



Appeal Decision

Site visit made on 11 June 2024

by Chris Baxter BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 July 2024

Appeal Ref: APP/U2750/W/23/3334355

Post Farm House, Barkhouse Bank to Drovers Inn, Bishop Thornton, North Yorkshire HG3 3JN

- 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 Mark Fagan of Mud and Puddles Limited against the decision of North Yorkshire Council.
 - The application Ref is ZC23/02566/FUL.
 - The development proposed is proposed change of use from C3 residential to mixed use C3 residential, E(f) Crèche, day nursery or day centre (not including a residential use) and Sui Generis to comprise a shared space between the two.
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Decision

1. The appeal is allowed and planning permission is granted for proposed change of use from C3 residential to mixed use C3 residential, E(f) Crèche, day nursery or day centre (not including a residential use) and Sui Generis to comprise a shared space between the two at Post Farm House, Barkhouse Bank to Drovers Inn, Bishop Thornton, North Yorkshire HG3 3JN in accordance with the terms of the application, Ref ZC23/02566/FUL, and subject to the conditions in the attached schedule.

Preliminary Matters

2. For the sake of clarity and brevity, I have taken the description of development from the Council's decision notice.
3. At the time of my site visit, the proposal was in operation. I have dealt with the appeal accordingly.

Main Issues

4. The main issues are whether the proposal would be suitably located and demonstrates a local need; the effect of the proposal on the character and appearance of the surrounding area and landscape; and the effect of the proposal on the living conditions of the occupiers of the appeal dwelling with regards to noise, disturbance and private amenity garden.

Reasons

Location and need

5. Policy GS2 and GS3 of the Harrogate District Local Plan 2020 (HDLP) relate to growth strategy and settlement limits indicating that new development in the countryside will only be appropriate if permitted by other policies of the HDLP,

a neighbourhood plan or national policy. The appeal site lies within a countryside location.

6. Policy HP9 of the HDLP, relating to provision of new community facilities, is considered the most appropriate policy to consider this proposal against. The policy states that new community facilities will only be permitted where it can be demonstrated that there is a local need for the facility and that a number of other criteria is met.
7. It has been described that the nearest settlement to the appeal site is Bishop Thornton and including other surrounding locations, there is approximately 1500 to 2000 residents within these areas. The appellant operates two other childcare facilities in Bishop Thornton and Killinghall, which are both at full capacity with around 86 children on a waiting list for the Bishop Thornton facility and a waiting list of two years for the Killinghall facility. It is described that of these numbers, approximately 90% of these families are based in villages in the near locality. Except for the appellants own facilities there are no other childcare settings within six miles of Bishop Thornton. On this basis, and from the evidence before me, I am satisfied that there is a demonstrable local need for a childcare facility in the area.
8. The proposal is described as an outdoor childcare facility, so whilst there are internal areas for childcare, the ethos of the facility is to embrace and utilise the outdoors. The children learn and understand the farming style community including how to grow vegetables, maintain land and look after animals with the appeal site having allotments and access to farm life and wildlife environment. The appeal site is not easily reached by walking or public transport, however, the site is within close driving distance to the community it would serve. It is noted that families would have to travel further into either Harrogate or Ripon for other available childcare facilities. Therefore, given the outdoor ethos of the proposal and the lack of available childcare facilities in the area, the proposed facility would be accessible to the community it is intended to serve.
9. The proposal would therefore be suitably located and a local need for the community facility has been demonstrated. The proposal would not conflict with Policies HP9, GS2 and GS3 of the HDLP and the National Planning Policy Framework (the Framework) which seeks to direct new development and ensure a local need for new community facilities which is accessible.

Character and appearance

10. The appeal site is located within the Bishop Thornton Vale Fringe Farmland Landscape Special Area. The Council's Landscape Character Assessment of Harrogate District describes the landscape in the area of the appeal site as having undulating landform becoming flat around Bishop Thornton. Medium to large scale parliamentary enclosure agricultural fields in grass and arable production with hedgerow boundaries with woodland cover being intermittent.
11. The main appeal building and the associated outbuildings including parking and garden areas are primarily clustered within the north east corner of the site. The remainder of the site is akin to paddock land which has some features such as allotments, compost bins, chicken pens etc. The majority of these features are screened from views outside the site by the boundary hedgerows. I have had regard to the original curtilage of the residential property as detailed in

permissions 76/12913/FUL and 15/05207/FUL. Nevertheless, the make-up of the built and natural form of the appeal site does not appear out of keeping with the pattern of development in the immediate area which includes residential and commercial properties that have parking areas visible from the main roads.

12. The character of the site has inevitably changed as there will be more vehicle movements to and from the site as well as the parking of staff vehicles. All this activity, however, would be retained within the cluster of built development in the north east corner and the flat open paddock areas would be retained. The Council indicate that outside play areas, planting learning areas and habitats for animals have been created on the site. These are only readily visible from within the site and do not appear as intrusive features in the surrounding area.
13. There are concerns that structures such as climbing frames or tree houses could have the possibility of being seen over hedgerows. Whilst this may be the case, given the distance from surrounding public vantage points, it is unlikely that these would be structures that have a detrimental effect on the surrounding environment.
14. The Council are also concerned that an area of space intended to be used for occupants of the residential property would be small and lead to domestic paraphernalia being visible in the wider open countryside. However, this identified area was garden area in the curtilage of the residential property and therefore there would be no restrictions on domestic paraphernalia in these areas anyway.
15. Due to the ethos of the proposed operation, as well as the location and form of the built and natural elements to the site, the proposal would not be a large urbanisation activity that erodes the flat open nature of the area, and it would not have an adverse effect on the landscape character and setting.
16. The proposal would not have a harmful effect on the character and appearance of the surrounding area and landscape. The proposal would not be contrary to Policies NE4 and criterion (A) and (D) of HP9 of the HDLP and the Framework which seeks proposals to protect, enhance or restore the landscape character of Harrogate District and be of a scale and nature appropriate to its location.

