
Appeal Decision

Site visit made on 29 November 2022 & 13 March 2024

by John Dowsett MA DipURP DipUD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27th March 2024

Appeal Ref: APP/G2713/W/22/3295409

Dromonby Bridge Farm, Busby Lane , Kirkby in Cleveland , North Yorkshire, TS9 7AP

- 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 Robert Jones against the decision of Hambleton District Council.
 - The application Ref: 21/01613/FUL, dated 21 June 2021, was refused by notice dated 29 September 2021.
 - The development proposed is described as: Construction of detached dwelling with ancillary domestic buildings including garages, barn, AD unit, stables plus equestrian area and associated landscaping.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. After the planning application was determined by the Council, a new local plan, the Hambleton Local Plan, was adopted in February 2022. This plan supersedes the policies cited on the decision notice. From the evidence, Policies S5, HG4, E3, E4, E6, and E7 of the new Local Plan are the most relevant to determining the appeal.
3. The National Planning Policy Framework (the Framework) was updated in December 2023. The relevant provisions in respect of isolated homes in the countryside now contained in Paragraph 84 (e) of the Framework are unchanged from the version which was current at the time of the Council's decision.
4. In March 2022 after the decision was made on the planning application, Natural England published advice that set out that the Teesmouth and Cleveland Coast Special Protection Area and Ramsar Site (the SPA) was considered to be in an unfavourable condition due to nutrient enrichment, in particular nitrates, polluting the SPA. The appeal site lies within the River Tees catchment area which feeds into the SPA. In its appeal submissions this was raised by the Council as an issue and the appellant offered further comments on this.

Main Issue

5. The main issue in this appeal is whether the appeal site is a suitable location for new residential development having regard to the development plan and, in particular, whether the proposal constitutes an example of exceptional quality and outstanding design.

Reasons

6. The appeal site is a large field extending to some 5 hectares bordering Busby Lane. The historic Ordnance Survey maps included within the supporting statement indicate that, in the past, this site was two separate fields, a long narrow field running north from Busby Lane and a second field located to the rear of a former farmhouse now trading as a bed and breakfast. The two fields have subsequently been merged, although a line of trees in the northern part of the site indicates the position of the former boundary. The site is presently grassland and has been used for grazing of animals. In the area of the site to the rear of the adjacent bed and breakfast accommodation there is a concrete slab and the remains of a former stone built building. There are substantial belts of trees to the western and much of the eastern boundaries of the site and a well-established hedgerow on the site frontage to Busby Lane.
7. Policy S3 of the Hambledon Local Plan 2022 (the Local Plan) sets out the spatial strategy for the area and seeks to focus development on the main towns of Northallerton and Thirsk, on market towns and large villages, and on identified rural communities. In the latter, limited development is contemplated to address affordable housing requirements and where it can support social and economic sustainability. Although Great Busby and Kirby in Cleveland are identified as small villages, the appeal site is not within the built form of either of these settlements and it is common ground that the appeal site lies within the countryside for policy purposes.
8. Local Plan Policy S5 addresses development in the countryside and states that this will only be supported where it is in accordance with national planning policy, or other policies of the development plan, and would not harm the character, appearance, and environmental qualities of the area in which it is located. It then sets out various criteria in respect of the conversion, or replacement, of buildings in the countryside and for residential extensions.
9. Policy HG5 covers windfall sites within, or adjacent to, settlements and sets out the circumstances where development could be accepted. However, it is not argued that the appeal site is a windfall site in the context of Policy HG5 and from what I have read and from what I saw when I visited the site, it would not meet the criteria for a windfall site as it is too far from either of the nearby settlements to be considered adjacent.
10. Policy HG4 of the Local Plan sets out that a proposal for residential development not permitted under the provisions of Policy S5 or Policy HG5, will only be supported where, amongst other criteria not relevant to this appeal, the design is of exceptional quality, as set out in national planning policy. This latter reference is now to Paragraph 84 of the Framework, which directly replicates the text of Paragraph 80 of the earlier version of the Framework that was in force at the time of the Council's decision.
11. In this context, the appeal site is located in an area where new residential development would not normally be considered acceptable unless it meets these specific criteria. The appeal proposal is predicated on the basis that it represents exceptional design quality.
12. The test in Paragraph 84 of the Framework is a very high bar. Section e) of Paragraph 84 sets out the test in respect of exceptional quality. This test has two limbs. The first is that the design is truly outstanding, reflecting the highest

