



Appeal Decision

Site visit made on 23 May 2024

by **P. D. Biggers** BSc Hons MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1st July 2024

Appeal Ref: APP/E2001/W/24/3336679

**Chapel Farm, Old Trough Lane, Sandholme, East Riding of Yorkshire
HU15 2XW.**

- 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 Gavin Hancox (Hydrotec Industrial Services Ltd) against the decision of The East Riding of Yorkshire Council.
 - The application Ref 22/03140/PLF dated 14 November 2022, was refused by notice dated 11 July 2023.
 - The development proposed is change of use of land and buildings from redundant pig farm to storage (Use Class B8). Erection of new office building following demolition of redundant stable block. Recladding and insertion of roller shutter doors on Shed A, external alterations to shed B and the erection of an extension and recladding to shed C. Insertion of a new washout enclosure. Provision of concrete surfacing around the sheds and associated parking. Erection of electric gates to main entrance and timber shiplap fencing on southern boundary.
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Decision

1. The appeal is allowed and planning permission is granted for change of use of land and buildings from redundant pig farm to storage (Use Class B8). Erection of new office building following demolition of redundant stable block. Recladding and insertion of roller shutter doors on Shed A, external alterations to shed B and the erection of an extension and recladding to shed C. Insertion of a new washout enclosure. Provision of concrete surfacing around the sheds and associated parking. Erection of electric gates to main entrance and fencing on northern and southern boundary at Chapel Farm, Old Trough Lane, Sandholme, East Riding of Yorkshire HU15 2XW in accordance with the terms of the application, Ref 22/03140/PLF dated 14 November 2022 and subject to the conditions at Schedule A below.

Preliminary Matters

2. The description of development does not specifically include fencing on the northern boundary and yet this is clearly included on the submitted plans as part of the proposed works and already completed and which would need to be controlled in any permission. I have therefore included this in the description of development I have used in the permission to allow the Council control over it.

Main Issues

3. The main issues in this case are:
 - Whether or not the scale and intensity of the proposed use and development would be appropriate in the countryside setting.

- Whether or not the proposed use and development would be detrimental to the character and appearance of the countryside.
- Whether or not the proposed use would have a detrimental impact on living conditions for present and future occupants of neighbouring properties to east and west of the site and the community generally in terms of noise and disturbance.

Reasons

4. The land the subject of this appeal lies immediately to the north of Old Trough Lane in Sandholme, a small settlement in the countryside. The site is already developed with a series of portal frame sheds and buildings relating to the former use of the site as a piggery. A two storey dwelling and its closely related buildings stand to the south of the appeal site (originally the farmhouse) and, although these buildings are in the same ownership, they are not part of the appeal site.
5. Within the immediately surrounding area of the appeal site there are a significant number of horticultural enterprises with large glasshouse structures. The landscape is thus one where large scale structures are part of its character.
6. It is understood from the appeal documentation that the buildings on the appeal site were redundant and unused when acquired by the appellant. The development would see the storage sheds A, B and C refurbished in sheet metal cladding and Shed C extended and a new building for use as offices constructed. This work with the exception of the proposed new office and extension to Shed C is now largely complete.

Appropriateness of the Use

7. Although the site cannot be classed as previously developed land having last been in agricultural use, these are redundant farm buildings and the *National Planning Policy Framework* (the Framework) encourages the development of rural enterprise through the reuse of existing buildings and the erection of well-designed new buildings. Similarly, Policy S4 (C1) of the *East Riding Local Plan Strategy Document* (ERLPSD) allows for the conversion of buildings in the countryside for economic development where proposals respect the intrinsic character of their surroundings. The policy also contains an overarching requirement of all development in the countryside that it is of an appropriate scale. Policy EC1 of the ERLPSD, supporting growth of the East Riding economy, also supports employment development outside settlement boundaries where it is of an appropriate scale to its location and respects the character of the surrounding landscape. I deal with the character point in the section below on character and appearance and deal with matters of principle and scale in this section.
8. Section D of Policy EC1 presents a number of circumstances where such employment development would be appropriate. Section D3 clearly does apply, as it relates to the conversion of existing buildings. In floorspace terms the majority of the proposed development would be within converted buildings. It has also been put to me that, whilst this is not the expansion of an existing business on the site, (Policy EC1 D2), the proposal would provide for the expansion of an existing business relocating to the site from a location in close proximity. Whilst the policy itself does not specifically state that the expansion must be to a business already on the site it is clear from the supporting text to the policy that this is the intention.

