



Appeal Decision

Site visit made on 28 May 2024

by C Skelly BA (Hons) MSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8th July 2024

Appeal Ref: APP/E2001/W/23/3334732

Land and Buildings East of Hall Farm, Boynton Drive, Rawcliffe, East Riding of Yorkshire DN14 8QB

- 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 Matthew Harrison against the decision of East Riding of Yorkshire Council.
 - The application Ref is 23/02707/PLF.
 - The development proposed is conversion and change of use of an existing, vacant, redundant agricultural barn to a single, Use Class C3, residential unit with insertion of mezzanine floor, access, car parking and curtilage private garden areas up to redline boundaries.
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Decision

1. The appeal is allowed and planning permission is granted for conversion and change of use of an existing, vacant, redundant agricultural barn to a single, Use Class C3, residential unit with insertion of mezzanine floor, access, car parking and curtilage private garden areas up to redline boundaries at Land and Buildings East of Hall Farm, Boynton Drive, Rawcliffe, East Riding of Yorkshire DN14 8QB in accordance with the terms of the application, Ref 23/02707/PLF, subject to the conditions in the attached schedule.

Preliminary Matter

2. I have used the address shown on the Appeal Form and Decision Notice as it is a more accurate reflection of the location of the site.

Main Issue

3. The main issue is whether the proposal amounts to an appropriate form of development in respect of its location, having regard to the development plan, including to the extent of alteration required and its effect on the immediate setting.

Reasons

4. The appeal site comprises a redundant agricultural building which lies within part of an old farmyard with other buildings. The barn is accessed via a single-track, made-up road, which provides access to the residential properties on Boynton Drive and to the agricultural fields beyond. The boundaries of the residential properties on the west of Boynton Drive provide a strong visual boundary marking the edge of the built form, with the eastern side of the access road having an open, rural character.

5. The barn is enclosed and constructed from a steel portal frame, with concrete block walls to 1.8m and corrugated sheeting above and sheet roofing. There is currently an open lean-to running along the front elevation of the barn. The barn is physically separated from Boynton Drive by another larger agricultural building, which further separates it visually from the village.
6. The proposal seeks to alter the building through the insertion of a mezzanine level to create a residential dwelling. The development would involve the creation of a new opening on the eastern gable to match that of the west, a new insertion to the northern elevation and three small openings on the southern elevation. Outside, a new access would be created running through the remaining barn buildings and a new residential curtilage created in the area north of the barn. The existing lean-to extension would be removed.
7. Despite the site's close proximity to residential properties on the other side of Boynton Drive, as it is surrounded by open countryside on three sides it has a countryside appearance as opposed to being part of the built settlement.
8. Policies S1, S2, S3 and S4 of the East Riding Local Plan Strategy Document 2016 (ERLPSD) set out the overall approach for new development and a settlement hierarchy which aims to focus development in settlements with a range of services and infrastructure. Although the site is located in close proximity to Rawcliffe it is physically separated from the main built form outside the development limit and therefore is defined as Open Countryside within Policy S3 of the ERLPSD.
9. Part C1ii of Policy S4 of the ERLPSD states the requirements in relation to the conversion for new housing in such areas and specifies that they should re-use an existing building without significant alteration or extension. The supporting text of Policy S4 expands this clarifying that the existing building should be structurally sound and capable of re-use without significant rebuilding.
10. An appellant's structural report states that the mezzanine floor can be bolted to the portal frame columns which are capable of supporting additional loading. The survey concludes that the structure is capable of conversion but the walls above and the roof are clad with asbestos/cement sheets and would be replaced. I have no reason to disagree with the conclusions of the structural report.
11. The proposal is not a Class Q¹, development such as that considered in Hibbitt². However, the Judgment is useful in relation to understanding the distinction between conversion and rebuilding, as it is referenced in the Planning Practice Guidance (PPG). The PPG refers to building operations which are reasonably necessary to convert the building and includes the installation or replacement of windows, doors, roofs and exterior walls.
12. The structural report concludes that the structure of the barn is capable of bearing the load of the replacement walls and roof, which are required for the purpose of residential use. Accordingly, the extent of these changes would be reasonably required in order to support the change of use to residential and thereby to make it suitable for habitation.

¹ Part 3 of Schedule 2 to the Town and Country (General Permitted Development) (England) Order 2015 (as amended)

² Hibbitt and another v Secretary of State for Communities and Local Government (1) and Rushcliffe Borough Council (2) [2016] EWHC 2853 (Admin).

13. Hence, the proposed rebuilding works required in order for it to become residential use would not be significant.
14. Part C of Policy S4 requires that all forms of development located in open countryside should respect the intrinsic character of their surroundings and Part C1 specifies that conversions for new housing will be supported where the preservation of the building would enhance the immediate setting.
15. The appeal site is located within a small group of agricultural buildings which served a function associated with their countryside setting. I noted from my site visit that the building does not appear dilapidated or harm the character and appearance of the local area. Although the removal of the open lean-to element would constitute limited change, it would nevertheless enhance the immediate setting of the appeal site.
16. For the above reasons, I conclude that the proposal would amount to an appropriate form of development in respect of its location, having regard to the development plan, including to the extent of alteration required and its effect on the immediate setting. Hence it would accord with Policies S1, S2, S3 and S4 of the ERLPSD. Together, these policies seek to ensure that new development is located where there are a range of services and infrastructure and support conversions to housing where it involves the re-use of redundant buildings, which respect the intrinsic character of their surroundings.
17. The proposal would comply with Policies H1 and H4 as it would add to the variety of housing stock available in the area and make the most efficient use of land.
18. The proposal would involve the conversion of an existing agricultural building which is a characteristic of the appeal site's location in a rural setting, thereby it complies with Policies C1 and I1 of the National Design Guide, with regard to understanding local context and identity.