standards in architecture, and would help to raise standards of design more generally in rural areas. The second is that it would significantly enhance its immediate setting and be sensitive to the defining characteristics of the local area. A proposed development must meet both limbs of the test to qualify for the exemption in respect of exceptional quality.

13. The appeal proposal comprises a large two storey house with basement and attic accommodation, together with a group of outbuildings including a detached single storey garage block to the north of house, a large L-shaped stable block, and a single storey building to house anaerobic digestion equipment. The proposal also includes a new two storey building, which would incorporate the remnants of the stone built building, housing a tack room, storage, changing room, toilet and kitchenette facilities, and an office. Associated with the proposal is an extensive landscaping scheme around the proposed development.
14. The main house would read as a two storey, pitched roof, house with the south facing elevation divided into five bays. The façade on this elevation would be finished in smooth faced ashlar masonry and would have white powder coated surrounds to the openings. This façade would also be set forward of the eaves line to create an open terrace at first floor level for two of the bedrooms on the west side of the house and an open two storey void in the central bay. At the east end of the first floor, the main bedroom would extend to the façade and a small area of flat roof would link the façade to the main roof. At ground floor level the floorplate of the building would extend to the façade except in the central section where the two storey void would be created. The roof would be covered with slate and would feature stone coping, or water tabling, to each end.
15. The rear elevation of the building would be constructed in herringbone tooled masonry to reflect a style of stone dressing commonly used in the area. It would have smaller window openings but would feature a two storey, glazed, central portion, framed with timber, that would incorporate the principal entrance to the building and light a central two storey space which would run the full depth of the floor plan. At roof level, terraces serving the two bedrooms in the roof space would be cut into the rear roof slope with a sloping retaining wall to the outside edge to maintain the appearance of a gable end. The rear elevation features two projecting rear wings, constructed in red brick, which would partially wrap around the sides of the building. The side elevations of the building would also be faced in ashlar and would be divided at their central point by three stacked windows providing light to the corridors which would run centrally across the width of the building at ground floor and first floor levels, and to the two bedrooms located within the roof space. This arrangement would result in the building having a narrow section of flat roof where the ridge would otherwise be.
16. It is evident from the copies of the supporting information that I have been provided with that a detailed assessment of the character of the site and surrounding area has been undertaken, and that this has informed the proposed development. I have noted that the scheme has received support from a design review process.
17. I have also noted that the Council accept that suitable arrangements can be made to disseminate the learning outcomes from the scheme particularly the anaerobic digestion element that would help to raise standards of design more generally in rural areas.

