



Appeal Decision

Site visit made on 16 January 2024

by J Symmons BSc (Hons) CEng MICE

an Inspector appointed by the Secretary of State

Decision date: 28th March 2024

Appeal Ref: APP/U2750/W/23/3332135

The Reservoir, Amotherby Lane, Amotherby, North Yorkshire YO17 6UP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr John Hopkinson against the decision of North Yorkshire Council.
 - The application Ref is ZE23/00515/FUL.
 - The development proposed is change of use - conversion of redundant water storage structure into a three bedroom partially underground dwelling.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. In November 2023 all designated Areas of Outstanding Natural Beauty (AONB) became National Landscapes and will be referred to as such in this decision.
3. The Government published a revised National Planning Policy Framework (the 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 this would disadvantage no party. For correctness, I have used the 2023 Framework paragraph references.

Main Issues

4. The main issues with the proposal are:
 - whether or not the proposal would be a suitable site for housing, having particular regard to the development strategy for the area;
 - the effect of the proposal on the character and appearance of the area having regard to the Howardian Hills National Landscape; 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

5. The appeal site consists of a former Yorkshire Water's covered reservoir which is located some 1.5 kilometres from Amotherby, off Amotherby Lane. The proposal would convert the reservoir into a three-bedroom dwelling.

6. Policy SP1 of the Ryedale Plan – Local Plan Strategy (LPS) details the spatial strategy for development within the district and the hierarchy of settlements where development is to be focused. Policy SP2 of the LPS details the delivery and distribution of new housing and the criteria for acceptable development within the settlement hierarchy and the wider open countryside.
7. There is no dispute between the main parties that the appeal site lies outside of the development limits of Amotherby and is located in the wider open countryside. I see no reason to question this.
8. While Policy SP1 does indicate brownfield land will be prioritised for future development requirements, Policy SP2 sets out the delivery and distribution of new housing which are considered appropriate in the wider open countryside. This includes new dwellings essential to support the land-based economy where an essential need for residential development in that location can be justified; conversion of traditional rural buildings and where it would lead to an enhancement to the immediate setting for Local Needs Occupancy; change of use of tourist accommodation where appropriate and restricted to Local Need Occupancy, and replacement dwellings.
9. Policy SP2 does not list any other circumstances for residential development in the wider open countryside. As such, the appellant's contention that the inclusion of the wording '*...or in certain other limited circumstances*' in the Council's first reason for refusal allows some level of special consideration within the policy is not supported.
10. The appellant accepts that the reservoir is not classed as a traditional rural building. While it is argued that the reservoir has heritage value through its historical connection with the supply of water to the area, this is not a circumstance that is supported by Policy SP2. The proposal therefore does not comply with the traditional rural building conversion part of Policy SP2. Nor does it comply with any of the other listed acceptable housing options for the wider open countryside.
11. Policies SP1 and SP2, along with the use of the wider open countryside, are formally adopted as part of the development plan for the area. There is little evidence provided to suggest that they are out of date, or inconsistent with the Framework.
12. The appellant suggests that as the proposal is unique, then the approaches set out in the development plan and Framework are not appropriate and this justifies the proposal being considered as a special case. However, the rationale behind Policies SP1 and SP2 is set out in the supporting text. This confirms that to achieve the sustainable objectives of the area, housing is focused towards settlements such as Malton and the market towns. The policies also seek to protect the wider open countryside by restricting housing to that which supports the needs of the rural community. While heritage and existing building reuse benefits are identified, the proposal is distant from existing built development, does not provide a local occupancy need and is directly at odds with the spatial strategy for the area. It would lead to an unsustainable pattern of development.
13. To show the acceptability of the proposal, the appellant cites the planning permission given by East Riding of Yorkshire for the conversion of an unused reservoir to a dwelling at Kilham Lane (LPA reference 19/04046/PLF). The

example relates to a different location and is within a different Local Planning Authority area. The Council advise that the development planning policies for the area are different and not comparable. The appellant does not dispute this. While I recognise the need for consistency in planning decisions, full details for this example are not provided. As I cannot be sure that the example is directly comparable to the appeal before me, I attribute little weight to it. In any event, each case must be determined upon its own merits.

