



Appeal Decision

Site visit made on 28 March 2024

by P Storey BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 April 2024

Appeal Ref: APP/U2750/W/23/3328329

Fairview Farm, Caravan, Thoraldby Track, Skutterskelfe, North Yorkshire TS15 0JR

- 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 Amanda Hartford against the decision of North Yorkshire Council.
 - The application Ref is 23/00764/FUL.
 - The development proposed is dormer bungalow (retrospective).
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appeal relates to a development that has commenced, albeit it had not been completed at the time of my visit. Nevertheless, insofar as development had progressed, it appeared to comply with the details shown on the submitted plans on which the Council made its decision. I have therefore determined the appeal against these plans.
3. The site was formerly part of the administrative area of Hambleton District Council, which has now merged with several Councils to form North Yorkshire Council. The development plan policies for the former merged Councils remain in place until such time as they are revoked or replaced. I have determined the appeal on this basis.
4. An update to the National Planning Policy Framework (the Framework) was published on 19 December 2023. Other than changes to paragraph numbering, there are no material changes relevant to the substance of the appeal.

Main Issues

5. The main issues are:
 - whether the proposed development comprises appropriate development in the countryside; and
 - the effect of the proposed development on biodiversity.

Reasons

Development in the countryside

6. The appeal site lies in the countryside and forms part of the land of Fairview Farm. At my visit I observed the partially constructed building lay adjacent to several structures of varying degrees of permanence that appeared to be used

as sheds, kennels and stables. A dwelling in the form of a dormer bungalow lay further to the south.

7. Among the planning history listed in the appellant's statement of case is an application granted in 2018 for a certificate of lawfulness (existing) for the siting of a caravan for the purposes of permanent residential occupation. The Council has provided a copy of the certificate of lawfulness and the relevant location plan, which suggests the footprint of the building subject to the appeal matches the area of land identified by the certificate of lawfulness.
8. Policy HG4 of the Hambleton Local Plan – Adopted February 2022 (the LP) relates to housing exceptions. It states that proposals for the replacement of an existing dwelling in the countryside will be supported where the requirements of Policy S5 of the LP are met. Policy S5 relates to development in the countryside, and states that a proposal for the replacement of an existing building (including a dwelling) in the countryside will only be supported where it meets certain criteria, including that only limited increases in floorspace will be supported and development proposals must be proportionate to the building(s) that they replace.
9. The certificate of lawfulness refers only to the siting of a caravan for the purposes of permanent residential occupation. As such, whilst the certificate of lawfulness may have established the use of the land for permanent residential accommodation, the caravan itself is not a building for the purposes of assessment against Policy S5. In any event, the proposed bungalow is set over two storeys and has a significantly larger floorspace than would be expected of a caravan. I am therefore not persuaded the proposal would qualify as a replacement building under the policy context set out above.
10. Paragraph 3.54 of the LP, forming part of the supporting text to Policy S5, states that development in the countryside will be resisted unless it is expressly allowed by other policies of the development plan or by national planning policy. Although the proposal would not conflict with certain other policies of the development plan, I find no specific policies that would expressly support it.
11. Paragraph 84 of the Framework states that planning policies and decisions should avoid the development of isolated homes in the countryside unless one or more of a specific set of circumstances apply. Although I acknowledge the provisions of the certificate of lawfulness, the nature of the proposal is very different to the siting of a caravan. Because of this, and the site's characteristics, the proposal does, to my mind, represent the development of an isolated home in the countryside. In this regard, the submitted evidence does not persuade me that the proposal would align with any of the circumstances listed in paragraph 84 of the Framework.
12. For the reasons given above, the proposal would not constitute appropriate development in the countryside and would conflict with Policies S5 and HG4 of the LP, and the relevant provisions of the Framework, the aims of which have previously been set out. It would also conflict with Policy S1 of the LP in respect of this issue, which seeks to deliver sustainable development.

Biodiversity

13. Policy E3 of the LP expects that all development demonstrates a net gain for biodiversity. The appellant has submitted a Biodiversity Net Gain Assessment (the BNG Assessment) based on the Biodiversity Metric 4.0 Calculation Tool. The BNG Assessment indicates that the proposal could provide a net gain of 0.05 habitat units, representing a net gain of 10.98%.
14. The Council is concerned that the boundary of the survey area used in the BNG Assessment is not consistent with the red line boundary of the appeal site. It is therefore contended that the true ecological value of the site is not known.
15. Whilst I acknowledge the inconsistencies between the survey area and the boundary of the application site, all areas identified by the BNG Assessment for proposed habitat creation appear to fall within land under the appellant's control, shown by a blue line on the site location plan for the appeal.
16. At my visit I noted the appeal site, and the immediate adjoining land identified for proposed habitat creation, appeared to be of relatively low biodiversity value. Policy E3 does not place a minimum figure for biodiversity net gain. As such, based on my observations and the submitted evidence, it appears eminently feasible that enhancements to meet the policy requirement could be delivered within land subject to the appellant's control.
17. For the reasons given above, the proposal would be acceptable in terms of its effect on biodiversity, and it would accord with Policy E3 of the LP, the aims of which have previously been set out.

Other Matters

18. The proposal would make efficient use of the site and contribute to the supply of housing, thereby supporting the Government's aspirations set out in the Framework. Nevertheless, the proposal would provide only a modest benefit of a single unit to the housing stock. As such, the benefits of the proposal would not outweigh the harm previously identified.
19. The proposal has the potential to adversely affect nutrient levels in relation to the River Tees catchment area for the Teesmouth and Cleveland Coast Special Protection Area (SPA). In the event I was minded to allow the appeal, it would have been necessary to undertake an appropriate assessment to determine the effect of the proposal on the integrity of the SPA. However, because I am dismissing the appeal for other reasons, it is not necessary for me to consider this matter further.

Conclusion

20. Although I have identified no harm in respect of biodiversity, the proposal would conflict with the development plan as a whole. There are no considerations, including the provisions of the Framework, to indicate a decision should be made other than in accordance with the development plan. Therefore, for the reasons given above, I conclude that the appeal should be dismissed.

P Storey

INSPECTOR