national policy. The appeal site is not within a settlement identified in the hierarchy.
7. Local Plan Policy GS3 establishes development limits for the settlements listed in the settlement hierarchy and states that outside of these development limits proposals for new development will only be supported where expressly permitted by other policies of the plan, a neighbourhood plan, or national planning policy. Similarly, the appeal site is not within one of the identified settlement limits. In this context, for policy purposes the appeal site must be considered as within the countryside.
8. Although not cited in the second reason for refusal, Policy EC3 of the Local Plan is also of relevance to this aspect of the proposal as a local plan policy which may permit development outside of settlements and development limits. Policy EC3 is a criteria based policy in respect of new employment development in the countryside. All of the specified criteria must be met. The first of these criteria relates to the re-use of buildings and the construction of new buildings. The appeal proposal does not involve the construction of a new building. The wording of Policy EC3, Criterion A. i. in respect of the re-use of buildings is, however, not wholly clear.
9. Criterion A. i. is supportive of new employment development in the countryside if it involves the re-use or adaptation of an existing building, a proposal for farm or other land-based rural business diversification, or other small-scale proposal requiring a countryside location for operational reasons. Where the policy is not clear is whether it is permissive of re-use of buildings generally, or whether the re-use is limited to either be for a farm or land-based rural business diversification or, alternatively, for an employment use which requires

- a countryside location. It is also not entirely clear whether any re-use must be small scale, or just those that require a countryside location for operational reasons.
10. The supporting text to Policy EC3 states that generally, new employment development will be directed towards allocations of land specifically for employment purposes and/or existing settlements. It, nonetheless, goes on to say that employment uses in the countryside can be appropriate where they are small scale and well located to an existing rural settlement, and where the use does not have a significant effect on the character of the countryside.
 11. Small scale is not defined in the policy or the supporting text, although at 943m² floor area the proposal falls below the 1000m² threshold where it would be considered a major planning application. In that context, and in the absence of any definition in Policy EC3 and its supporting text, or any contrary definition from the Council, the development proposal could be considered minor or small scale. That said, although the appeal proposal involves the re-use of an existing building, there is nothing in the evidence that would indicate that the proposed B8 use requires a countryside location for operational reasons.
 12. The appellant argues that the proposal is a form of farm diversification scheme to help support the farm because of a scaling back of the appellant's pig rearing enterprise, and that farm diversification lies at the heart of the scheme. Local Plan Policy EC4 in relation to farm diversification supports the re-use of existing buildings subject to meeting certain criteria, one of which is that the proposal forms part of a comprehensive diversification scheme. The supporting text to the policy requires that the proposal is accompanied by a farm diversification plan demonstrating that the proposed development forms part of a comprehensive diversification scheme and is operated as part of a sustainable farming business, or appropriate land-based enterprise, and will contribute to making the existing business viable.
 13. Although the supporting text is not part of the Policy, it does set out how it is expected that the Policy will be implemented. No farm diversification plan was submitted with either the original planning application or the appeal. Whilst there is some information within the appellant's submissions in respect of this subject, this is scant in its content. It is also stated in the planning statement that the earlier, unauthorised, use of the building was as a result of approaches by third parties rather than from the drawing up of a diversification plan.
 14. The information provided falls some considerable way short of what is expected by Policy EC4. As a result, I find that, in the absence of any substantive evidence that the proposal is part of a comprehensive diversification scheme, it gains little support from Policy EC4 as it does not meet an important criterion of this policy. Nor is there any substantive evidence before me that would demonstrate that the proposal is a farm diversification proposal for the purposes of Policy EC3.
 15. In the event that the policy is permissive of the re-use of buildings generally, without the qualification that the new use is for farm diversification or a use which requires a countryside location for operational reasons, having regard to the supporting text to Policy EC3 it is necessary to consider whether the proposed site is well located to an existing rural settlement.