14. In conclusion of this matter, the site of the proposal would not be suitable for new housing having regard to the development strategy for the area and would be contrary to Policies SP1 and SP2 of the LPS.

Character and appearance

15. The reservoir is currently used for storage and distribution purposes and this use is not disputed by the Council. The reservoir is partly buried with its above-ground element covered by soil. It appears as a grass/vegetated raised mound. A ramp from the lane allows access to the site and a side hardstanding area. The boundaries are defined by a mix of hedgerows, vegetation and fencing, and are bounded by Amotherby Lane and open agricultural fields. There is a distant public footpath which connects the lane to Appleton-le-Street.
16. The appeal site is within the Howardian Hills National Landscape (HHNL). This part of the HHNL is sparsely populated, with the majority of residents living in small villages and hamlets which are interspersed with numerous individual farms. The area is characterised by a farmed landscape whereby agricultural practices play a dominant role in shaping its appearance.
17. Due to the rolling topography and various trees and hedgerows, the reservoir is not highly visible in the views from the fields or the public footpath. However, while the lane's narrowness, vegetated and raised banks/verges and curvature restrict views to a degree, the proposal would still be highly visible from the lane, both when passing it and travelling towards it in the direction of Amotherby.
18. While the storage and distribution use results in a variety of materials and miscellaneous equipment such as boats stored externally, no significant changes to the reservoir's external appearance was evident.
19. The proposal would change the site to an isolated house which would, with the additions of such things as a gated access, car parking area, new side door entrance with retaining and cladded walls, new side window, patio doors, solar panels and central roof glass floor, significantly domesticate its appearance. Even with the dwelling's reduced access/car park levels, ground recessing of the solar panels and roof's glass floor and increased screening through site regrading and additional landscaping/hedging, the domesticated changes would be visible from the lane.
20. The proposal would in all likelihood, due to the site's isolated location and limited alternative transport options, result in future occupants being highly reliant on car use. While I appreciate the existing storage and distribution use already causes traffic impacts to the area, little evidence has been provided to demonstrate that these would be significantly worse than the proposal. From my observations, due to the restricted external and internal accesses that exist, which in all probability limits the use of the site, I am not convinced that

the existing traffic is significantly worse than the traffic which would be created by the proposal.

21. The residential use would also likely include external and internal lighting. While the existing use of the site does have some lighting provided, from my observations this appeared to be limited to the internal storage area. I saw little evidence of any existing external lighting during my visit. When compared with the proposal, with its greater number of windows and probable longer nighttime use, I consider it likely that more light pollution would be caused by it than the existing use. While the proposal's glass floor to the roof and internal lighting would be designed to mitigate some of the light pollution caused, little detail has been provided about how this would be prevented from the other windows and from any external areas that would require to be lit. As there are no other dwellings nearby, the proposal's increase in light pollution would be more harmful to the dark sky character of the area and the National Landscape. The appellant indicates that this matter could be secured through a planning condition. However, due to the uncertainty in the lighting details and mitigation, I am not satisfied that a condition could be imposed that would meet the tests set out in the Framework with respect to being enforceable, precise and reasonable.
22. It is argued that the development of brownfield sites should be prioritised and the proposal would be an efficient use of the land. However, the reservoir's current use represents brownfield development and little evidence has been provided to show that it is not an efficient use of the site. There is therefore no significant benefit in favour of the proposal from these matters. Furthermore, even though the design has been sensitively completed, as detailed above, the proposal would not be a sympathetic use of the land.
23. It is advised that there have been historical changes to the reservoir and the surrounding field and landscape pattern. While this may have been the case, it is necessary to consider the effects of the proposal against the current conditions of the appeal site and the surrounding land. Even though the proposal is small in comparison with the larger field, this does not reduce the harm that I have found.
24. The appellant asserts that the proposed landscaping and extra length of hedgerow would increase the opportunity for biodiversity. From my observations, large parts of the site are currently naturalised and there is little evidence presented to show that the proposal would significantly increase biodiversity. Aside from this, and the screening benefits, the proposed hedgerow would not significantly enhance the character and appearance of the area. It would form an isolated and largely enclosed site which would not resemble the historical smaller field settings suggested. Overall, the proposed landscaping and hedgerows do not justify the harm that I have found.
25. It is indicated that the proposal would offer a benefit in limiting, through the use of steepened banks, the use of the landscaped top of the reservoir compared to the existing situation. However, even though the appellant notes that it is not intended for future occupants of the proposal to use the area, there would be nothing to prevent access being added in the future and the landscaped top being used. As such, this would not be a benefit which outweighs the character and appearance harm I have found.

