



Appeal Decision

Site visit made on 17 November 2023

by David Cross BA(Hons) PgDip(Dist) TechIOA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14th March 2024

Appeal Ref: APP/G2713/W/23/3322330

Stack House Farm, Chapmans Lane to Stackhouse Farm, Shipton by Beningbrough YO30 1AR

- 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 Mike Green of GEM against the decision of Hambleton District Council.
 - The application Ref 21/02870/FUL, dated 1 December 2021, was refused by notice dated 19 January 2023.
 - The development proposed is conversion of existing coach house into 3no. dwellings (Use Class C3) and demolition of existing storage buildings to create 2no. new build dwellings (Use Class C3) with associated landscaping and highways improvements along Court House Lane.
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Decision

1. The appeal is allowed and planning permission is granted for conversion of existing coach house into 3no. dwellings (Use Class C3) and demolition of existing storage buildings to create 2no. new build dwellings (Use Class C3) with associated landscaping and highways improvements along Court House Lane at Stack House Farm, Chapmans Lane to Stackhouse Farm, Shipton by Beningbrough YO30 1AR in accordance with the terms of the application, Ref 21/02870/FUL, dated 1 December 2021, subject to the conditions set out in the Schedule at the end of this decision.

Application for Costs

2. An application for costs was made by Mr Mike Green of GEM against Hambleton District Council. This application is the subject of a separate Decision.

Preliminary Matters

3. The planning application to which this appeal relates was determined by Hambleton District Council. Since that application was determined, Hambleton District Council has merged with other Councils to form North Yorkshire Council. However, as the original decision was made by Hambleton District Council then this is reflected in the heading above.
4. A revised version of the National Planning Policy Framework (the Framework) has been published since the appeal was lodged. Both main parties were given the opportunity to comment on any relevant implications for the appeal. I have had regard to the comments and the Framework in reaching my decision.

5. A signed and completed Unilateral Undertaking (UU) has been submitted in respect of matters including an in-lieu contribution to the provision of affordable housing. In respect of those matters, the UU meets the tests set out in paragraph 57 of the Framework, and I have proceeded to determine this appeal giving due consideration to the UU.

Background and Main Issues

6. The appeal site is located in the countryside, in close proximity to buildings related to the farming business of Ingfield Farm. The appeal proposal relates to the creation of dwellings through both new build development and the conversion of existing buildings.
7. The Council's reason for refusal refers to effects on the residential amenity and safety of occupiers of the proposed dwellings. However, I have had regard to the comments of the owner/occupier of Ingfield Farm at both the planning application and appeal stages, and note that they spoke objecting to the planning application when it was considered at the Council's Planning Committee.
8. On that basis, the main issues in this appeal are the effect of the proposal on the living conditions of future residents with regards to odour and pests; fire risk; all with due regard to the effect on Ingfield Farm.

Reasons

Odour

9. The proposed dwellings would be located in close proximity to an operational farm. This includes buildings used for the keeping of livestock. I observed livestock, including cattle, in the neighbouring farm buildings and yard at the time of my visit, and an odour was apparent. However, the odour I observed was not unduly intrusive and would not have had an unacceptable impact on the living conditions of future residents on the appeal site.
10. The appellant has provided comprehensive and substantive evidence at both the application and appeal stages which considers a range of sources of odour associated with the farm and potential pathways affecting residents of the development. The appellant's evidence concludes that the assessed odour effects do not suggest that there would be a significant impact on residential amenity at the proposed dwellings. This also concludes that the proposal would be very unlikely to interfere with the operation of beef cattle farming at Ingfield Farm providing that normal good practices of husbandry and cleanliness are followed. I am mindful that the operations at the farm could change and intensify, but it has not been demonstrated that the proposal would limit future development of the farming business subject to good farming practices.
11. There are existing dwellings also located in close proximity to the farm, and there is no evidence of complaints about odour from existing residents. I am also mindful that the Council's Environmental Health Officer has not objected to the proposal based on the evidence provided by the appellant.
12. Therefore, based on the evidence before me and my own observations, I conclude that the appeal proposal would not lead to material harm to the living conditions of future residents of the site in respect of odour, and would not unduly fetter the existing or future development of Ingfield Farm. The proposal

would therefore not be contrary to Policies E1 and E2 of the Hambleton Local Plan 2022 (the Local Plan) in respect of achieving a satisfactory relationship with adjacent development and the amenity of future occupants.