18. That said, from the supporting information that I have been provided with I am not persuaded that the proposal would be so remarkable or excellent as to pass the threshold of being a truly outstanding design. The supporting information, having first analysed the context sets out the concept of the proposal is that it should “respond to the front and rear elevational treatments, in terms of detailing, massing, and proportions, as seen on local buildings; and appear grand, ordered, and well-proportioned on the public facade while the private elevation on the rear can be less ordered, more playful and respond to the agricultural typology”. It is not clear from the supporting information how some of the detailed design solutions, particularly the separated front façade, have been arrived at or what the rationale behind them is, nor is the functional relationship and aesthetic relationship between the proposed house and the extensive equestrian facilities fully explained. Whilst I am aware that this proposal evolved from an earlier refused scheme, the background information in respect of that proposal has not been included in the submissions.
19. The south elevation, facing Busby Lane, is the public facing elevation and effectively the front elevation. The analysis of properties in area used as examples all feature the principal/formal entrance on their front elevation. The front elevation of the appeal proposal, however, would not contain the principal entrance to the building, or indeed any functioning doorway. This would reduce the legibility and effect of public facing elevation despite it having some strong visual features.
20. The principal entrance to the proposed house would be located on the rear, north facing, elevation. This would be centrally located on the elevation and take the form of a double height glazed feature flanked by timber panels and as such would form an obvious entrance feature. The remainder of the north elevation, although containing smaller window openings in common with the window hierarchy on other buildings in the area, would, nevertheless, be very symmetrical and regular. This results in a tension between the stated intention to differentiate between formal frontage and informal rear and what is actually proposed, where most of the principal activity would be focussed on the “rear” of the building which is itself quite formally arranged in terms of its elevational treatment.
21. The forward projection of front façade results in uncomfortable visual relationship with main roof which would appear disproportionately low. Whilst the separation of the front façade would be visually interesting in close views, the effect would be largely lost in longer views when the separation would be less evident. Similarly, the breaking up of the larger architectural elements of the front and side elevations which would give of the house a “disassembled” appearance would again be apparent and visually interesting in close views but much less obvious in longer views.
22. In terms of the more fine-grained details, the proportions of the windows and openings in front elevation, combined with the freestanding nature of the façade, would result in the elevation having a compressed appearance with the openings appearing disproportionately large in relation to the perceived wall height. In addition to this, the disposition of the glazing bars and panes in the front elevation windows, which are mirrored in the four windows on the eastern end of the elevation and identical, or absent, on the western part, would fight against the rigid symmetry otherwise imposed on the façade by the placement of the openings and emphasised by their projecting white surrounds. This would also

create a tension between the actual proposed design and the stated objective of creating a grand, ordered, and well-proportioned façade.

23. I have noted the point that the design, through the placement of the various outbuildings, references the layout of farmsteads in the area around courtyards with various degrees of enclosure. However, this is a well established practice for designing buildings in rural areas and the appeal scheme would not add anything novel or unique to this approach. The ancillary buildings, whilst taking their design inspiration from local vernacular agricultural buildings, are essentially fairly basic and functional designs constructed in extruded aluminium cladding over a brick plinth with some timber detailing. Again, these buildings would not bring anything new to the approach for designing and setting out of equestrian facilities and domestic outbuildings. The exception to this is the proposed two storey tack room and office building which would incorporate the ruined building currently present on the site. This would link the design to the previous history of the site and also result in a visually interesting structure of novel design, albeit one that is largely hidden from public view. However, this is just one small element of the overall scheme.
24. The appeal proposal ultimately presents as a relatively conventional two storey house with an extensive range of outbuildings. From what I saw when I visited the site, the design of the south elevation draws heavily on the design of the front elevation of the nearby Dromonby House, located a short distance to the east of the appeal site, both in terms of the treatment of the façade, echoing it's five bays and the stark white window surrounds, as well as the walling and roofing materials and the stone water tabling. Although drawing precedents from nearby buildings helps to integrate new buildings into an area, in this instance there is a very close resemblance between the facades of two buildings, which would be encountered sequentially when travelling along Busby Lane. There are differences in the detailed design of the façade of the appeal proposal, however, due to the close similarity, the appeal proposal lacks some of the originality required to be truly outstanding or exceptional.
25. It is unclear from the supporting information that I have been provided with what the nature of the equestrian facility is. The Council Planning Officer's report states that it is ancillary to the domestic use. Nonetheless, it is large in scale, has its own office, and appears to have six dedicated parking spaces. The functional relationship between the two elements of the proposal, the house and the equestrian facility is not fully explained, nor is it evident from the submitted drawings.
26. It is proposed that the energy needs for the house would be met through the operation of a domestic scale anaerobic digester generating biogas to run a combined heat and power unit. It is set out that this was chosen as the most suitable renewable energy source for this specific site, due to the appellant keeping cattle and sheep on adjoining land, generating organic matter and waste all year round. The anaerobic digester would also take the human and food waste generated by the house. It is stated that this approach would be the first of its kind in the country. I accept that this is a novel feature of the design and is innovative, although innovation is no longer part of the test, but it would primarily only be practical as the appellant owns and operates a dairy farm and also keeps and raises alpaca and animal waste would provide a fuel source for the anaerobic digestion process. Whilst this is suitable for the appellant and their current circumstances, given the potential usable lifespan of the proposed

