



Appeal Decision

Site visit made on 17 December 2024

by Ryan Cowley MPlan (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6 January 2025

Appeal Ref: APP/U2750/W/24/3349295

Land North of Broadmires Lane, Thornton-le-Dale, Pickering

- 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 Lyes Berkache, on behalf of Berkache Services Ltd T/A YorLoos, against the decision of North Yorkshire Council.
 - The application Ref is ZE24/00530/FUL.
 - The development is change of use of agricultural building to form a storage unit for the storage of Portaloos.
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Decision

1. The appeal is allowed and planning permission is granted for change of use of agricultural building to form a storage unit for the storage of Portaloos at Land North of Broadmires Lane, Thornton-le-Dale, Pickering in accordance with the terms of the application, Ref ZE24/00530/FUL, subject to the conditions in the attached schedule.

Preliminary Matters

2. On 12 December 2024, a revised National Planning Policy Framework (the Framework) was published. Those parts of the Framework most relevant to this appeal have not been significantly amended. As a result, I have not sought further submissions. I will refer to the updated paragraph numbers where necessary in this appeal.
3. At the time of my site visit I saw that the appeal building is already in use for storage of portable toilets. The appeal is therefore considered retrospectively.

Main Issues

4. The main issues are:
 - Whether the appeal site provides a suitable location for the development, with regard to the Council's spatial strategy; and
 - The effect of the development on the character and appearance of the site and surrounding area.

Reasons

Whether the appeal site provides a suitable location for the development

5. The appeal site is located beyond the development limits of any towns and villages designated in the Ryedale Plan – Local Plan Strategy 5 September 2013 (the Ryedale Plan). It is therefore within the wider open countryside.

Policy SP1 of the Ryedale Plan states that, in the open countryside, development will be restricted to that which is necessary to support a sustainable, vibrant and healthy rural economy and communities.

6. Policy SP6 of the Ryedale Plan supports proposals for new employment development, including B8 (storage and distribution) uses, on unallocated sites, in accordance with the "sources" table. This table indicates that new land and buildings for employment will be supported in the wider open countryside from sources including expansion land for existing established businesses; small scale conversion of existing buildings or provision of new buildings to support appropriate rural economic activity in line with the provisions of Policy SP9. It is not a stipulation of either policy that the building cannot have been recently constructed or must be disused or redundant.
7. Policy SP9 supports conversion of existing buildings and provision of new buildings to support appropriate small-scale rural economic activity. The policy does not define what constitutes appropriate small-scale rural economic activity. Paragraph 88 of the Framework indicates that planning should enable the sustainable growth and expansion of all types of businesses in rural areas.
8. The appellant advises that the development supports the continued sustainability and operational efficiency of the business and provides expanded storage capacity to meet growing demand. The Council acknowledge that the existing use of the building equates to limited vehicle movements and could be deemed an appropriate small scale rural activity. The development has also provided an income stream for the farming enterprise that owns the site. It thus supports a sustainable, vibrant and healthy rural economy.
9. I recognise that there may be other suitable locations for the use in question. However, the principle of small-scale conversion of agricultural buildings in the wider open countryside to a B8 use is not precluded by the development plan and the policies before me do not require a sequential approach to site selection for a development of this nature. While there may be no evidence that planning permission has been sought at the applicant's current site for the storage of portable toilets, this does not in itself demonstrate that the appeal scheme does not comply with the development plan.
10. Schedule 2 Part 3 Class R of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO) requires that an agricultural building built after 3 July 2012 must be used for its permitted use for at least 10 years before its conversion to an alternative use could benefit from the permitted development rights. Condition A.2(5) of Part 6 requires removal of an agricultural building erected under Class A where its use has permanently ceased within 10 years and planning permission has not been granted for alternative development within 3 years of the use ceasing. Neither indicate that the principle of a change of use within 10 years is unacceptable, nor do they preclude the grant of planning permission for such.
11. Intensification of the use, or an alternative use falling within the B8 Use Class, could lead to an increased level of activity that would be beyond the scope of that supported by the development plan in this location. However, I am satisfied that planning conditions, including limitations on the use and external storage, can be used to sufficiently contain the development in line with the current operation.