Pests

13. Comments raised in relation to the proposal refers to issues with flies, rats and mice associated with the operation of the farm.
14. On this issue, the appellant's evidence concentrates on fly infestations. The appellant has provided substantive consideration the nature of operations at the farm, including the winter housing of cattle. On the basis of factors including rates of fly reproduction during colder months and appropriate farming practices, the submitted evidence indicates that it is unlikely that flies would lead to off-site impacts on the amenity of residents due to the winter housing of cattle.
15. Regarding other times of year, the appellant's evidence also considers that good farming practices such as the location of cattle and the cleaning out of areas would prevent adverse impacts from flies on surrounding properties.
16. The appellant's evidence concentrates on flies, and there is little evidence regarding rats and mice. However, on the basis of good farming practices, reasonable pest control and suitable methods of construction of the proposed dwellings there is no substantive evidence that mice and rat infestations would be of a degree to warrant the refusal of planning permission. I consider this would be the case even given that the converted buildings would be part of the same range of buildings as those associated with the farm.
17. In contrast to the appellant's evidence, the evidence from the occupant of Ingfield Farm is anecdotal. There is also no evidence of complaints from other nearby residents on this issue.
18. Therefore, based on the evidence before me, I conclude that the appeal proposal would not lead to material harm to future residents of the site in respect of pests and would not limit operations associated with the farm. The proposal would therefore not be contrary to Policies E1 and E2 of the Local Plan in respect of achieving a satisfactory relationship with adjacent development and the amenity of future occupants.

Fire Risk

19. Comments from the owner/occupier of Ingfield Farm refer to a potentially significant increase in the cost of insurance due to risks associated with fire and public liability. The proposal would introduce further dwellings in close proximity to the objector's cattle sheds and hay barns, and on that basis there is a reasonable possibility that the costs of insurance for the farm could increase. The objector also refers to the possibility that insurance could be refused because of the identified risk. These matters could have a significant impact on Ingfield Farm, including a risk that the farming business would no longer be viable.
20. The Council's Committee Report states that the cost of insurance of farm buildings is not a material planning consideration. However, the appeal proposal is an agent of change which could harm the viability of an established neighbouring business, as a result of an increase in the cost or and lack of

insurance cover. On that basis, the consideration of insurance and the effect from fire risk is a material planning consideration.

21. However, the objector's comments on the matter of insurance lack detail and are of an anecdotal nature with no corroborating evidence. While the objector states that he has talked to his broker and asserts that his insurance (including fire and public liability insurance) may increase because of the formation of dwellinghouses next to the farm, this is not supported with any objective evidence from the broker.
22. Furthermore, the objector does not provide details of what insurance is paid now, or on what basis, and the extent to which the insurance premium would increase because of the proposed development. On the evidence that is before me, I do not know if any increase in an insurance premium would be significant, or whether it would be so high as to adversely impact on the objector's business activity. This is not therefore a matter which justifies withholding planning permission.
23. In reaching this decision, I also note that the objector states that given insurance matters, it would mean that they would be out of business. However, the evidence from the objector does not provide a certain or conclusive picture in this regard. It is noteworthy that the objector says that insurance 'may' possibly be refused. This does not suggest to me that the proposal would automatically mean that the objector could not insure his property. On the basis of the evidence before me, it is reasonable to conclude that if Building Regulations are met, including the need for fire safety, there is a likely possibility of the objector obtaining fire and public liability insurance.
24. I have also had regard to the evidence provided by the appellant in respect of fire safety, including the Building Control Technical Note which concludes that the scheme would satisfy the requirements of the Building Regulations, including in relation to the neighbouring farm structures.
25. Based on the evidence before me, I conclude that the proposal would make suitable provision in respect of fire risk and would not lead to an unacceptable effect on the operation of Ingfield Farm. The proposal would therefore not conflict with Policy E1 of the Local Plan in respect of achieving a satisfactory relationship with adjacent development and the safety of future occupants.

Other Matters

26. I have had regard to the comments raised during the course of the application and appeal. Issues including contamination, water supply, foul and surface water drainage, bin storage, oil tanks, materials and ecological measures can be addressed by condition.
27. Despite the length and nature of the access road, based on the evidence before me including the responses from consultees, the access would not be detrimental to vehicle or pedestrian safety. I am also mindful that the proposal would remove vehicle movements associated with the existing use of the site. Although the site is located remotely from services and facilities, and residents of the proposal would be reliant on the private vehicle, given the removal of traffic movements associated with the existing use I do not consider that the change of the number and form of traffic movements would be of a degree to warrant the refusal of planning permission.

28. Due to the nature of the nearby farming operation and the design of the new-build and converted dwellings I do not consider that residents of the proposal would be subject to unreasonable levels of noise. Due to the layout and design of the proposal I also do not consider that it would affect the privacy of nearby land uses.
29. Property and land ownership is a civil matter to be resolved between the relevant parties and does not alter the planning merits of the proposal.