Living conditions

17. The private residential accommodation of the main appeal building would be the entirety of the first floor as well as the lounge area at ground floor. At my site visit, I saw the internal layout of the ground floor and I am satisfied that the lounge can remain a private area, particularly from the day nursery area.
18. It is not unusual for commercial operations to share buildings with residential accommodation, for example residential accommodation associated with a public house. It is also noted that the occupiers of the residential part of the property are also employed at the business. Given the operation times of the commercial aspect, the level of business activity and the layout of the appeal building, the proposal would not have an adverse effect on residential occupiers in terms of noise and disturbance.
19. The proposed private amenity space is located near to the road however, given the rural location, there would be less disturbance from road noise than there would be in an urban area. Given the times of the operation, the location of the

site and the size of the space, the proposed private amenity garden would be acceptable and would not compromise the living conditions of the residential occupants of the building.

20. Accordingly, the proposal would not have a harmful effect on the living conditions of the occupants of the appeal building with regards to noise, disturbance and private amenity garden. The proposal would be in accordance with Policies HP4 and criterion (C) of HP9 of the HDLP and the Framework which seeks proposals to ensure that they will not result in significant adverse impacts on the amenity of occupiers.

Conditions

21. A condition relating to the identification of plans is necessary in the interests of proper planning and to provide certainty. In the interests of the character and appearance of the area, conditions are imposed with regards to landscaping scheme and implementation. To safeguard the living conditions of residential occupiers a condition is necessary in relation to refuse storage and collection. In the interests of providing sustainable transport and improving air quality, a condition is necessary relating to vehicle charging points. To safeguard living conditions and in the interests of highway safety a condition is imposed with regards to a scheme for access, parking, manoeuvring and turning areas.

Conclusion

22. For the reasons given above, I conclude that the appeal should be allowed.

Chris Baxter

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall be carried out in accordance with the following approved plans: Drawing Numbers:- 2343-LP01; 2343-LP02 Rev B; 2343-LP03 Rev D 2343-D01; 2343-D02; 2343-D03; 2343-D04; 2343-D05; 2343-D06 Rev A; 2343-D08 Rev A; 2343-D09 Rev A; 2343-D10.
- 2) Unless within three months of the date of this decision a scheme for landscaping, including planting of trees and or shrubs and the use of surface materials, is submitted in writing to the local planning authority for approval, and unless the approved scheme is implemented within 12 months of the local planning authority's approval, the use of the site shall cease and all equipment and materials brought onto the land for the purposes of such use shall be removed until such time as a scheme is approved and implemented.

If no scheme in accordance with this condition is approved within six months of the date of this decision, the use of the site shall cease and all equipment and materials brought onto the land for the purposes of such use shall be removed until such time as a scheme approved by the local planning authority is implemented.

Upon implementation of the approved scheme specified in this condition, that scheme shall thereafter be maintained.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

- 3) Unless within three months of the date of this decision an electric vehicle infrastructure strategy and implementation plan, is submitted in writing to the local planning authority for approval, and unless the approved scheme is implemented within three months of the local planning authority's approval, the use of the site shall cease and all equipment and materials brought onto the land for the purposes of such use shall be removed until such time as a scheme is approved and implemented.

If no scheme in accordance with this condition is approved within six months of the date of this decision, the use of the site shall cease and all equipment and materials brought onto the land for the purposes of such use shall be removed until such time as a scheme approved by the local planning authority is implemented.

Upon implementation of the approved scheme specified in this condition, that scheme shall thereafter remain in use.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

- 4) Unless within three months of the date of this decision a scheme for access, parking, manoeuvring and turning areas, is submitted in writing to the local planning authority for approval, and unless the approved scheme is implemented within three months of the local planning authority's approval, the use of the site shall cease and all equipment and materials brought onto the land for the purposes of such use shall be removed until such time as a scheme is approved and implemented.

If no scheme in accordance with this condition is approved within six months of the date of this decision, the use of the site shall cease and all equipment and materials brought onto the land for the purposes of such use shall be removed until such time as a scheme approved by the local planning authority is implemented.

Upon implementation of the approved scheme specified in this condition, that scheme shall thereafter remain in use.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

- 5) Unless within three months of the date of this decision a scheme for storage and collection of refuse, is submitted in writing to the local planning authority for approval, and unless the approved scheme is implemented within one months of the local planning authority's approval, the use of the site shall cease and all equipment and materials brought onto the land for the purposes of such use shall be removed until such time as a scheme is approved and implemented.

If no scheme in accordance with this condition is approved within six months of the date of this decision, the use of the site shall cease and all equipment and materials brought onto the land for the purposes of such use shall be removed until such time as a scheme approved by the local planning authority is implemented.

Upon implementation of the approved scheme specified in this condition, that scheme shall thereafter remain in use.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

- 6) 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 approval of the landscaping scheme by the local planning authority; 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.