9. I have been invited to conclude that there is also no demonstration of a functional need for this business to be in this particular location (Policy EC1 D4) but, as the policy only requires one circumstance to be met anyway and this test is not consistent with the Framework, I attach limited weight to the absence of clear functional need. In large part the proposal would be compliant with section D of the policy in respect of the reuse of the existing buildings. Only the new build element would not be directly supported by the policy.
10. It has been put to me that it is the scale of the industrial use in this rural landscape that would be inappropriate with the officer's report stating that 982m² of B8 floorspace would be created. However, this is still within the threshold where commercial development is classed as 'Minor' and, as stated, this floorspace largely comprises the reuse of existing buildings. I accept that there would be a small additional element of newbuild to provide the offices but the net increase after allowing for the demolition of some of the former piggery buildings would be small.
11. Even if I was to concur that the scale of the proposal would be inappropriate to the surroundings, the impact of the use is not just about physical floor area. What is also pertinent is the nature of the operation. From my observations on site, the use of these buildings for machinery and equipment storage and accommodation for what the application form states to be 6 employees would be an operation that is modest in scale.
12. I do not have the information before me to confirm whether this would be an intensification of use over the last use as a piggery or not. I acknowledge that it is a different use to an agricultural use but it would not necessarily be that dissimilar to the intensity of an agricultural operation occupying the whole site in terms of the comings and goings, scale of building, etc.
13. For the above reasons I am not persuaded that the scale of use would be inappropriate to the location in principle nor significantly at odds with Policies S4 and EC1. Given the support expressed in the Framework for economic development, and the fact that the ERLPSD Policy EC1 is not entirely consistent with the current Framework, the minor variance that the proposal would involve with Policy EC1 would not be sufficient reason to dismiss the appeal.

Character and Appearance

14. The buildings, other than the new office and extended Shed C, exist from the previous use of the site as a piggery. Given that as already apparent on site the proposal would see significant improvement being made to these standing buildings, it is not a matter of dispute between the parties that much of the design aspects would be acceptable. Moreover, the new office building and catslide extension to shed C would in part replace previous built form from the former piggery and would be built to a single storey design in keeping with the rest of the complex. I am satisfied they would constitute well-designed new buildings in the context of the Framework and the Council has not taken a different view.
15. However, it has been put to me that the proposal would be an encroachment into the countryside setting and agricultural character of the area. Taken as a whole there would be very little in the proposal that would not have been possible as permitted agricultural development had the farm continued in agricultural use and in that respect the impact of the refurbished, converted and new buildings on the site would be acceptable. Moreover, much of modern agriculture involves

machinery storage and I see little difference between the proposed use and what is a typical use within large, modern agricultural sheds.

16. The landscape is not designated as a special landscape area and the Council's own landscape character assessment identifies a number of detractors and fragmentation of the landscape character type of the area. Moreover, in a countryside dominated by large commercial horticultural buildings I am not persuaded that the appeal proposal, which is predominantly a conversion of existing buildings, would constitute encroachment into the countryside to the detriment of its landscape character.
17. I acknowledge that what has been put in place as boundary screening in the form of high close boarded fencing and leylandii evergreen planting is insensitive in the setting where neither close boarded fencing nor leylandii is in keeping with the landscape character. However, this impact could be controlled by the imposition of a condition to submit a scheme of boundary treatment incorporating a more typical, open, post and rail fencing and a native, species rich hedgerow in place of what has been installed. The Framework encourages decision makers to consider whether otherwise unacceptable development could be made acceptable through the use of conditions. This is the case here where a condition could control the otherwise unacceptable boundary treatment already installed to achieve something more in keeping with the local landscape character.
18. Accordingly, I am not persuaded that the impact on the character and appearance of this area of countryside would be significant. In the context of ERLPSD Policy ENV1 which seeks to safeguard and respect the diverse character and appearance of the area (and which is the policy referred to by the Council in the reason for refusal) I am satisfied that the proposal would be compliant. Moreover, in terms of Policy ENV2, specifically relating to landscape, the policy requires development proposals to be sensitively integrated into the existing landscape. Providing the condition relating to boundary treatment is applied, there would be no conflict with the policy.

