



Appeal Decision

Site visit made on 19 November 2024

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

an Inspector appointed by the Secretary of State

Decision date: 10 December 2024

Appeal Ref: APP/U2750/W/24/3347771

**High Penhowe Farm, Leavening to Moor Hill, Burythorpe, Malton,
North Yorkshire YO17 9LT**

- 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 G Benson against the decision of North Yorkshire Council.
 - The application Ref is ZE24/00334/FUL.
 - The development proposed is demolition of agricultural buildings and erection of 3 No dwellings.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues in this case are:
 - Whether this is an appropriate location for new-build housing given national and local plan policies and
 - the effect of the proposed development on the character and appearance of the immediate area and landscape setting of the surrounding countryside.

Reasons

3. The appeal site is situated to the south of High Penhowe Farmhouse and steading. It is currently occupied by four large, modern, portal-framed agricultural barns accessed by tracks running south from the farmhouse buildings. The current buildings would all be removed and three large, detached dwellings with separate garages would be constructed on the hardstanding footprint, accessed via a reopened track connecting from the farm road to the east.
4. The barns currently benefit from prior approval to change the use and convert two of them to a total of five dwellings under Class Q to Part 3 of Schedule 2 of the *Town and Country Planning (General Permitted Development) (England) Order 2015* (the GPDO). Ref ZE23/03215/GPAGB and ZE23/03214/GPAGB.

Whether the location is an appropriate location for new-build housing

5. The site is located within the open countryside outside any settlement boundaries, the nearest settlement being Burythorpe approximately 1 mile distant to the east. In these circumstances Policy SP1 of the *Ryedale Plan - Local Plan Strategy* (RPLPS) only allows development which is necessary to support the rural economy

and communities or is enabling development for a heritage asset or is justified through a neighbourhood plan. None of these circumstances apply in this case.

6. In RPLPS Policy SP2 new housing in open countryside is only justified where new-build dwellings are necessary to support the land-based economy and where an essential need is justified or where it involves the conversion of redundant, traditional rural buildings or the change of use of tourist accommodation or it is a replacement dwelling. No evidence is before me that there is an essential need for these dwellings to support the land-based economy and the other circumstances do not apply.
7. I acknowledge that the RPLPS predates the latest version of the *National Planning Policy Framework* (the Framework) but assessed against the Framework none of the circumstances set out at paragraph 84 regarding housing in isolated locations would apply here. Even if I was to take the view that the appeal site was not an isolated location, the Framework requires new rural housing to be in locations that will enhance or maintain the vitality of rural communities especially where it would support local services. The evidence before me and my observations on the site visit would not justify the proposed housing in these terms.
8. I acknowledge that under the GPDO the site benefits from permitted development rights to change the use of the existing farm buildings to create 5 dwelling units through conversion and that these dwellings would not necessarily meet the objectives of the Framework. However, this is allowed for through the GPDO expressly because it is for the reuse of existing buildings.
9. Although 5 dwellings can be created from the existing buildings and it has been put to me that the development of 3 new dwellings on previously developed land would be preferable, the newbuilds as proposed would not be appropriate in this location as they would be contrary to the Framework and Policies SP1 and SP2 of the RPLPS. In any event the argument that this would be a redevelopment of previously developed land would not apply in this case as the definition in the Framework expressly excludes land that is or was last occupied by agricultural or forestry buildings. I consider below whether the existence of the Permitted Development scheme as a fallback would be a material consideration that would outweigh this fundamental policy objection and justify an exception to the RPLPS being allowed.

Character and appearance

10. The landscape character of the area is undulating, agricultural land punctuated by woodland (as is the case east and south of the site), shelter belts and field perimeter hedgerows and trees. The quality of the landscape is recognised in the fact that it forms part of the Yorkshire Wolds Area of High Landscape Value (AHLV).
11. Given the tree cover, the site is well screened from the south and east and well-screened in distant views from these directions but more open to the north and west.
12. It has been put to me that the proposed development has been designed to reflect an agricultural vernacular architecture in the design of the main houses and to utilise locally relevant materials referenced in Natural England's *NE348:NCA Profile 27:Yorkshire Wolds*. However, for a number of reasons the design would not

achieve this objective and would be at odds with the character and appearance of the rural agricultural landscape.