16. Paragraph 84 of the National Planning Policy Framework (the Framework) encourages the sustainable growth and expansion of all types of business in rural areas. Paragraph 85 of the Framework also recognises that sites to meet local business needs in rural areas may have to be found adjacent to, or beyond existing settlements, and may be in locations that are not well served by public transport. Nevertheless, Paragraph 85 goes on to say that the use of previously developed land and sites that are physically well related to existing settlements should be encouraged and that opportunities to make a location more sustainable e.g. by improving the scope for access on foot, by cycling or by public transport should be exploited.
17. The appeal site is located close to a number of main roads, which would provide very good vehicle access. However, it is relatively remote from any settlements and is not in proximity to any other forms of transport, particularly public transport. Due to the nature of the roads, which are unlit, do not have footways, and are subject to a 60 mph speed limit in the vicinity of the appeal site, cycling or walking is not likely to be an attractive option. It is not in dispute that the proposal would make suitable provision for vehicle parking for the use proposed. Nonetheless, there is no evidence that the proposal would improve or facilitate other modes of transport or movement. Employees and any visitors to the site would, therefore, be dependent on private vehicles to get to and from the site.
18. My attention has been drawn to several other industrial/commercial sites in the surrounding area which are similarly located in the countryside outside of and remote from settlements. I have noted that these were permitted prior to the adoption of the current local plan and thus would have been subject to different policy considerations. Consequently, I give little weight to these in support of the appeal proposal.
19. My attention has also been drawn to a further permission for an energy distribution centre on a site located on the A168 approximately 4.5 kilometres north of the appeal site. This permission was granted under the terms of the current local plan. However, I have no details of this proposal, nor do I have any information before me in respect of which policies and other considerations were taken into account by the Council in granting this permission. Because of this, I cannot be certain that the circumstances of that proposal were similar to those of the present case. In any event, each planning application and appeal falls to be determined on its own merits.
20. Drawing these strands together, the appeal proposal does involve the re-use of a building, although there is no persuasive evidence that the re-use is for either farm diversification, or for a use which requires a countryside location for operational reasons. The appeal site is also remote from any settlement and whilst it has very good road links, access to the site by other means is very poor, and there is nothing in the appeal proposal that would improve this situation. Although the proposal could be considered small scale, falling just below the threshold to be considered a major development, this fact in isolation does not justify the proposal. Whilst the planning application identifies a potential end user, the appeal submissions are vague concerning the future use and there are no details in respect of whether any new jobs would be created, or of any other economic benefits to the local rural economy which might arise from the development.

21. Within this context, I do not find that the proposal meets the requirements of Criterion A. i. of Local Plan Policy EC3. As this Policy explicitly requires that development proposals meet all of its criteria, the proposal does not comply with the policy taken as a whole, notwithstanding that it may satisfy other criteria contained in the policy. Similarly, I find that the proposal does not comply with Policy EC4 as it does not meet the evidential requirements of criterion D of this policy. Consequently, the proposal would not meet the exemption clauses in either Policy GS2 or GS3.
22. I therefore find that the appeal site is not a suitable location for the proposed development having regard to the availability of transport choices and the provisions of the development plan. It would not comply with the relevant requirements of Policies GS2, GS3, EC3, and EC4 of the Local Plan.

Character and appearance and the effect on heritage assets

23. The appeal building has industrial characteristics, although this style of building is also commonly used for modern agricultural buildings. It is located in a wider area of relatively flat, although undulating, countryside with large fields and blocks of woodland. There are scattered villages, farmsteads, individual buildings, and some industrial/commercial uses in the wider area. In the vicinity of the appeal site, the area is dominated by the A1(M) road and its extensive, grade separated, junction with the A59. The expanse of parkland associated with Allerton Castle is the other predominant feature in the area. This is separated from the appeal site by the A168 road which runs broadly parallel to the A1(M). There is extensive tree planting to the boundary of the appeal site with the A168 and also a strong wooded boundary to Allerton Park.
24. Allerton Park is a Grade II Registered Park and Garden [List Entry no: 1000402], which contains a number of listed buildings and structures, notably the principal building in the park, the Grade I listed Allerton Castle [List Entry No: 1189430], with its associated terraces, separately listed at Grade II [List Entry no: 1189447] and the Grade II* listed Temple of Victory [List Entry No. 1315590]. A number of other listed buildings and structures are present within the parkland, although the Council do not consider that these would be affected by the proposed development.
25. The registered parkland is extensive, at approximately 205 hectares, and provides the setting for Allerton Castle. In addition to the several listed buildings, it contains parkland and pleasure grounds, woodland and ponds, and a walled kitchen garden. From the evidence, the significance of the registered park, in so far as it is relevant to this appeal, is derived from the evidential value it provides of the development of formal parkland associated with a county house and its evolution over time from the early eighteenth century, through to reaching its current form in the late nineteenth century. The development of the parkland is intertwined with the history of the principal house and its various owners who added to the features according to their tastes and the tastes and styles of the time. It also has a significant aesthetic value arising from the layout and design of the parkland and its features in addition to its relationship to, and forming the setting of, the main house and its associated buildings.
26. Allerton Castle is listed at Grade I, as being of exceptional interest. From the evidence, in its present form it dates from approximately 1848-51 but likely contains elements of an earlier house built in the 1720's at the same time that

Allerton Park was enlarged. The current house is built in stone in a Neo-Jacobean style with the principal elevation featuring a projecting, three storey, tower above a port-cochère. The building also features multiple projecting bay windows and turrets which define its character. The elevated position of the house relative to much of the surrounding countryside, and particularly towards the A168 and A1(M), creates a skyline feature from some perspectives. In so far as it is relevant to this appeal, the significance of the building is primarily its architectural interest derived from the design, form, and composition of the building and as a good example of a style of architecture that became popular as one of the revivals of historical architectural styles during the Victorian era. It also has an aesthetic value from the same elements, the relationship between the principal building and its associated outbuildings, and the positioning of the house in the surrounding landscape.