Living Conditions

19. The site has residential properties lying to the south, west and east. Those to the south and west are closest. The former farmhouse to the south is in the appellant's ownership and I have therefore concentrated on potential impacts for the property to the west on Old Trough Lane. This adjoins the north west corner of the appeal site but is separated from it by high, close-boarded fencing and a substantial tree screen. It would appear that the west end of shed B, which is the higher end, would be quite prominent from the residential property. However, as this is an existing building simply being reclad and the recladding would be an improvement to its previous form, I am satisfied this would not be detrimental to the visual amenity of the occupants. In terms of other impacts, based on my observations on the site visit, the proposed use of the site, which is now in operation, would not appear to involve any processes likely to give rise to excessive noise and disturbance. I have been referred to the use of the wash-out area as a source of concern but, given that this would be used intermittently to clean down machinery within a contained enclosure, I am not persuaded this would give rise to any significant noise and disturbance.
20. With regard to the property on the east side, although the appeal site is more open to the dwelling, (the boundary hedging being lower) the property is much further from shed A and the main operational area of the site. Accordingly, I reach no different conclusion to that above regarding the closer property to the west.

21. It has been put to me that for the wider resident community there would be additional comings and goings and therefore disturbance from additional traffic. However, this is not borne out by the trip generation data provided by the appellant which indicates fairly low trip generation and probably little different to what could be the case were the site to continue in operation as a farm.
22. Whilst I am satisfied that the proposed use and its level of operation would not impact adversely on living conditions for the neighbouring occupants and therefore the requirements of ERLPSD Policy ENV1 would be met, the same would not necessarily be the case for other uses within Class B8 (Storage and Distribution). Other distribution warehouses could have a very significant level of traffic generation for example, impacting on rural roads, and therefore, if allowing the appeal, it would be necessary to attach a condition restricting the use to the storage of machinery and equipment only and no other Class B8 use, without a further planning application.

Conclusion and Conditions

23. In reaching my decision I have had regard to the matters before me. For the reasons above the appeal should be allowed and planning permission granted for the proposed use and development on the appeal site subject to conditions.
24. The Council suggested a number of conditions. I have considered these in the light of the advice in the Framework and *Planning Practice Guidance*. The standard condition regarding timing is not attached as the development has been implemented and the application largely retrospective. However, a condition requiring development to be carried out in accordance with the submitted plans is necessary in the interest of certainty.
25. Notwithstanding this and, as explained above, the boundary treatment stipulated in the submitted plans which has been implemented is not acceptable in terms of its impact on the character and appearance of the surroundings to the site. I therefore propose to attach a condition not proposed by the council requiring the submission and implementation of a revised boundary treatment within a fixed timescale.
26. Whilst I have concluded that the limited use of the site for machinery and equipment storage on the site would be appropriate, the same would not necessarily apply to other storage and distribution uses within use Class B8 for example those distribution uses with a much higher traffic generation. It is therefore necessary to impose a condition to restrict change of use within Class B8 without further planning permission.
27. As both this proposed condition and that relating to the boundary treatment are proposed additions to the Council's suggested conditions the parties have been consulted on them. The appellant is in agreement with the need for the conditions and their application. The Council has not commented.
28. The Highway authority have proposed two conditions which are necessary in the interests of highway safety one relating to improvements to the access and one relating to localised widening of Old Trough Lane. I agree that both of these are necessary. However, these would normally be requirements to be completed before the use commences and, as the application is largely retrospective and the use is already being carried out from the site, the conditions need to be applied in a way that is capable of enforcement. Thus similar compliance timescales and a method to enforce these are necessary as proposed for the condition relating to boundary treatment. I have proposed two months to prepare the schemes and 3

months to implement, following approval, in all cases which is a reasonable period for compliance.