13. First, the layout of the buildings – spread over the site, with only the dwellings on plots 2 and 3 on the footprint of the existing barns, would create an open form to the cluster much more residential in its appearance than agricultural with the houses set in large domestic curtilages. It has been put to me that the design of small agricultural steadings can have this more dispersed format and I have been referred to Historic England's - *Historic Farmsteads Preliminary Character Assessment – North East Region Part 3*. I can see from this assessment that in some cases dispersed steadings do exist but, in this particular case, it is not reflective of the character of High Penhowe, where the steading takes a more compact 'U' shaped form, closely set to the north of the farmhouse. In this context, the proposed layout of the 3 houses would be too open and dispersed, more reminiscent of a small group of suburban houses and out of keeping with the character of the immediate farm.
14. Secondly, although I accept there would be a reduction in built form over the existing buildings, the two storey design of each of the main houses would have a long unbroken ridge height at about 8 metres compared to the lower ridge heights of the existing barns at 5.7 metres. A significant increase in height. Although the dwellings would have secondary, single storey elements these would be limited compared to the extensive single storey elements to the barns making up the character of the original steading. The greater height of the new dwellings, particularly in respect of plots 1 and 2, would be likely to be more intrusive in inward views from the north and west where the landscape is more open.
15. Thirdly, even if I was to accept that the main house form would reflect a traditional, two storey barn format, the introduction of extensive full height glazing panels, glazed garden rooms and large porches and detached large double garages would undermine the stated intent to create a design reminiscent of farm buildings. Moreover, the large garden plots would inevitably lead to pressure to further domesticate the plots which would be difficult, if not impossible, to control.
16. As a result of these factors I am persuaded that the design would have a detrimental effect on the character and appearance of the farm and of the Yorkshire Wold landscape, contrary to the requirements of RPLPS Policies SP13 on landscape and SP16 on design. The design would appear overly domestic and the policy requirements for design to protect and enhance distinctive elements of landscape character and reinforce local distinctiveness generally would not be met.

Other matters

17. It has been put to me that the permitted development (PD) scheme is a fallback position which has a greater than theoretical possibility of being implemented and I do not dispute that this is the case. I acknowledge therefore that this is a material consideration.
18. I have been invited to conclude that, in that scenario, the development of 3 new-build dwellings on a previously developed site to the design proposed would be preferable to 5 dwellings created out of the agricultural barns. However, for this to carry weight, the PD scheme would have to be clearly more harmful than the appeal proposal and for a number of reasons I am not persuaded that would be the case.

19. First, it has been put to me that the appeal proposal would constitute a reduction in built form over the retention of the barns and result in fewer houses in the open countryside. Whilst I acknowledge that the PD scheme would constitute two more houses in the countryside than the appeal scheme it would involve the removal of the two central barns and no additions to existing footprint or separate outbuildings would be allowed under PD rights. The converted floorspace would therefore be entirely contained in the two remaining barn buildings.
20. Secondly, I have been invited to take the view that the scale and mass of the existing barns would have more of a landscape impact than the proposed scheme. I acknowledge that these are large farm buildings but they are lower than the proposed dwellings would be, well screened by established woodland at the southern end of the site and are structures that have been part of the Wolds landscape for many years. Moreover, as above, under the PD scheme the two central barns in the group would be demolished and removed opening up the site. I am not therefore persuaded that the PD scheme if implemented would be more harmful than the appeal proposal given the landscape impact concerns of the appeal scheme as set out above.
21. Thirdly, it has been put to me that the design of the proposed houses would better match the existing original steading buildings than would be the case with the PD conversion scheme. I acknowledge that, had the new dwellings been acceptable in principle in this location, the design would have been more complementary to the farmhouse and steading buildings. However, they are not. In any event, the reworking of the barns in the PD scheme would result in significant improvements to their external appearance and maintain the simple agricultural character and again I am not persuaded that the PD scheme would be significantly more harmful.
22. Fourthly, I have been invited to the view that the new dwellings would perform better in terms of their sustainability credentials through energy efficient construction than would be the case with the PD scheme. However, the PD scheme would reuse the existing buildings, retaining their basic structure and the energy expended in their construction. The external walls to these buildings (currently open Yorkshire boarding) would require to be rebuilt and Building Regulation requirements regarding energy efficiency would need to be met. Again, I am not persuaded that this would be less sustainable and constitute greater harm than constructing 3 new-build dwellings from scratch.
23. Given the above, I am satisfied that the PD scheme would not result in more harm than the appeal proposal for 3 large dwellings and their domestic outbuildings. As such I am not persuaded that the existence of the fallback as a material consideration would justify allowing the appeal given the weight that I must attach to the in-principle objection to new-build housing in this location and the harm which the proposed layout and over-domesticated design would cause to the character and appearance of High Penhowe and the surrounding countryside.
24. The appellant has presented a number of appeal decisions that he argues justify this appeal being allowed. The Council has similarly provided an appeal decision from nearby at Busk Hill Farm as a justification as to why the appeal should be dismissed. Neither party agrees that these appeal decisions are sufficiently similar in circumstance to the appeal proposal and therefore, as is my duty, I have considered the appeal case on its own merits and attach only limited weight to these other cases.

Conclusion

25. Accordingly, as set out above, the proposed new-build housing would not be appropriate in this location given national and local policies and would have a detrimental impact on the character and appearance of High Penhowe and the surrounding countryside. Notwithstanding that a PD scheme for 5 houses was permitted under the prior approval arrangements in Class Q of the GPDO, I conclude that, for the reasons above, this would not be more harmful than the appeal scheme. Therefore as a material consideration it would not outweigh the policy objections identified to justify allowing the appeal as an exception and, for the reasons given above, the appeal is dismissed.

P. D. Biggers

INSPECTOR