Conditions

30. The Council has provided a list of recommended conditions and informatives which I have considered against the advice in the Planning Practice Guidance and comments from other parties including the appellant. As a result, I have amended some of the conditions for clarity and effect as well as adding a condition based on the informatives.
31. In addition to the standard 3 year time limitation for commencement, I have imposed a condition requiring the development to be carried out in accordance with the submitted plans and documents in the interests of certainty.
32. A condition in respect of the form and timing of works to heritage assets is appropriate to ensure that benefits of enabling development are secured. Conditions requiring details of materials, means of enclosure and oil tanks are appropriate in respect of character and appearance.
33. Conditions relating to means of enclosure requiring safeguards for protected species as well as compliance with a preliminary ecological appraisal are appropriate in the interests of biodiversity. A condition in respect of external lighting is appropriate in the interests of avoiding light pollution.
34. A condition regarding the crossing from the highway is necessary in the interests of highway safety. A condition regarding the management of invasive species is necessary to control their effect and spread.
35. A condition regarding waste and recycling storage is required in the interests of character and appearance as well as the living conditions of residents.
36. Details of landscaping are required in the interests of character and appearance. Conditions regarding the disposal of foul and surface water, including phasing, are required in the interests of ensuring suitable drainage and avoiding pollution of watercourses. A condition requiring an ecological enhancement and management plan is appropriate in the interests of protected species and habitats as well as biodiversity. Conditions to deal with contamination are required to ensure that risks to residents, property and other receptors are minimised. A condition in relation to water supply to the proposal is required to ensure that the site is properly serviced and in respect of the amenity of future residents and those of existing properties. A condition regarding the details and implementation of the resurfacing of the access to the site is necessary in the interests of highway safety and the amenity of residents. Details in respect of these conditions should be submitted to and approved by the local planning authority at the pre-commencement stage as they relate to matters which need to be established before the commencement of building operations.

Conclusion

37. For the reasons given above, I conclude that the appeal should be allowed.

David Cross

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans and documents:
 - AP(0)001_Site Location Plan
 - AP(0)002_Site Block Plan
 - AP(0)003_Existing Site Plan
 - AP(0)010_Existing Ground Floor Plan
 - AP(0)020_Plot 1, 2 and 3 Existing Elevations A B
 - AP(0)021_Plot 1, 2 and 3 Existing Elevations C D
 - AP(0)022_Plot 1, 2 and 3 Existing Elevations E F
 - AP(0)030_Proposed Site Plan
 - AP(0)035_Proposed Site Plan_Detail
 - AP(0)040_Plot 1, 2 and 3 Proposed Elevations A B
 - AP(0)041_Plot 1, 2 and 3 Proposed Elevations C D
 - AP(0)042_Plot 1, 2 and 3 Proposed Elevations E F
 - AP(0)043_Plot 4 and 5 Proposed Elevations G H
 - AP(0)044_Plot 4 and 5 Proposed Elevations I J K L
 - AP(0)045_Plot 1 and 2 Proposed Garage Elevations
 - AP(0)046_Plot 3 Proposed Garage Elevations
 - AP(0)050_Plot 1 Proposed Ground Floor Plan
 - AP(0)051_Plot 1 Proposed Roof Plan
 - AP(0)100_Plot 2 Proposed Ground Floor Plan
 - AP(0)101_Plot 2 Proposed Roof Plan
 - AP(0)150_Plot 3 Proposed Ground Floor Plan
 - AP(0)151_Plot 3 Proposed Roof Plan
 - AP(0)200_Plot 4 Proposed Floor Plans
 - AP(0)250_Plot 5 Proposed Floor Plans
 - Design and Access Statement, ArkleBoyce Architects Ltd, 30/11/2021
 - Preliminary Ecological Appraisal prepared, Quants Environmental, October 2021
 - Phase 1 Geo-Environmental Assessment, Roberts Environmental Ltd, Reference: 210902.R.002, November 2021.
 - Transport Technical Note 1, Optima, November 2021
 - Qualitative Odour Risk Assessment, Delta-Simons Project No. 20-1502.01, August 2021

Heritage and Future Development, Thompson Heritage Consultancy,
Revision A, October 2020

Heritage Impact Assessment, Thompson Heritage Consultancy,
October 2020

Conversion Report, Dudleys, Project No. Ref 20313, Reference REP01
(A)