29. Finally, the Council proposes two conditions which I agree are necessary to ensure that protected species and priority habitats would not be harmed by the development and that biodiversity is enhanced. One requires the development to be carried out in accordance with arrangements for mitigation and compensation set out in the Ecological Enhancement Management Plan; the other requires a wildlife enhancement plan to be submitted, the details of which would specify the enhancements.

P. D. Biggers

INSPECTOR

Schedule A Conditions

1. The development hereby permitted shall be carried out in accordance with the submitted documents and the following approved plans: 1549-S20-100; 1549-S20-101; 1549-S20-102; 1549-S20-103 Rev A; 1549-S20-104 Rev A; 1549-S20-105 Rev A; 1549-S20-106 Rev A; 1549-S20-107;
2. Notwithstanding Condition 1 (Development in accordance with submitted plans), within 2 months of the date of this decision a revised scheme for an open, post and rail, timber boundary fence to the northern and southern site boundaries and a landscaping scheme of indigenous, native, broadleaf and evergreen trees and hedging to both boundaries shall be submitted to and approved in writing by the Local Planning Authority. Within three months of the date of that approval the current boundary fencing will be removed and replaced with the approved fencing and landscaping and retained thereafter.
If the scheme is not submitted and implemented within these timescales the use shall cease until such time as a scheme is approved and implemented.
3. Within two months of the date of the decision details of improvement works to the existing vehicular access by surfacing shall be submitted to and approved in writing with the Local Planning Authority. Within three months of the date of that approval the improvement scheme will be implemented and retained thereafter.
If the scheme is not submitted and implemented within these timescales the use shall cease until such time as a scheme is approved and implemented.
4. Within two months of the date of the decision details of localised widening of Old Trough Lane shall be submitted to and approved in writing by the Local Planning Authority. Within three months of the date of that approval the localised widening will be implemented and retained thereafter.
If the scheme is not submitted and implemented within these timescales the use shall cease until such time as a scheme is approved and implemented.
5. Development shall take place in strict accordance with all of the recommendations for mitigation and compensation set out in sections 2 and 3 of the Bat Method Statement and Ecological Enhancement Management Plan (EEMP), Crow 5 Ecology, dated November 2022 unless otherwise agreed in writing by the Local planning Authority.

6. The development hereby permitted shall not progress beyond damp proof course level of the new buildings to be erected until a Wildlife Enhancement Plan (WEP) has been submitted to and approved in writing by the Local Planning Authority. The WEP shall be compiled by a suitably qualified ecologist and include:
- A timetable for implementation;
 - A detailed plan showing the locations and specification of the enhancement measures;
 - A minimum of 15 bird nesting boxes and 5 bat boxes as follows or similar:
 - 5no. Maxi Beaumaris Woodstone Wall Mounted Bat box
 - 3no. Small Eco Bird Box
 - 3no. Eco Robin Open Fronted box
 - 3no. Eco Starling Nest Box 1no. Eco Barn Owl Nest Box
 - 3no. Eco Sparrow Terrace
 - 3no. Eco House Martin Nest
 - Confirmation that the boundary treatments proposed in Condition 2 will provide hedgehog highways with holes under boundary features for hedgehogs to pass through.
 - A landscape strategy for the northern and southern boundary treatments required in Condition 2 to include native species-rich hedgerow planting with trees, designed for biodiversity enhancement. This shall include full details (planting plans with specifications of the planting to be undertaken including details of the species, size, number/density of plants, shrubs and trees; and a programme of implementation, maintenance and aftercare).
7. The premises shall be used for the storage of machinery and equipment and for no other purpose (including any other purpose in Class B8 of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended) (or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification)).