12. No conflict with Policies SP12, SP17 and SP18 of the Ryedale Plan has been identified by the Council. Additionally, the Local Highway Authority did not identify any unacceptable impact in respect of highway safety or access arrangements, subject to planning conditions. Policy SP6 also requires that such development is of an appropriate scale to its surroundings having regard to visual impact, an assessment of which is set out in the next main issue.
13. In view of the above and in respect of this main issue, I have not identified any direct conflict with Policies SP1, SP6, SP9 or SP19 of the Ryedale Local Plan. These policies, among other provisions, set out the settlement hierarchy for the area, identify where and how employment land will be delivered and distributed, define development limits and seek to sustain and diversify the land-based economy.

Character and appearance

14. The appeal site is in a relatively isolated location, along a narrow country lane, at the southern end of an elongated field. The surrounding area is rural in character, with agricultural fields enclosed by hedgerow extending away from the site in all directions. The topography is predominantly flat. Development in the area is limited, though there are several agricultural buildings nearby, in addition to an electricity switch house and sporadic residential development. The lane is quiet, though I saw that it is used by agricultural vehicles.
15. The appeal building has the appearance of a typical agricultural building, with a green metallic finish and large roller shutter door. It is of relatively modest size in the context of other agricultural buildings locally. A large, gravelled area separates the building from the highway.
16. The business primarily serves large events, festivals and shows. The evidence indicates that traffic movements are minimal, typically equating to around 4 movements per week. Given the nature of the business and the modest size of the building, there is limited potential for activity or traffic at the site to significantly intensify under the current use.
17. The development does not include any external alterations, and external areas are not used for storage. The intermittent activity and modest number of comings and goings has minimal effect on traffic along the lane and on vehicles parking on site. Any parking on site for the purposes of loading and unloading vehicles would be temporary. As set out above, I am satisfied that planning conditions can be used to sufficiently contain the development to the current operation. The development thus does not result in any appreciable urbanisation or industrialisation of the site.
18. The development does not have a harmful effect on the character and appearance of the area. With regard to this main issue, I have not identified any conflict with Policies SP1, SP6, SP9, SP13, SP16, SP19 and SP20 of the Ryedale Local Plan. These policies, among other provisions, seek to ensure the quality, character and value of Ryedale's diverse landscapes are protected and enhanced and development of this nature is of high quality and an appropriate scale to its surroundings having regard to visual impact, reinforces local distinctiveness and respects the context provided by its surroundings.

Conditions

19. The Council has suggested conditions should the appeal be successful. I have considered these and amended where necessary to accord with the Planning Practice Guidance and the tests for conditions set out in Paragraph 57 of the Framework.
20. In addition to the conditions referred to above, it is necessary to specify the approved plans as this provides certainty.
21. In the interests of highway safety, a condition is also required to protect the public highway from opening gates, surface water discharge and loose material.
22. A condition is also required to secure details of external lighting to protect this area of unlit open countryside from inappropriate lighting and light pollution.

Conclusion

23. The appeal scheme adheres to the development plan as a whole and there are no other considerations that would outweigh this finding. Accordingly, for the reasons given, the appeal succeeds.

Ryan Cowley

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall be carried out in accordance with drawing no LB010524.
- 2) Full details of all external lighting at the site, including lighting for site security purposes, shall be submitted to and approved in writing by the Local Planning Authority prior to its installation. The details shall include the position, height, angle of lighting, illuminance levels and hours of operation. All lighting shall be installed and maintained in accordance with the approved details.
- 3) The crossing of the highway verge and/or footway must be constructed in accordance with the Standard Detail number E50 Rev A and the following requirements:
 - Any gates or barriers must be erected a minimum distance of 2 metres back from the carriageway of the existing highway and must not be able to swing over the existing or proposed highway;
 - Provision to prevent surface water from the site discharging on the existing highway must be constructed and maintained thereafter to prevent such discharges;
 - The final surfacing of any private access within 2 metres of the public highway must not contain any loose material that is capable of being drawn on to the existing or proposed public highway.All works must accord with the approved details.

- 4) The development hereby approved shall only be used for the storage of portable toilets and for no other purpose (including any other use falling within the B8 Use Class or any other Use Classes within the Schedule to the Town and Country Planning (Use Classes) Order 1987, or any provision equivalent to that Class in any statutory instrument revoking or re-enacting that Order). There shall be no further change of use or sub-division of the building without express planning permission from the Local Planning Authority.
- 5) No part of the site outside of the building shall be used for the siting, storage or display of any goods, materials, machinery or equipment associated with the commercial storage use of the building, or for the parking of any vehicles, other than for the purposes of loading and unloading.

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