



Appeal Decisions

Site visit made on 24 June 2025

by **A Hunter LLB (Hons) PG Dip MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 18 July 2025

Appeal A Ref: APP/E2001/Q/25/3362640

Lakeside, Hayton Road, Bielby YO42 4JP

- The appeal is made under Section 106B of the Town and Country Planning Act 1990 against a refusal to discharge a planning obligation.
 - The appeal is made by Richard Smith against the decision of East Riding of Yorkshire Council.
 - The development to which the planning obligation relates is referenced as 99/03195/PLF, dated 4 July 2000 for the erection of a dwelling in connection with fishery.
 - The planning obligation dated 15 June 2000 was made between Mr R Smith and East Riding of Yorkshire Council.
 - The application Ref is 24/03203/LOBVAR, refused by notice dated 13 December 2024.
 - The application sought to have the planning obligation discharged.
-

Appeal B Ref: APP/E2001/W/25/3362742

Lakeside, Hayton Road, Bielby YO42 4JP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 (as amended) for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Richard Smith against the decision of East Riding of Yorkshire Council.
 - The application Ref is 24/03202/VAR.
 - The application sought planning permission for the erection of a dwelling in connection with fishery without complying with a condition attached to planning permission Ref DC/99/03195/PLF, dated 4 July 2000.
 - The condition in dispute is No 9 which states that: "The occupation of the dwelling shall be limited to a person solely or mainly working in connection with supervision of the Lakeside fishery and caravan park."
 - The reason given for the condition is: "This condition is imposed because the application site lies within an of open countryside as defined by the Development Plan for the area. By virtue of Policy S7 of the approved Structure Plan and the advice in Planning Policy Guidance Note No 3 and Planning Policy Guidance Note No 7 planning permission is not normally granted for residential development in the open countryside unless there is a proven need in the interests of agriculture, forestry or other countryside activity. It is considered that such a need exists in this case. It is necessary, therefore, to restrict the occupation of the dwelling to ensure that it remains available to supervise the efficient operation of the fishery and caravan park."
-

Decisions

1. Appeal A is allowed. The planning obligation dated 15 June 2000, made between Mr R Smith and East Riding of Yorkshire Council, no longer serves a useful purpose and is discharged.
2. Appeal B is allowed, and planning permission is granted for the erection of a dwelling in connection with fishery at Lakeside, Hayton Road, Bielby YO42 4JP in accordance with the application Ref 24/0302/VAR without compliance with condition number 9 previously imposed on planning permission Ref 99/03195/PLF dated 4 July 2000, and subject to the following condition:

- 1) Notwithstanding the provisions of Class A, Part 1, Schedule 2 of The Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking or re-enacting that Order with or without modification), the dwelling shall not be altered or extended on any elevation.

Preliminary Matters

3. As set out above, there are two appeals on this site, although the type of appeal differs, they broadly relate to similar issues, and I have considered each proposal on its individual merits. However, to avoid duplication I have dealt with the two appeals together, except where otherwise indicated.
4. Planning decisions must be based on the development plan policies prevailing at the time of determination. The Council has recently adopted the East Riding Local Plan Update 2020 – 2039 Strategy Document, dated April 2025 (ERLPU). As a result, the ERLPU now forms part of the development plan. It has replaced the previous East Riding Local Plan Strategy Document 2012 -2029 adopted April 2016, which is cited in the reason for refusal. The main parties have had the opportunity to comment on the relevant policy of the ERLPU during the appeal process and the appeal has been determined on this basis.
5. The Government published a revised version of the National Planning Policy Framework ('the Framework') updated February 2025, after the decisions on both appeals were issued. The parties had the opportunity to comment on the revised Framework through the usual appeal timetable deadlines, and I have considered the revised Framework in my decision.

Background and Main Issues

6. Planning permission was granted for a dwelling in 2000 in connection with the existing fishery, and condition 9 was imposed that restricted the occupation of the dwelling to a person solely or mainly supervising the fishery and caravan site. In addition, before that permission was granted, an obligation (the subject of Appeal A) was signed which prevents the dwelling being sold separately from the fishery and the caravan site.
7. The Council granted a Certificate of lawfulness¹ for the continued use of land for the siting of a timber chalet for use as a manager's dwelling in 2024, at the fishery and caravan site. The appellant now seeks to sell the fishery and caravan site separately to the dwelling the subject of the appeal, and requests condition 9 be removed from the earlier permission and the obligation be discharged. However, the Council contests these requests and says both the condition and obligation are necessary.
8. Accordingly, the main issues are:
 - In regard to Appeal A, whether the obligation should continue to have effect without modification, or whether the obligation no longer serves a useful purpose and so should be discharged, with particular regard to the supervision of the fishery and the caravan site; and,
 - In regard to Appeal B, whether the occupancy condition is reasonable and necessary, with particular regard to the supervision of the fishery and the caravan site.

