



Appeal Decision

Site visit made on 12 December 2023 and 3 January 2024

by J Symmons BSc (Hons) CEng MICE

an Inspector appointed by the Secretary of State

Decision date: 6 February 2024

Appeal Ref: APP/E2734/W/23/3330241

Donkey Lane, Lane End Farm, Brimham Rocks Road To Pye Lane, Burnt Yates, North Yorkshire HG3 3DH

- 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 J Clay against the decision of Harrogate Borough Council.
 - The application Ref 23/00155/FUL, dated 13 January 2023, was refused by notice dated 27 March 2023.
 - The development proposed is construction of a dwelling following demolition of the existing buildings on the site.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Due to poor weather conditions limiting views of the appeal site and the surrounding area, I completed a second visit on 3 January 2024.
3. The proposal was refused by Harrogate Borough Council, which at the time was the Local Planning Authority (LPA) for the area. On 1 April 2023 North Yorkshire Council was created and is now the LPA for the area previously covered by Harrogate Borough Council. In my decision I do not differentiate between the two Councils, given their respective functions as LPA. I have used Harrogate Borough Council in the banner heading above as this is the name of the LPA shown on the decision notice which is the subject of the appeal.
4. The Government published a revised version of the National Planning Policy Framework (Framework) on 19 December 2023. Whilst I have had regard to the revised Framework, the issues most relevant to this appeal remain unaffected by the revisions. I am therefore satisfied that there is no requirement to seek further submissions on the revised Framework, and that such a course of action would disadvantage no party. For correctness, I have used the 2023 Framework paragraph references.
5. In November 2023 all designated Areas of Outstanding Natural Beauty became National Landscapes and will be referred to as such in this decision.
6. The appellant provided an ecological survey in response to the third reason for refusal. The Council confirms that the submitted information adequately addresses the conflict with the natural environment part of Policy NE3 of the Harrogate District Local Plan 2014-2035 (March 2020) (HDLP) and paragraph 180 of the Framework, subject to the report's recommendations being implemented. I see no reason to question this and consequently, the third

reason for refusal has been resolved and it is not considered any further in this appeal.

7. The Council's appeal statement contains comments from the Landscape Officer responding to comments made in the appellant's appeal statement. The appellant has had the opportunity to respond to this information. Having regard to the Wheatcroft and Holborn principles, I am satisfied that there would be no risk of prejudice if I take this information into account. I have determined the appeal on this basis.

Main Issues

8. The main issues are:

- whether the proposed development would be in a suitable location for housing, having regard to the local development strategy for the area;
- the effect of the proposed development on the character and appearance of the area; and
- if any harm is identified, whether this harm would be outweighed by the presence of a fallback position for an alternative proposed development.

Reasons

Location

9. The appeal site is located over 300 metres (m) north of the village of Burnt Yates. It consists of two agricultural buildings separated by a yard area. Access is off Donkey Lane which connects to the B6165.
10. The proposal would demolish the existing buildings and create a detached house with a detached garage.
11. Policies GS2 and GS3 of the HDLP set out the Council's growth strategy for new homes and jobs, directing development to settlements within the defined settlement limits. It is not disputed that the proposal would be outside of the development limits of Burnt Yates. Furthermore, no evidence to demonstrate the proposal meets the policies is presented.
12. Consequently, the proposed development would not be in a suitable location for housing. It would conflict with Policies GS2 and GS3 of the HDLP.

Character and appearance

13. The larger southern agricultural building is approximately rectangular and constructed principally in a mix of concrete walling and corrugated metal cladding. It has corrugated metal low-pitched roofs. The smaller northern building is also rectangular with a mono roof. It is constructed in similar materials to the larger building. The yard is a granular construction.
14. The site falls within Landscape Character Appraisal Area 25 of the Harrogate District Landscape Character Assessment 2004. Its guidelines recommend a number of aims to protect, enhance, conserve and preserve the landscape. These include respecting settlement patterns and vernacular, and discouraging development where views and landscape patterns would be affected.

15. The surrounding countryside is rural with the land being predominantly agricultural fields interspersed with trees and hedgerows. Other than a barn located to the south, the appeal site is isolated from other farmsteads and buildings. Even though the buildings take up a large part of the site, their positioning and separation maintain a reasonable openness. Due to the rising topography and trees/vegetation to the south and west, views of the buildings are well-screened from these directions including from Burnt Yates. To the north and east, a more open and flatter topography exists which allows the existing buildings to be seen from these directions. The appeal site can also be seen from a variety of public rights of ways which pass close by.
16. Notwithstanding that the proposal would have a smaller footprint than the existing site, with its largely singular L-shape form, high eave and ridge heights, mainly natural stone facades and steep gable pitches, it would be a substantial scale and mass. It is argued that the proposal would have a contemporary design built around a traditional rural vernacular. However, it would appear as a large urban or sub-urban new build house which would not add to the distinctiveness of the location or respect the modest built form that currently exists. It would largely close off the gap through the site, impacting the openness and further emphasises the dominance the proposed house would have. Its large door and window fenestrations, while adding a modern twist and maximising light in and views out, would reinforce the house's substantial and urbanised appearance. They would also allow a considerable amount of light spillage during hours of darkness which would add to its unsympathetic effect on the character of the area.
17. Even with the separate garage and use of traditional and modern materials/detailing such as the catslide roofs, black metal rainwater goods and stone lintels and quoins, the imposing and overly domesticated look of the proposed house would not be reduced. While additional tree and hedge landscaping are proposed for some of the boundaries, this would, due to the house's size and height, provide limited screening benefits.
18. It is advised that the proposal would include a number of environmental and ecological enhancements that would provide landscape and conservation benefits, minimise the construction impacts and reduce the overall proposal's operational and embodied carbon. However, little quantitative evidence of these is provided, and some are noted as being subject to further consideration and are not guaranteed to be included. Given this lack of clarity and certainty these would not outweigh the character and appearance harms that I have found.
19. The proposal would not protect, enhance, or reinforce the rural landscape character or local distinctiveness. It would harm both the glimpsed and more wide and open views from nearby public rights of way, and more distant views from the public areas to the east.
20. Consequently, the proposal would unacceptably harm the character and appearance of the area and conflict with Policies HP3 and NE4 of the HDLP and the Framework. Amongst other matters, these policies require proposals to protect, enhance, restore or reinforce landscape character and local distinctiveness of the district's rural environment.
21. The appellant has drawn my attention to the Framework with regard to paragraphs 8 and 11 which support development which brings social, economic

