



Appeal Decision

Site visit made on 2 October 2024

by J Symmons BSc (Hons) CEng MICE

an Inspector appointed by the Secretary of State

Decision date: 11 November 2024

Appeal Ref: APP/U2750/W/24/3345784

Aislaby View, 3 Eskdale Close, Sleights, Whitby, North Yorkshire

YO22 5EW

- 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 Daniel Knaggs against the decision of North Yorkshire Council.
 - The application Ref is ZF24/00025/FL.
 - The development proposed is the erection of building to house livestock, feed and bedding.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of building to house livestock, feed and bedding at Aislaby View, 3 Eskdale Close, Whitby, North Yorkshire YO22 5EW in accordance with the terms of the application, Ref ZF24/00025/FL, subject to the conditions in the attached schedule.

Preliminary Matters

2. The main parties agreed a revised development description from that detailed on the application form. Accordingly, I have used this in the above header. Furthermore, on the application form the name of the property is given as 'Aislaby House' but it is referred to as 'Aislaby View' in most other documents. For consistency I have used 'Aislaby View'.
3. A revised 'Proposed Shed Plans' drawing (drawing Ref: 9222-03- revision 'For Planner Review') was included in the appeal submission provided by the appellant. This drawing showed a reduced plan area for the proposed building. The Council has advised that this was not considered at the application stage due to it being informally submitted as draft when the application was already in the consideration period. The appellant makes no further reference to the potential reduced area within the appeal statement. On this basis, I have not considered the revised drawing in this appeal.
4. The appellant has submitted a signed petition in support of the proposal as part of the appeal which did not form part of the original submission to the Council. This is new evidence which is not referred to in detail in the appellant's appeal statement and does not address any of the main issues. As such, I have not considered it in the appeal.
5. The Council advise that the North Yorkshire Local Plan is at an early stage of preparation and no weight should be given to it. I see little reason to question this and accordingly, I have not given it any weight in my consideration.

6. On 30 July 2024, the Government published a consultation on proposed reforms to the National Planning Policy Framework (the Framework) and issued a written ministerial statement titled 'Building the homes we need'. Given that those parts of the draft Framework most relevant to this decision are not proposed to be amended I consider there is no requirement to seek further submissions on these. I am satisfied that no party's interests would be prejudiced by my taking this approach.

Main Issues

7. The main issues in this appeal are:
- the effect of the proposal on the character and appearance of the open countryside and wider landscape including the North York Moors National Park (NYMNP);
 - whether the proposed development would be in a suitable location; and
 - the effect of the proposal on the living conditions of neighbouring residents with particular regard to noise and disturbance, odour and light pollution.

Reasons

8. The appeal site consists of the rear field/paddock of the residential property at 3 Eskdale Close. It shares a boundary with 1 Eskdale Close (No 1) and English Martyrs Roman Catholic Church and sits significantly lower than these properties. The paddock falls towards the Esk Valley that bounds the NYMNP. The surrounding area's character is predominantly residential to the front and largely rural and agricultural to the rear and sides with various sized fields typically separated by boundaries of trees and hedgerows. Distant views across the valley are possible.
9. The paddock has a variety of existing small buildings/sheds including a stable with extension. These are constructed in a mix of materials with some in a poor state of repair. While the stable is noted as having both a domestic and hobby use, historically the buildings and sheds have been used for housing animals such as sheep, poultry and horses.
10. The appeal site is used by the appellant to keep, on a small-scale hobby basis, pedigree breeding ewes and chickens. It is indicated that around 10-12 breeding ewes are kept for lambing with an overall stock of up to 25. Not all the sheep are kept at the appeal site as some are grazed on other nearby paddocks however, the appellant has indicated there is no alternative off site animal shelters available.
11. The proposal would, with the exception of the main stable building, remove the existing rear buildings/sheds and the stable extension. It would also include the construction of a new building to the corner of the field, adjacent to the shared boundary with No 1 and the church. The building would be used for the storage of animal feed, bedding and some land management equipment and a smaller front extension would be used as a sheep pen/lambing area.
12. The main parties agree the appeal site is outside the designated Development Limits of Sleights and as such it is regarded as countryside.