¹ Ref: 24/02277/CLE

Reasons

Appeal B – Condition 9

9. The appeal site contains a detached dwelling, accessed by a private track, and said to be some 200 metres or so from Hayton Road. The dwelling is a double fronted two storey property in a farmhouse style, with a single storey side wing abutting the aforementioned access track, which runs behind the dwelling to the fishery and the caravan site. The wider site includes touring pitches, a caravan storage area, amenity and reception buildings, and a large fishing lake, which is open to the public for coarse fishing, altogether covering an area of approximately 14.5 hectares.
10. I saw on my site inspection that the managers' chalet² was in use and was sited within sight and sound of the touring caravans and the fishing lake, toilets and reception building, unlike the dwelling in question which is said to be over 250 metres away. The appellant says that the chalet provides the day-to-day management of the fishery and caravan park, and I see no reason to disagree, and I accept the supervision from the chalet would be more practical than the dwelling in question due to its location. I do not have a copy of the Certificate of Lawfulness for the chalet before me, and although I cannot be certain there is no limitation imposed in respect of its management/supervision function, there is nothing to indicate that the chalet would not be available for supervision or management of the fishery and the caravan site, nor that there are any plans for this to change. Its existence is a significant material planning consideration, and I have therefore assessed the appeal on the basis that the chalet is available for the on-site supervision of the fishery and caravan site.
11. It is understood that the appellant who resides in the dwelling in question currently, provides strategic management of the fishery and caravan site, which it is said does not require an on-site presence, as opposed to the day-to-day supervision provided by the occupier(s) of the chalet. Taking into account the scale of the fishery and caravan site enterprises, I see no reason why the day-to-day on-site supervision or management of them cannot be undertaken from the chalet. Consequently, I am not persuaded that the dwelling the subject of the appeal would, in addition to the chalet, be essential or necessary for the day-to-day on-site supervision purposes as currently required by condition 9.
12. The appellant has made me aware that they have an offer from a prospective purchaser for the fishery and the caravan site, and that the offer does not relate to the dwelling in question. It is said the future owner(s) are content that the management/supervision of them can be undertaken from the chalet and the strategic management of the businesses can be undertaken remotely. This again supports the notion that the dwelling the subject of this appeal is not required for the day-to-day on-site supervision of the fishery and caravan site.
13. The Council has referred to ERLPU Policy S4, which is a strategic policy relating to development in villages and the countryside. Within the countryside it lists the types of development that would be supported and includes agricultural, forestry, and other rural based occupational dwellings, subject to there being an essential need and says that they should be restricted by an occupancy condition. Although the policy is silent on the removal of any such conditions, the supporting text says

² Ref: 24/02277/CLE

existing agricultural/forestry occupancy conditions will only be removed where it can be demonstrated that the property is no longer required for the purposes of accommodating an agricultural/forestry worker. The paragraph then goes on to say that there should be a period of marketing for 12 months using a specialist agricultural property agent and that the advertising must refer to the existing agricultural occupancy restriction and be priced accordingly. Paragraph 84 of the Framework also seeks to restrict new residential development in the countryside subject to limited exceptions, including when there is shown to be essential need for a rural worker.