and environmental benefits; paragraph 139 which supports outstanding or innovative design; paragraph 159(b) which supports the reduction of greenhouse gas emissions, and paragraph 180 which supports the enhancement of the natural and local environment. However, the Framework must be considered as a whole, and the proposal would fail to reflect local design policy or be sympathetic to the local character of the area. On this basis the proposal would conflict with the Framework.

Fallback position

22. In December 2022, a Prior Notification application (LPA Ref 22/04038/PBR) was permitted under Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 for the conversion of the larger southern agricultural building to two dwellings. As a result, this is a fallback position which has a greater than theoretical possibility of being pursued if the appeal is dismissed. The conversion, while adding limited and modest doors and windows, predominantly retains the existing large building's external form and style. It also includes side gardens and some parking/paved areas to its front. The scheme retains the smaller building as an agricultural store, but adds a paved side turning area.
23. The fallback is in the same location as the proposal and both would be outside of the settlement limits. In locational terms therefore, the effect would be comparable for both the fallback position and the appeal scheme.
24. The footprint comparison plan provided in Appendix A of the appellant's appeal statement shows the reduction in the footprint between the proposal and fallback. However, it also shows how the built form of the proposal would be more prominent and dominant in the central part of the site and would increase the impacts on the views from the east and west. Appendix B of the appellant's appeal statement shows the differences in materials and provides a photographic and visualisation comparison of both schemes. While this shows the high-quality materials being used for the proposal, it also shows its overly domesticated appearance and increased dominance. No evidence to indicate that the fallback would not be completed to a high quality is detailed. The fallback would not be unattractive and would largely retain the rural setting. Overall, the proposal would have a significantly more harmful effect on the character and appearance of the area than the fallback.
25. Examples of properties in the locality which have used similar detailing, materials and courtyard designs as the proposal are shown on Appendix D, E and F of the appellant's appeal statement. Many of the examples are located nearer to existing developments and public roads compared to the appeal site. Furthermore, there is limited evidence presented to show that the examples are in a similar landscape setting or effect views as the proposal. The examples are not directly comparable to the proposal and do not change my view that it would be more harmful to the character and appearance of the area than the fallback.
26. It is indicated that the ecological enhancements and increased biodiversity net gain of the proposal would provide betterment to that provided by the fallback. However, while Appendix C of the appellant's appeal statement outlines the betterments the proposal would deliver, there is no comparison provided for the fallback. Nor is there any quantification of these factors. I am therefore not persuaded that these would outweigh the proposal's more harmful effect.

27. The fallback would provide two dwellings compared to the proposal's one dwelling, no evidence that it would not provide suitable family living, create a tidy site, or cause unacceptable traffic on the access compared to the proposal has been presented. As such these aspects do not change my view regarding the more harmful effect the proposal would have.
28. Consequently, I find the fallback has significant weight as a material consideration in the determination of the appeal. However, notwithstanding that the proposal and fallback would be comparable in locational terms, the proposal would be more harmful to the character and appearance of the area compared to the fallback. I see no justifiable reasons to outweigh this harm and conclude that the fallback does not weigh in favour of allowing the appeal.

Other Matters

29. The appeal site is located close to but outside of the Nidderdale National Landscape (NNL). As observed during my visit, due to the rising agricultural field topography to the west and the separation of the proposal from the NNL, the appeal site would not harm the landscape or scenic beauty of the NNL. However, a lack of harm carries neutral weight in my assessment and does not overcome the harm that I have already identified.
30. I note that at the application stage, the appellant referred to the High Court judgement *Michael Mansell v Tonbridge & Malling Borough Council [2016] EWHC 2832 (Admin)* and the subsequent Court of Appeal judgement. I also note that a number of planning permission and appeal examples¹ regarding the consideration of a fallback position were also identified. I have considered the fallback position in the appeal. The detail provided for the examples was limited and the evidence provided indicates that they are not directly comparable to this appeal. In most of the examples the proposal was similar in size, height and footprint to the fallback which is not the case for this appeal. In regard to the others, while positioning and providing landscaping were found to reduce the harm compared to the fallback this is not the case in this appeal. I have found the proposal more harmful than the fallback and the examples do not warrant me reaching a different conclusion on this matter.

Conclusion

31. The Council confirms that it is meeting its housing land supply requirements and the Local Plan is up to date. No evidence to the contrary is provided by the appellant and as such this does not change my view regarding the harm I have found.
32. I have found that the proposal would not be in a suitable location for housing and would harm the character and appearance of the countryside. This harm would not be outweighed by the benefits of the scheme, nor by the fallback position. The proposal conflicts with the development plan as a whole. With no other material considerations outweighing this conflict, for the reasons given above I conclude that the appeal is dismissed.

J Symmons

INSPECTOR

¹ APP/W3330/W/20/3248009, 21/03330/FULLS, 21/00335/FUL, W 21 / 0527 and 21/00608/FUL