Character and appearance

13. The proposed building would be approximately 144 square metres (m²) in size with the pitched roof having a ridge height of 4 metres. It would be constructed in a mixture of stonework, dark stained timber Yorkshire boarding and dark green profiled steel roof sheets. The extension would have a mono-pitched roof part open fronted sheep/lambing pens. The building would have an agricultural appearance.
14. The proposed building would be a large addition but would not appear excessive in the context of the size of the field and its relationship with the surrounding area. Its sizing has been justified in terms of the animal requirements and the Council provides little evidence to dispute this. While the proposed building's footprint would be greater than the existing buildings/sheds which would be removed, estimated as 133m², this would be a modest increase.
15. The proposed building would be in a well screened corner of the appeal site, close to the built-up edge of the village and with sufficient distance to coexist with the adjacent residential area. It would use largely traditional materials and, with its lower ground setting and proposed landscaping, it would not be an overly imposing or incongruous addition in the field or surrounding area. The removal of the existing mix of buildings/sheds, while modest in scale, would assist in enhancing the character and appearance of the area.
16. Furthermore, for the above reasons it would also not impact on the more distant views and vistas related to the Esk Valley and the NYMNP beyond. It would not harm the sense of spaciousness and openness of these surrounding areas or the intrinsic character and beauty of the countryside. Nor would it harm the setting of the NYMNP.
17. Consequently, the proposal would not harm the character and appearance of the open countryside, the surrounding area, or the NYMNP. It would not conflict with Policy DEC 1 of the Scarborough Borough Local Plan 2017 (Local Plan) which seeks new development, amongst other matters, meet the principles of good design by demonstrating that the detailed design responds positively to the local context.

Location

18. Policy ENV 6 of the Local Plan seeks to ensure the character of the open countryside will be protected, maintained and where possible enhanced. It further states that outside the Development Limits, new development will be limited to those for which a countryside location is essential. In terms of this, the policy sets out a list of possible development types that would be permitted in a countryside location.
19. The policy also requires that proposals should be compatible with the surroundings and not have an unacceptable impact on the character and appearance of the open countryside or the wider landscape including the setting of the NYMNP. As detailed previously, the proposal would meet this requirement.
20. The Council refers to paragraph 8.56 of the supporting text of Policy ENV 6 of the Local Plan and advises that a hobby farm use would not meet the criteria it sets out. However, there is little reason given why the proposed building would

not fall within the second criterion which states '*....or where development has to be sited in the countryside for operational reasons*'. In the paragraph, there is no distinction given between different development types such as a hobby farming use, only that development has to be for '*operational reasons*'. The proposed building would be associated with the management and welfare of the animals using the field. It is needed for the appellant's operational use of the land which would, in this instance, require it to be located in the countryside. This paragraph also does not refer to development needing to be a rural business.

21. The Council also refers to the proposal not being supported by paragraph 8.58 of Policy ENV 6, as it would not be a development which would '*contribute to the creation of a strong and diverse rural economy*'. However, like many of the policy's supporting text paragraphs, this paragraph refers to a separate and specific development type. While the proposal may not meet the paragraph 8.58 criteria, this does not change the fact that it would meet the supporting paragraph 8.56. There is nothing to suggest that a proposal would need to accord with all aspects set out in the supporting paragraphs.
22. For the avoidance of doubt, I appreciate that the appellant advises that the proposal does not strictly accord with Policy ENV 6 of the Local Plan. However, an explanation for why this is the case is not provided. As such I have considered the policy based on the Council's evidence and have interpreted it as detailed above.
23. Overall, the proposal would be in a suitable location and would not conflict with Policy ENV 6 of the Local Plan.

Living conditions

24. The proposed building would be located close to neighbouring residents, especially those at No 1 and the church. While the Council acknowledge that its Environmental Health Officer, following re-consultation and clarification, did not object to the proposal from a statutory nuisance perspective, it considers that the proposal would adversely affect the existing standard of amenity by increasing noise, odour and general disturbance. However, it provides little substantiation of this claim. Indeed, the appellant has been keeping both sheep and chickens at the appeal site for a year or so and the Council provides no evidence to show this existing use has caused unacceptable noise, odour and general disturbance.
25. The proposed building would not have any plant or forced ventilation. It would locate the sheep pen/lambing area to the front, facing away from neighbouring residents and separated and screened by a larger storage section. It would also be set lower than the neighbouring properties. No evidence has been provided to show that the proposal would lead to more vehicle movements than the existing use. There is therefore little justification to show the proposal would adversely affect noise and disturbance to neighbouring residents.
26. It has also been confirmed that disinfecting of the pens to prevent disease and remove smells/odours would be undertaken regularly when they were in use. The animal bedding/manure would be removed, typically monthly or as necessary if smell/odour were noted and any resulting manure would be taken away with onsite manure heaps avoided where possible. The Council provide no substantive evidence to show these measures would not be sufficient to control

odour. When these measures are considered in conjunction with the front positioning and separation of the pens from neighbouring properties, there is little evidence that unacceptable odour would impact neighbouring residents.