14. The condition in this case relates to a tourism and recreational enterprise, not agriculture or forestry. Moreover, the wording of the condition is specific to the supervision of the "Lakeside fishery and caravan park". Therefore, to market the property with that very restricted occupancy condition would be highly unlikely to find a suitable occupier and would serve no useful planning purpose in this case. In addition, ERLPU Policy S4 does not expressly require the marketing of such dwellings with a tourism and recreational occupancy restriction.
15. Furthermore, for a person to occupy the dwelling who is employed in agriculture and forestry, there would need to be a planning application made to assess whether any future occupiers would meet the functional and essential need as set out within ERLPU Policy S4 and be able to occupy it. It is not certain that this would be known through a marketing exercise. I don't disagree with the Council's rationale for seeking to retain its occupation for a person employed in a rural enterprise but given the specific wording of the condition and with it not being tied more generally to an occupation such as that of an agricultural worker, it would not be reasonable to insist the property be marketed in this case.
16. The Council has also said that the dwelling and the business should be marketed together, although they have not demonstrated why this would need to be so in terms of complying with policies of the development plan. Moreover, ERLPU Policy S4 does not say a business must be marketed alongside any associated dwelling that is restricted by an occupancy condition. Consequently, I cannot agree that there is a planning reason, beyond the obligation (Appeal A), that would require them to be marketed together.
17. The dwelling has existed for some time and planning permission has already been granted for the dwelling, therefore removing the condition would not lead to new residential development in the countryside. It is only the occupancy restriction that is proposed to change, which would be due to a material change in the on-site supervision of the businesses. As such, it would not be reasonable to assess the principle of the proposed residential development against ERLPU Policy S4 and paragraph 84 of the Framework in this case.
18. It has also been said that condition 9 does not make provision for the appellant to retire, or in the event if he were to die, for his wife to continue living at the dwelling. I accept that these are shortcomings with the current wording of condition 9, which appears to differ from that used on some agricultural occupancy conditions. Whilst the Council indicated that there could have been a change to the condition, they did not issue any such variation in its decision in regard to Appeal B. However, in view of my findings above it has not been necessary for me to explore this further.

19. I therefore conclude that in relation to Appeal B, condition 9 imposed on planning permission 99/03195/PLF, is no longer reasonable and necessary, and that it can be removed in accordance with this Section 73 application. In doing so, I find that removing condition 9 would not conflict with ERLPU Policy S4 or paragraph 84 of the Framework, insofar as they seek to restrict new dwellings in the countryside to those where there is an essential need, given that the dwelling already exists, and the occupancy restriction is not reasonable and necessary to supervise the fishery and caravan site.

Appeal A -Obligation

20. In terms of the planning obligation, Section 106A (3) of the Town & Country Planning Act (the Act) permits the person against whom the obligation is enforceable to apply to the local planning authority to have the obligation discharged. Section 106A (6) of the Act permits the authority to refuse the application, discharge the obligation if it no longer serves a useful purpose, or to modify it.
21. In view of my findings above, notably that the day-to-day supervision of the fishery and caravan site can be undertaken from the chalet, it is not necessary for the dwelling in question to be prevented from being sold separately from them. In addition, there is no requirement within ERLPU Policy S4, or the Framework that would require a planning obligation to prevent the dwelling, the fishery and the caravan site from being sold separately. As such, tying the ownership of them together would also no longer serve a useful planning purpose.
22. I therefore conclude that in relation to Appeal A, the obligation preventing the dwelling, the fishery, and the caravan site, from being sold separately, no longer serves a useful purpose. In doing so, I find the obligation would not be necessary to comply with ERLPU Policy S4, or paragraph 84 of the Framework.

Conditions

23. The decision in Appeal B, does not alter the description of development, it grants a new planning permission for the same development, albeit in an unconditional way, in respect of the occupation of the dwelling. The Planning Practice Guidance advises that, for clarity; decision notices for such grants of planning permission should restate the conditions imposed on earlier permissions that continue to have effect, unless they have already been discharged.
24. The Council has advised that of those conditions originally imposed, which mainly required details either prior to commencement or occupation of the dwelling to be agreed, are now no longer necessary. It said only condition 8 is necessary, the appellant has been consulted on this basis and has not raised any objection. Condition 8 relates to restricting permitted development rights for alterations and extensions to the dwelling, which is necessary to protect the character and appearance of the area. I have also updated the reference within the condition to the most recent version of The Town and Country Planning (General Permitted Development) (England) Order 2015.

Conclusion

25. In regard to Appeal A, the obligation no longer serves a useful purpose and so should be discharged. Regarding Appeal B, condition 9 is not necessary or

reasonable to supervise the fishery and the lakeside caravan site, nor is it necessary to comply with the requirements of the development plan, and there are no other material considerations, including those raised by the Council that have led me to conclude differently. For the reasons given above and having regard to all matters raised, the appeals should be allowed.

A Hunter

INSPECTOR