building, it is uncertain whether future occupiers of the building would have access to this same fuel source in sufficient quantity. Future occupiers may have to source and transport waste material in order to operate the anaerobic digester if they are not active in keeping livestock.

27. I recognise that there are some advantages, primarily a reduction in carbon dioxide emissions from livestock waste. Combined with the more conventional energy efficiency measures proposed in terms of construction and design, this would reduce the carbon footprint of the house through reducing or eliminating emissions from energy production by conventional means. That said, I also note that the supporting information states that 15ha of the appellant's farm would be allocated for the production of crops suitable as fuel. Again, future occupiers may not have this facility as it is not suggested house would be tied to the agricultural operation and is, consequently, potentially severable from it. The proposal is not predicated as an agricultural workers dwelling and there may not be a long term connection with the farm owned by the appellant. This element of the proposal is unique, however, the technology is highly specialised and there is no evidence that would indicate that it would be sustainable over the lifetime of the house.
28. Although the proposed dwelling is broadly well designed, for the reasons set out above, I find that the overall design of the proposal falls short of reaching the very high bar of being truly outstanding.
29. In order to meet the exception in Paragraph 84 e) of the Framework, a proposal must meet both limbs of the test set out in that paragraph. As I have found that the proposal would not represent truly outstanding architecture, whether it meets the second limb of the test is somewhat moot. Nonetheless, in the interests of completeness, I will address the question of whether the appeal proposal would significantly enhance its immediate setting and be sensitive to the defining characteristics of the area.
30. The appeal site is currently a large, grassed field which is used for grazing. It is similar to other fields in the area which make up a mosaic of irregularly shaped, small to medium sized fields, with groups of buildings or individual buildings scattered through the landscape between larger settlements. The site contains a derelict building to the north of the house on the neighbouring site which is not visible from the wider public domain. No evidence has been put to me which would indicate that the site is degraded or detracts from the character or appearance of the area.
31. The requirement of the second part of the test is not that the proposed dwelling would not cause harm to the setting or would improve the appearance of the area but that it would significantly enhance its immediate setting i.e. that it would enhance the setting in a sufficiently great or important way as to be worthy of attention.
32. The appeal proposal was accompanied by a Landscape and Visual Assessment which concluded that the general effect of the proposal on the landscape as a resource would be negligible to minor beneficial. Although the Council suggest that the appeal proposal would be harmful to the landscape, it has not submitted any technical evidence to support this.
33. Whilst I accept that a great deal of attention has gone into the design and concept of the appeal scheme, it would nonetheless introduce a substantial

amount of built development and hard surfaces as well as more formal, managed, landscaping into an area which is characterised by open agricultural fields. Notwithstanding the design merits of the main house, the scheme for which permission was sought has to be considered as a whole and includes an extensive range of outbuildings of a relatively uniform design with the exception of the building which incorporates the ruins of the former building on the site in a creative manner. In the context of other groups of buildings in the surrounding area, this quantum of new development would not necessarily be harmful to the landscape character, however, I would disagree with the finding of the Landscape and Visual Assessment that the introduction of the proposed new house, range of outbuildings and associated hard surfaces would represent a major beneficial change. Agricultural fields are an important component of the landscape of the area, and it is hard to see how replacing part of this field with an extensive group of buildings and hardstanding of a more domestic character would be an enhancement. Although the landscape proposals would be attractive, they would nevertheless introduce a more formal element of landscaping which, whilst not inherently harmful, would equally not represent a significant enhancement of the present rural/agricultural landscape.