26. While no objections have been raised by the general public, both the Amotherby Parish Council and the HHNL Manager have raised objections. Although previous applications for the site have not been objected to by the HHNL Manager, this does not render the scheme acceptable. Objections have been raised and I have considered these in determining the appeal.
27. In conclusion of this matter, the proposal would harm the character and appearance of the area and the HHNL. It would conflict with Policies SP1, SP13, SP16 and SP20 of the LPS. These policies, amongst other matters, seek for development to create high-quality places which are well integrated, respect the character of the immediate locality and, protect and enhance the distinctive elements of the landscape character including the special qualities, scenic and natural beauty of HHNL.
28. It would also conflict with Paragraph 182 of the Framework which states, amongst other matters, that great weight should be given to conserving and enhancing landscapes and scenic beauty in National Parks, the Broads and National Landscapes which have the highest status of protection.

Fallback position

29. In November 2021, planning permission was granted for a vehicle access off Amotherby Lane with hardstanding and parking. As a result, this is a fallback position which has a greater than theoretical possibility of being pursued if the appeal is dismissed.
30. The granted scheme would have a larger access and turning area and a raised profile compared to the proposal's access and car parking elements. As such, the granted scheme would be more visually intrusive. Notwithstanding this, the granted scheme would be a smaller development compared to the proposal. It would not include any modifications to the reservoir structure and would not change the use of the site to residential. The proposal would therefore have a more domesticated effect on the reservoir's character and appearance of the area compared with the granted scheme.
31. The improved external access of the granted scheme would certainly make it easier to enter and leave the site. However, it would not improve the internal access to the storage area and there is little compelling evidence that it would significantly increase the site's existing use and cause a more harmful effect on the character and appearance of the area than the proposal.
32. The proposal's access would improve highway safety by improving the junction's visibility and provide some assistance for vehicles, pedestrians and cyclists to pass on the lane. However, this would also be provided with the granted scheme and as such the proposal would offer no significant benefits.
33. Furthermore, the granted scheme would not change the proposal's conflict with the permitted housing in the wider open countryside set out in Policies SP1 and SP2 of the LPS.
34. In conclusion, the fallback has significant weight as a material consideration in the determination of the appeal. However, the proposal would have a significantly more harmful effect on the character and appearance of the area compared to the fallback. I see no justifiable reasons to outweigh this harm and the fallback would not weigh in favour of allowing the appeal.

Other Matters

35. The appellant contends that the proposal would give adequate outdoor space and would not harm the operation of the surrounding land. However, these are expected from new development and are neutral factors in this appeal.
36. As a means of justifying the proposal, the appellant refers to the effects of large solar farms being permitted on agricultural land across the countryside and to development being completed on greenbelt sites. However, these are very generalised examples with no substantive evidence on how they directly support the proposal. They are not directly comparable with the appeal site and they do not add weight in favour of the proposal.

Conclusion

37. For the reasons given above the appeal should be dismissed.

J Symmons

INSPECTOR