Other Matters

19. Matters relating to the flood risk, drainage and ecology can be appropriately addressed through condition and therefore the proposal would comply with policies ENV4 and ENV6.
20. The ongoing maintenance of Boynton Drive, which is a private road has been raised as an issue, but this is not a planning matter. Given the extent and nature of traffic associated with the proposal, it is not likely to affect the safety of children using the road to walk to school. I note that the Council also considered that the proposal complies with Policy ENV1 of the ERLPSD with regards to safe access, movement and use.
21. Comments have been made regarding the advertisement of the planning application, however this is not a matter for my deliberation in the context of a planning appeal.

Conditions

22. I have considered the Council's suggested conditions and where appropriate amended the wording to more closely align with the PPG. I have also removed tailpieces to conditions that circumvent the statutory route to vary conditions or deprive interested parties of the opportunity to comment.

23. The remaining buildings on the site are not currently in agricultural use and I note the comments from the public protection team who have no objection to the proposal with regards to the impact on future occupiers. I therefore do not consider that the Council's proposed condition restricting the future use of the adjacent barns is reasonable.
24. In addition to the standard time limit condition and which plans are relevant (1 and 2), I have attached a condition requiring details of materials to be provided (3).
25. Conditions in relation to flood risk, drainage and sewage (4, 5 and 6) are required to reduce the risk of flooding and pollution at the site.
26. The Council has highlighted that there may be contamination issues, therefore conditions relating to contamination, potential contamination and remediation are necessary (7 and 8) to mitigate the risks of construction workers and future users of the land.
27. Conditions relating to landscaping (9 and 10) are necessary to secure the satisfactory appearance of the converted barn and the enhancement of the immediate setting and landscape.
28. I agree that there is special justification for the removal of 'permitted development rights' for extensions and other alterations to the proposed dwelling as the scheme is put forward as the re-use of an existing building and not for a new one (11).
29. A condition relating to the hours of construction (12) is necessary to protect existing occupiers against noise disturbance.
30. The condition on ecology (13) is necessary to ensure all species are protected.

Conclusion

31. The proposed development would accord with the development plan and material considerations do not indicate that a decision should be made other than in accordance with it. For the reasons given above the appeal should be allowed.

C Skelly

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with drawing Nos 01 Revision 00, 03 Revision 00 and 04 Revision 00.
- 3) No development above damp-proof course shall take place until details of the materials to be used in the construction of the external surfaces of the development hereby permitted have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.

- 4) The development shall be carried out in accordance with the submitted flood risk assessment (Ref. 78560R2 compiled by GeoSmart Information Ltd dated 16/01/2023) and the following mitigation measures they detail:
- Finished floor levels set no lower than existing levels
 - No sleeping accommodation is provided at ground floor level
 - Internally accessible places of safety shall be provided at first floor level for all future occupants
 - An emergency flood warning and evacuation plan shall be agreed with the LPA.

These mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the scheme's timing/phasing arrangements. The measures detailed above shall be retained and maintained thereafter throughout the lifetime of the development.

- 5) No development shall take place on site until a scheme for the drainage of surface water from the site, incorporating a sustainable drainage system and associated management and maintenance plan, has been submitted to and approved in writing by the Local Planning Authority. The development shall not be first occupied/brought into use until surface water drainage has been constructed in accordance with the approved scheme shall be managed and maintained in accordance with the approved plan.
- 6) The dwelling hereby permitted shall not be occupied until works for the disposal of sewage have been provided on the site to serve the development hereby permitted, in accordance with details that have first been submitted to and approved in writing by the local planning authority.
- 7) No development shall take place until an assessment of the risks posed by any contamination, carried out in accordance with British Standard BS 10175: Investigation of potentially contaminated sites - Code of Practice and the Environment Agency, Land Contamination Risk Management (LCRM) (or equivalent British Standard and Model Procedures if replaced), has been submitted to and approved in writing by the local planning authority. If any contamination is found, no development shall take place until:
- i) a report specifying the measures to be taken, including the timescale, to remediate the site to render it suitable for the development hereby permitted has been submitted to and approved in writing by the local planning authority;
 - ii) the site has been remediated in accordance with the approved measures and timescale; and
 - iii) a verification report has been submitted to and approved in writing by the local planning authority.
- 8) Any contamination that is found during the course of construction of the development hereby permitted that was not previously identified shall be reported immediately to the local planning authority. Development on the part of the site affected shall be suspended until a risk assessment has been carried out and submitted to and approved in writing by the local planning authority. Where unacceptable risks are found, the development shall not resume or continue until remediation and verification schemes have been carried out in accordance with details

that shall first have been submitted to and approved in writing by the local planning authority.

- 9) No development shall commence until a scheme of landscaping has been submitted to and approved in writing by the local planning authority. The scheme shall include details of all existing trees and hedgerows on the land, identify those to be retained and set out measures for their protection throughout the course of development.
- 10) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
- 11) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no development permitted by virtue of Classes A, B, C, D, E, F, G and H of Part 1 of Schedule 2 to the Order shall be undertaken.
- 12) No construction or demolition, including site deliveries or removal of materials from the site should take place except between the hours of 8am and 6pm Mondays to Fridays, 8am and 2pm on Saturdays, and at no time on Sundays or Bank Holidays.
- 13) The development hereby permitted shall be implemented in strict accordance with the recommendations in section 5 of the Preliminary Ecological Appraisal (Archer Ecology, Jan 2023) and should be followed in full with regards to habitats in section 5.1.2, amphibians in 5.2.3, reptiles in 5.2.6, birds in 5.2.9 to 5.2.11, bats in 5.2.14 to 5.2.19 and badgers in 5.2.21.

END OF SCHEDULE