Methodology of Refurbishment, GEM, December 2022

Odour & Pests (Flies) Impact Assessment, RSK ADAS, 17 May 2023

- 3) The implementation of the works to the Coach House to secure it in a secure, weathertight and stable condition shall be completed prior to the occupation of either of the new build dwellings.
- 4) Prior to their first use on site details of the materials to be used in the construction of the walls, roof coverings, doors and windows of the proposed dwellings and detached garages shall be submitted to and approved in writing by the Local Planning Authority. The development shall be constructed using only the approved materials.
- 5) Notwithstanding the submitted details and prior to the development commencing, a scheme of hard and soft landscaping works shall be submitted to and approved in writing by the Local Planning Authority. The submitted scheme shall provide details of the species, numbers and locations of planting, all hard surface materials, timescales for implementation and a maintenance schedule. No part of the development shall be used after the end of the first planting and seeding seasons following the approval of the landscaping scheme, unless the approved scheme has been completed. Any trees or plants which within a period of 5 years of planting die, are removed, or become seriously damaged or diseased, shall be replaced with others of similar size and species unless agreed otherwise in writing by the Local Planning Authority.
- 6) Development shall not commence until a detailed scheme for the disposal of foul and surface water from the development hereby approved has been submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall take place in accordance with the approved details.
- 7) The use of the development hereby approved shall not be commenced until the foul sewage and surface water disposal facilities have been constructed and brought into use in accordance with the details approved under condition 6 above.
- 8) No above ground development shall be commenced until details relating to boundary walls, fences and other means of enclosure for all parts of the development have been submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall take place in accordance with the approved details.
- 9) Notwithstanding any details approved, the boundary treatments as set out in condition 8 above shall include suitable holes (13cm x 13cm) at ground level and appropriate signage to allow for movement of hedgehogs. The hedgehog holes and signage thereafter shall be maintained for the intended purpose and shall not be blocked up or removed.

- 10) The development shall be carried out in complete accordance with the mitigation and enhancement measures, as described in the Preliminary Ecological Appraisal prepared by Quants Environmental dated October 2021.
- 11) Prior to the commencement of development an Ecological Enhancement and Management Plan shall be submitted to and approved in writing by the Local Planning Authority. The Ecological Enhancement and Management Plan shall include but not be limited to:
 - Bat mitigation and enhancement features;
 - Bird nesting boxes (boxes will be suitable for a range of species); and
 - Management of enhancement features.

The approved Ecological Enhancement and Management Plan shall then be implemented prior to the first occupation of any dwelling on the site.
- 12) No external lighting shall be installed other than in complete accordance with a scheme that has previously been approved in writing by the Local Planning Authority.
- 13) No development excluding demolition shall be commenced until a Phase 2 assessment of the risks posed by contamination, carried out in line with the Environment Agency's Model Procedures for the Management of Land Contamination CLR11, has been submitted to and approved by the local planning authority.
- 14) Prior to the commencement of development, excluding demolition, a detailed remediation scheme to bring the site to a condition suitable for the intended use (by removing unacceptable risks to human health, buildings and other property and the natural and historical environment) must be prepared and is subject to the approval in writing of the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.
- 15) Prior to the first occupation of the development hereby permitted, the approved remediation scheme must be carried out in accordance with its terms and a verification report that demonstrates the effectiveness of the remediation carried out must be produced and is subject to the approval in writing of the Local Planning Authority.
- 16) In the event that unexpected contamination is found at any time when carrying out the approved development, it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken and where remediation is necessary a remediation scheme must be prepared, which is subject to the approval in writing of the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority.

- 17) The crossing of the highway verge and/or footway must be constructed in accordance with the approved details and/or Standard Detail number A1 and the following requirements.
- The final surfacing of any private access must not contain any loose material that is capable of being drawn on to the existing or proposed public highway.
- All works must accord with the approved details.
- 18) Prior to the commencement of development, details of the provision of a new water supply to the development (including the timing and/or phasing of implementation and any works in relation to the existing supply) shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.
- 19) Prior to the commencement of development, details of the resurfacing of access to the site from the highway (including the timing and/or phasing of implementation) shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.
- 20) The development permitted shall not commence until an Invasive Species Management Plan has been submitted to and approved in writing by the Local Planning Authority. The Plan shall detail measures to be implemented in order to minimise the risk of aiding the spread of the invasive plant species that are known to be located at the Site. The Management Plan shall be implemented in accordance with the approved details and thereafter maintained.
- 21) Prior to the first occupation of the development hereby permitted, details of the storage of waste and recycling bins shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details prior to first occupation, unless otherwise agreed in writing by the Local Planning Authority.
- 22) Prior to the first occupation of the development hereby permitted, details of any oil tanks to be placed on the site, including screening, shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details prior to first occupation, unless otherwise agreed in writing by the Local Planning Authority.

End of Schedule