27. In the reason for refusal, an unacceptable impact from light pollution is noted. However, little substantive evidence is provided to support this concern. There is little to suggest the proposal requires extreme levels of lighting. With the proposed building's orientation, positioning, enclosed form and limited and temporary use, in all probability light pollution would be limited. Indeed, modern lighting can be designed such that light pollution, light intrusion and glare are minimised. Subject to the submission of a detailed scheme, I see no reason why neighbouring residents, or the surrounding area would be harmed by light from the proposal.
28. The proposal would therefore not adversely harm neighbouring residents in regard to noise and disturbance, odour and light pollution. It would not conflict with Policy DEC 4 of the Local Plan which seeks to ensure that existing and future occupants of land and buildings are provided with a good standard of amenity.

Conditions

29. The Council has suggested several conditions which I have considered against advice in the Framework and Planning Practice Guidance. I have amended some of these for consistency and clarity. The appellant and Council were given the opportunity to comment on these proposed conditions and I have taken these into consideration.
30. In the interests of certainty, a time limit condition for completing the development is necessary. This condition was not suggested by the Council, but it is necessary and a reasonable requirement.
31. For the avoidance of doubt, a condition is included for the development to be completed in accordance with the approved plans. Furthermore, a time limit condition is required to protect residents from disturbance during the construction stage. I have also included a time limit condition restricting deliveries relating to the use of the development to protect residents from traffic disturbance. I have omitted the reference of the deliveries only being completed by the 'applicant' from the Council's suggested wording as this was overly restrictive and unreasonable.
32. To protect the character and appearance of the area, conditions are included to ensure the proposed building's external materials accord with the details submitted and details of the proposed landscaping are agreed, and the works completed.
33. As no details of the proposed external lighting were provided, a condition is required to ensure residents and the surrounding area are protected from potential light pollution. While the appellant has raised concerns regarding this condition, the condition is necessary and reasonable due to the lack of detail and the harm that could occur. With respect to comments regarding concerns about the length of time the Council could take to approve the lighting details and potential additional costs this could cause, these are procedural matters which are outside the scope of my decision.

34. The evidence shows little reason to expect noise would be problematic and that measures beyond those already proposed are necessary. While I note the Council's comment regarding the need for the suggested noise condition, in this case a condition is not necessary as set out in my decision and would not be reasonable.

Conclusions

35. For the reasons detailed above, and having had regard to all other matters raised, I conclude that the appeal should be allowed.

J Symmons

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 the following approved plans:
 - Site Location Plan - Drawing Ref: 9222-01 - dated December 2023;
 - Proposed Block Plan – Drawing Ref: 9222-03 Revision A - dated March 2024; and
 - Proposed Shed Plans– Drawing Ref: 9222-03 - dated December 2023.
- 3) The materials to be used in the construction of the external surfaces of the development hereby permitted shall be those stated on Proposed Shed Plans - Drawing Ref: 9222-03 - dated December 2023 and as detailed on the planning application form.
- 4) No development including demolition and/or construction works shall take place outside 8:00-18:00 Mondays to Fridays, 8:00-13:00 on Saturdays or at any time on Sundays or Bank/Public Holidays. Any variation to the hours of operation shall be submitted to and approved in writing by the local planning authority prior to any agreed change being implemented.
- 5) Prior to the development hereby permitted is brought into use, details of both landscaping and tree planting works shall be submitted to and approved in writing by the local planning authority. These details shall include the number, species, heights of planting and positions of all the trees, together with details of post-planting maintenance. The landscaping and tree planting shall be carried out in its entirety within the first planting season after the development is brought into use. The landscaping and tree planting shall be maintained in accordance with the approved details for the period of five years beginning with the date of completion of the scheme and during that period all losses shall be made good as and when necessary, unless the local planning authority gives written consent to any variation.

- 6) No external lighting shall be installed to the development hereby permitted, until details of the lighting (including illuminance levels and details of replacement lighting) have been submitted to and approved in writing by the local planning authority. The lighting shall be Dark Skies compliant, and no other lighting shall be installed on the development without the written approval of the local planning authority. The approved lighting shall be installed prior to the development being brought into use and shall be retained for the lifetime of it.
- 7) Deliveries to the site associated with the use of the development hereby permitted shall only be undertaken between the hours of 8:00-18:00 Mondays to Fridays, 8:00-13:00 on Saturdays and at no point on Sundays or Bank/Public Holidays.