34. The appellant's Landscape and Visual Assessment does not find that the proposal would significantly enhance its immediate setting and from what I have read and from what I saw when I visited the site, I would concur that the effect would be, at best, a minor beneficial one. Consequently, I find that whilst the proposal would in some respects be sensitive to the defining characteristics of the area, it would not significantly enhance the immediate setting and thus fails the second limb of the test in Paragraph 84 e) of the Framework.
35. The Council have not raised any concerns in respect of the proposal either achieving biodiversity net gain or preserving and securing gains in green infrastructure. From the evidence before me, I have no reason to find otherwise and do not find any conflict with policies E3 and E4 of the Local Plan which address these matters.
36. The appeal site is close to the boundary of the North York Moors National Park and Local Plan Policy E6 seeks to resist development harmful to setting of the National Park. From the vicinity of the appeal site the National Park can be seen in the middle distance where the terrain rises steeply to the Moors. Within the context of the surrounding landscape of open fields and scattered buildings and groups of buildings together with the larger settlements of Kirkby and Great Broughton, the addition of the appeal proposal would not fundamentally alter the setting of the National Park or the appreciation of its special characteristics and landscape and scenic beauty. I am also mindful that the Council have not raised any objections in this respect. Nonetheless, neither of the above points would outweigh the conflict with Policies S6 and HG4 of the Local Plan and Paragraph 84 of the Framework.
37. I therefore find that the appeal site is not a suitable location for new residential development having regard to the development plan and, in particular, whether the proposal constitutes an example of exceptional quality and outstanding design. It would not comply with the relevant requirements of Policies S5 and HG4 of the Local Plan, or the requirements of Paragraph 84 of the Framework.

Other Matters

38. The appeal site is close to the Grade I listed Dromonby Hall and Dromonby Hall Cottage with Attached Outbuilding [List Entry No: 1151365] and the nearby Grade II listed Farmbuilding to the west of Dromonby Hall Farm [List Entry No: 1314918]. A short distance to the south east of Dromonby Hall, Dromonby House is also a Grade II listed building [List Entry No. 1189272].
39. I have been provided with little information in respect of the significance of these buildings. This notwithstanding, I saw when I visited the site that these buildings are located several hundred metres from the appeal site and there is little intervisibility between them and the appeal site due to tree cover and the configuration of publicly accessible routes. Even if there were some historical connection between either Dromonby Hall, or Dromonby House, and the appeal site, any contribution that the appeal site might make to understanding the significance of the building would be limited to being part of the broader rural/agricultural setting of the building.
40. I have also noted that the Council do not consider that the appeal proposal would not cause harm to the setting of these listed buildings. From the evidence before me and from what I saw at the site visit, I would concur with this conclusion.
41. The Council have not raised any concerns in respect of the living conditions of the occupiers of the neighbouring property, or with regard to access and highway safety. From what I have read and from what I saw when I visited the site, I have no reason to find differently. Nonetheless, this does not lead me to a different overall conclusion.
42. Although the potential effect of nutrient enrichment of the Teesmouth and Cleveland Coast SPA was not a reason for refusal when the planning application was determined, this matter was subsequently raised by the Council in their submissions due to changed circumstances. Had I been minded to allow the appeal, this matter would have required the preparation of a habitats regulations assessment and an appropriate assessment. However, as I am dismissing the appeal for other reasons, which are set out above, it is not necessary for me to make a finding on this point as it would not lead to a different outcome.

Conclusion

43. I have found that the appeal site is not a suitable location for new residential development and would not meet the requirements of Paragraph 84 e) of the Framework. As such, the proposal would not comply with Policies in the development plan that are most important for determining the application.
44. These are important matters that lead me to find that the proposal would not comply with the development plan when taken as a whole, notwithstanding that it may comply with other policies in the development plan. In the circumstances of this case there are no material considerations to indicate that the decision should be made otherwise than in accordance with the development plan.
45. For the reasons set out above, I therefore conclude that the appeal should be dismissed.

John Dowsett

INSPECTOR