27. On the north west side of the principal building is a terrace surrounded by stone retaining walls which is listed at Grade II. From the evidence, this terrace slightly pre-dates the current house but, nonetheless, forms part of the historic layering of the wider house and grounds. These have an aesthetic value in their own right and evidential value as part of the sequence of the historic development of house and grounds.
28. Standing on a knoll approximately 400m north west of Allerton Castle, the Grade II* Temple of Victory is a stone built, octagonal, summerhouse with a low domed roof dating from the late eighteenth century. Styled after a classical temple, it is located at one of the highest points in the parkland and commands wide views across the surrounding countryside. Its significance is derived from its high aesthetic value, due to its design but also in part to its dramatic setting, and its evidential value from being a component in the historical development of the designed parkland surrounding Allerton Castle.
29. The appeal site lies within the immediate setting of the registered park and garden and within the wider setting of Allerton Castle and the Temple of Victory. Due to the size of the registered park and garden, its immediate setting is extensive.
30. The evidence indicates that, historically, the appeal site was not part of, or directly associated with, the neighbouring estate and country house. Nor is there anything in the Council's evidence or the appellant's Heritage Statement that would indicate that the appeal site makes any contribution to the understanding of the significance and the appreciation of the registered park and garden, or to the understanding of the significance of Allerton Castle and the Temple of Victory.
31. I saw when I visited the site that the appeal site is screened by a well-established hedgerow and tree belt adjacent to the A168 and that there is only a limited degree of visibility of the appeal building through the entrance to the site. I viewed the area from Allerton Castle itself, and the grounds to the front of this building, and also from the Temple of Victory. I observed that due to the degree of separation from the appeal site to these buildings and the intervening landform and landscape features, there was no intervisibility between the appeal site and Allerton Castle. Even from the elevated position of the Temple of Victory, the appeal building was scarcely visible.
32. I also saw that from the A168, due to the presence of established trees on the boundary of the park and garden, there are only fleeting views of Temple of

Victory and Allerton Castle. I appreciate that this may increase slightly when the trees are not in leaf. Nonetheless, due to the landform and the distances between the appeal site and the listed buildings, the appeal building would not be visible at the same time or in the same view as the listed buildings.

33. The Harrogate District Landscape Character Assessment 2004 notes that the area is very sensitive to change. This is due to the existing character of the area and the presence of the historic landscape of the registered park and garden, the setting of which the Landscape Character Assessment seeks to protect. It also notes that new development along the A1(M) corridor will further conflict with the character of the surrounding landscape and add discord.
34. The appearance of the area in the vicinity of the appeal site is heavily influenced by highway infrastructure, particularly the A1(M) road. The appeal building is, however, already in existence having previously been permitted within the above context. The building shares a built form that is common to both modern agricultural buildings and industrial/commercial buildings. There is nothing in the evidence to suggest that the appearance of the building itself would change if a B8 use were to be permitted.
35. The Council's concerns are focussed on primarily on the external activities associated with the proposed new use.
36. Although it is suggested by the appellant that the number and type of vehicle movements would be no greater than the present agricultural use and the types of vehicles are likely to be smaller, I have not been provided with any substantiated evidence that would support this assertion. That said, the A1(M) carries a significant volume of traffic and I also saw that the A168 also carries a relatively high volume of both cars and commercial vehicles. Whilst a B8 use of the appeal building would add some additional traffic movements, this has to be seen in the context that the permitted use of the building for agricultural purposes would generate a number of vehicle movements. Due to the nature of the proposed use and the scale of the building, it is likely that the number of vehicle movements generated would be a relatively low, albeit in my view this could be greater than those generated by an agricultural use. Nonetheless, the proposed use would not add significantly to the existing number of vehicle movements in the area, or to such an extent that its character would be changed.
37. I also noted during my site visit that traffic noise from the A1(M) and A168 were audible at the Temple of Victory and to a lesser extent at Allerton Castle. The appeal proposal would not add to this traffic noise to any noticeable degree.
38. Concerns in respect of matters such as lighting, and external storage could be addressed by appropriately worded planning conditions. Signage is subject to separate control under the Town and Country Planning (Control of Advertisements) Regulations 2007.
39. Given the above, I find that the appeal proposal would have a neutral effect on the setting of the nearby heritage assets and would not cause harm to the character and appearance of the area. This would satisfy the requirements of Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, paragraph 197 of the Framework and would not conflict with the relevant

requirements of Policies HP2, HP3, and NE4 of the local plan and certain criteria of local plan Policy EC3 which seek, among other things, to ensure that proposed developments protect the setting of heritage assets, the landscape character of the area, and protects, enhances, or reinforces those characteristics, qualities, and features that contribute to the local distinctiveness of the area.

Conclusion

40. I have found that the appeal site is not a suitable location for the proposed development having regard to the development plan and the Framework. Although I have found that the proposed development would not cause harm to the setting of nearby heritage assets or to the character and appearance of the area, the neutral effect on these would not overcome the conflict with the locational policies in the development plan. As these latter are important policies, I find that the proposal would conflict with the development plan taken as a whole, and no material considerations have been identified which would indicate that a decision could be taken other than in accordance with said plan.
41. For the above reasons, I therefore conclude that the appeal should be dismissed.

John Dowsett

INSPECTOR